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BOOK 1:
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# federal register

Book 1 of 2 Books
Monday, August 25, 1980

## Highlights

56343 **Housing** VA increases maximum interest rate on guaranteed, insured and direct loans for homes and condominiums; effective 8–20–80

56788 **Petroleum Allocation** DOE/ERA amends Entitlements Program provisions related to the Strategic Petroleum Reserve; effective 8–29–80; comments by 9–10–80 (Part IX of this issue)

56682 **Social Services** HHS/HDSO relocates administrative regulations pertaining to social services programs; effective 8–25–80 (Part V of this issue)

56341 **Loan Programs—Interest** HUD/FHC increases FHA maximum interest rate on insured home mortgage loans; effective 8–20–80

56538 **Improving Government Regulations** DOT/Sec'y publishes semiannual agenda of regulations (Part II of this issue)

56358 **Taxes** Treasury/IRS proposes procedures and administration of certain excise taxes; comments by 10–24–80

56380 **Grant Programs—Minority Business** Commerce/MBDA clarifies eligible applicants for one to three awards for up to a total of $600,000 to help with minority business acquisition program; apply by 9–16–80

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# Highlights

**FEDERAL REGISTER** Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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There are no restrictions on the republication of material appearing in the **Federal Register.**

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

**56732** **Oil** DOE/ERA amends crude oil supplier/purchaser regulations; effective 10–1–80 (Part VI of this issue)

**56760** **Environmental Quality** DOD/Army publishes regulations regarding policy and procedures for implementing the National Environmental Policy Act; effective 8–25–80 (Part VIII of this issue)

**56329** **Feed** USDA/CCC amends Emergency Feed Program regulations to increase maximum cost-share rate; effective 8–22–80, comments by 10–24–80

**56349** **Contributions** FEC request comments by 9–24–80 on regulations dealing with contributions or expenditures by corporations or labor organizations for nonpartisan communications

**56620, 56624** **Airports** DOT/FAA revises regulations dealing with airport aid program and acquisition of public land for airport development; effective 3–21–80 and 8–25–80 (Part III of this issue) (2 documents)

**56355** **Highways** DOT/FHA proposes amending regulations on administration and construction of forest highways; comments by 10–24–80

**56742** **Loan Programs—Transportation** DOT/UMTA proposes requirements governing applications for use of funds for operating assistance; comments by 12–1–80 (Part VII of this issue)

**56482** **Privacy** PS gives advance notice of proposed system of records modification

**56375** **Environmental Protection** EPA proposes to designate fish cannery waste site in Pacific Ocean; comments by 10–24–80

**56668** **Endangered and Threatened Wildlife** Interior/FWS amends provisions for the importation, exportation and transportation of wildlife; effective 9–24–80 (Part IV of this issue)

**56494** **Sunshine Act Meetings**

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# Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 985

### Spearmint Oil Produced in the Far West; Salable Quantities and Allotment Percentages for the 1980–81 Marketing Year

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes the quantity of Spearmint Oil produced in the Far West, by class, that may be freely marketed by handlers from the 1980 crop. The action is taken under Marketing Order No. 985, regulating the handling of spearmint oil produced in the Far West to promote orderly marketing conditions.

**EFFECTIVE DATE:** For the marketing year June 1, 1980 through May 31, 1981.

**FOR FURTHER INFORMATION CONTACT:**
J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C., (202) 447–5053. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above named individual.

**SUPPLEMENTARY INFORMATION:** This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified "significant". The proposal was published in the August 5, 1980, issue of the **Federal Register** (45 FR 51818) and allowed until August 12, 1980, for filing comments. No comments were received.

It is found that good cause exists for not postponing the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), in that: (1) The 1980–81 marketing year began June 1, 1980, and handlers have started handling oil; (2) producers are cutting spearmint hay, distilling oil, and delivering oil to handlers; (3) no useful purpose would be served by delaying the effective date of this action; and (4) the Committee held open meetings on May 22–23 and June 18, 1980, after giving notice thereof and interested persons were given the opportunity to submit information and views at those meetings.

The salable quantity and allotment percentage for each class of spearmint oil is established in accordance with the provisions of Marketing Order No. 985, regulating the handling of spearmint oil produced in the Far West. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon a recommendation and information submitted by the Spearmint Oil Administrative Committee. The Committee is the agency established under the order.

It is further found that establishing the salable quantity and allotment percentage for each class of oil as hereinafter set forth will tend to effectuate the declared policy of the act.

Therefore, a new Subpart titled "Subpart—Salable Quantities and Allotment Percentages" and a new section under this subpart is added as follows:

### Subpart—Salable Quantities and Allotment Percentages

**§ 985.200 Salable quantities and allotment percentages—1980–81 marketing year.**

The salable quantity and allotment percentage for each class of spearmint oil during the marketing year which began June 1, 1980, shall be as follows:

(a) "Class 1" Oil—a salable quantity of 1,000,000 pounds and an allotment percentage of 85 percent.

(b) "Class 2" Oil—a salable quantity of 30,000 pounds and an allotment percentage of 50 percent.

(c) "Class 3" Oil—a salable quantity of 1,100,000 pounds and an allotment percentage of 75 percent.

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

Dated: August 19, 1980.

**D. S. Kuryloski,**
*Acting Director, Fruit and Vegetable Division.*

[FR Doc. 80-25819 Filed 8-22-80; 8:45 am]
BILLING CODE 3410-02-M

## Commodity Credit Corporation

**[Amdt. 1]**

### 7 CFR Part 1474

### Emergency Feed Program

**AGENCY:** Commodity Credit Corporation, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Commodity Credit Corporation is amending its Emergency Feed Program regulations to increase the maximum cost-share rate to be paid to eligible livestock owners from two cents per pound of feed grain equivalent to three cents per pound of feed grain equivalent, and to provide a clarification of the standards for establishing feeding periods. The increase is necessary because the present pay limitation of 2 cents per pound is less than 50 percent of average feed cost in drought inflicted areas. The additional assistance is essential for continuing livestock production for many producers at the present time.

**EFFECTIVE DATE:** This regulation shall become effective August 22, 1980.

**DATE:** Comments must be received on or before October 24, 1980.

**ADDRESS:** Director, Emergency and Indemnity Programs Division, Agricultural Stabilization and Conservation Service (ASCS), USDA, P.O. Box 2415, Room 4095, South Building, Washington, D.C. 20013.

**FOR FURTHER INFORMATION CONTACT:**
Robert Cook, Emergency and Indemnity Programs Division, ASCS, USDA, P.O. Box 2415, Room 4095, South Building, Washington, D.C. 20013, (202) 447–7997. The Final Impact Statement describing the options considered in developing this final rule is available on request from the above named individual.

**SUPPLEMENTARY INFORMATION:** This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified not significant. Jerry W. Newcomb, Director, Emergency and Indemnity Programs Division, ASCS,

USDA, has determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this final action because of the rapidly expanding drought area and the high prices currently being changed for livestock feed in drought afflicited areas.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency final action are impracticable and contrary to the public interest; and good cause is found for making this emergency final action effective less than 30 days after publication of this document in the **Federal Register**. Comments will be received for 60 days after publication of this document, and this emergency final action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

Section 1105 of the Food and Agriculture Act of 1977 authorized the Secretary of Agriculture to implement an Emergency Feed Program (EFP) to assist in the preservation and maintenance of livestock in any area of the United States including Puerto Rico, Guam, and the Virgin Islands of the United States, where because of flood, drought, fire, hurricane, earthquake, storm or other natural disaster, the Secretary determines that an emergency exists. The objective of the program is to pay eligible livestock owners a portion of the cost of feed purchased to replace that which is nomally produced on the farm, but was not produced because of a disaster.

Discussions with ASCS State offices indicate that prices being paid for feed in the drought areas are currently exceeding six cents per pound. Continuation of the present two cents payment limitation would restrict most producers to only about a 33 percent cost-share, rather than a cost-share approximating 50 percent of the feed cost. The additional assistance is critical for continuing livestock production for many procedures during this period of cost-price squeeze on farm income. Also being included in this final rule is a clarification of standards for establishing feeding periods.

It has also been determined that the new payment limitation should be effective for all feeding periods beginning on or after July 1, 1980. The feeding period commences on the date on which an application for the program is filed by the producer.

The July 1, 1980 date has been chosen for the following reasons. First, this action is necessitated by the unusual severity of the 1980 drought. Applications for losses suffered as the result of the 1980 drought were just beginning to be filed at that time. Second, prior to July 1, 1980, in accordance with normal procedure, feeding periods were being established for 30 to 60 days. However, the severity of the drought necessitated the establishment of feeding periods for the entire crop year. This option was available for applications filed after July 1, 1980. Use of a date later than July 1, 1980 would, therefore, likely result in a substantial number of similarly situated producers being made subject to different payment limitations for the entire crop year simply because of the date on which their applications were filed. Third, the recent substantial rise in feed grain costs, on which basis the payment limitation is being raised, did not occur until mid-July. Consequently, it is appropriate that the new payment limitation be effective for applications filed on or after July 1, 1980.

The public is invited to submit written comments regarding these changes in the Emergency Feed Program, to the Director, Emergency and Indemnity Programs Division, ASCS, USDA, P.O. Box 2415, Room 4095 South Building, Washington, D.C. 20013. Persons submitting comments should include their names and address and give reasons for the comments. Copies of all written comments received will be available for review by interested persons in Room 4095 South Building, USDA during regular business hours.

The title and number of the federal assistance program that this Final Rule applies to this Title—Emergency Feed Program; Number—10.066 as found in the catalog of Federal Domestic Assistance Programs.

This action will not have a significant impact specifically on area and community development. Therefore review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action.

**Proposed Rule**

Accordingly, 7 CFR, Part 1475, §§ 1475.52, 1475.55, and 1475.56 are amended to read as follows:

1. In § 1475.52, paragraph (k) is revised.

**§ 1475.52 Definitions.**

* * * * *

(k) "Feeding period" means the period (1) beginning on the date of application and (2) ending on the date when additional feed is normally expected to become available but not later than the end of the grazing period when pasture is the only crop produced. At the request of the applicant, and with the concurrence of the county committee, the feeding period may be established for the period beginning on the date of the application and ending at the end of the crop year, if it is determined by the county committee that the nature and severity of the natural disaster warrant such action.

2. In § 1475.55, paragraphs (d)(3) and (e)(2) are revised.

**§ 1475.55 Application and approval.**

* * * * *

(d) *Determining loss of production.*

* * * * *

(3) Any loss of production otherwise computed shall be reduced: (i) by the amount of loss attributable to an acreage of pasture for which any deferred grazing payment may have been earned in the current crop year; (ii) by the amount of any payment under the Disaster Payment Program for feed grain computed in accordance with Part 713 of this chapter and (iii) by the amount of any benefits received through insurance or any other indemnification for current year feed lost either in storage or during production. Where the feeding period begins prior to July 1, 1980 such payment or reimbursement shall be converted to grain equivalent based on the larger of four cents per pound or the local market buying price of the crop at the time the applciation is filed. Where the feeding period begins on or after July 1, 1980, such payment or reimbursement shall be converted to grain equivalent based on the larger of six cents per pound or the local market buying price of the crop at the time the application is filed.

(e) *Determining feed available.* (1)

* * *

(2) The amount of feed otherwise determined to be on hand shall be (i) reduced by the amount of any purchased feed on hand; (ii) increased by the amount of any payment under the Disaster Payment Program for feed grain computed in accordance with Part 713 of this chapter and the amount of any benefits received through insurance or any other indemnification for current year feed lost either in storage or during production. Where the feeding period begins prior to July 1, 1980, such payment or reimbursement shall be converted to grain equivalent based on the larger of four cents per pound or the

local market buying price of the crop at the time application is filed. Where the feeding period begins prior to July 1, 1980. Where the feeding period begins on or after July 1, 1980, such payment or reimbursement shall be converted to grain equivalent based on the larger of six cents per pound or the local market buying price of the crop at the time the application is filed.

* * * * *

3. In § 1475.56, paragraph (a) and paragraph (c) are revised in their entirety.

**§ 1475.56 Amount of assistance.**

(a) Based on the presentation of acceptable evidence of purchase, the owner shall be reimbursed at the rate of 50 percent of the cost of eligible feed purchased (1) not to exceed two cents per pound of feed grain equivalent for feeding periods beginning prior to July 1, 1980 and (2) not to exceed three cents per pound of feed grain equivalent for feeding periods beginning on or after July 1, 1980. In no case may assistance be provided on an amount greater than the total feed allowance computed according to Section 1475.55(f)(3).

* * * * *

(c) Eligible costs of purchase feed are limited to the purchase price at the point of possession and may include: (1) Items of cost normally associated with the preparation of mixed feed. (2) The cost of leasing or purchasing temporary pasture, range or other grazing, *providing*, the resulting assistance does not exceed the smaller of 50 percent of the cost of the grazing per eligible animal unit per day or (i) 20 cents per day per animal unit for feeding periods beginning prior to July 1, 1980, or (ii) 30 cents per day per animal unit for feeding periods beginning on or after July 1, 1980. (3) The cost of feed for eligible livestock in a feed lot, *provided*, assistance is limited to the smaller of 50 percent of the cost per eligible animal unit per day or (i) 20 cents per day per eligible animal unit for feeding periods beginning prior to July 1, 1980, or (ii) 30 cents per day per eligible animal unit for feeding periods beginning on or after July 1, 1980.

Signed at Washington, D.C. on August 15, 1980.

**Ray Fitzgerald,**

*Executive Vice President, Commodity Credit Corporation.*

[FR Doc. 80-26010 Filed 8-22-80; 8:45 am]

BILLING CODE 3410-05-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. 80-NW-12-AD; Amdt. 39-3821]**

### Boeing Model 707/720 Series Airplanes; Airworthiness Directives

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule—correction.

**SUMMARY:** This amendment corrects the final rule published earlier in this docket by adding language included in the Notice but inadvertently omitted in the rule which would make it clear that the amendment applies to the associated fittings as well as to the diagonal brace which is the subject of the rulemaking.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Harold N. Wantiez, 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:** In the amendment published herein on June 30, 1980, (45 FR 43695), the words "and associated fittings" were inadvertently omitted following the words "nacelle strut diagonal brace" in the adoption of the amendment. The fittings associated with the brace were the subject of the NPRM requiring inspection. There were no adverse comments to this aspect of the proposal and it was not intended to omit the fittings from the inspection requirements. This is corrected herein.

Since this change is clarifying in nature, notice and public procedure thereon are unnecessary.

**Adoption of the Amendment**

Accordingly, pursuant to the authority delegated to me by the Administrator, FR Doc. 80-19583, appearing at page 43695 in the issue of Monday, June 30, 1980, is amended as follows:

The words "and associated fittings" are added immediately following the words "nacelle strut diagonal brace" in paragraph A.

(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)

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

Issued in Seattle, Washington, on August 15, 1980.

**Charles R. Foster,**

*Director, Northwest Region.*

[FR Doc. 80-25545 Filed 8-21-80; 8:45 am]

BILLING CODE 4910-13-M

### 14 CFR Part 39

**[Docket No. 80-WE-38-AD; Amdt. 39-3897]**

### Hiller UH-12 Helicopters; Airworthiness Directives

**AGENCY:** Federal Aviation Administration (FAA) DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new Airworthiness Directive (AD) which requires repetitive inspections for evidence of skin bond separation and root doubler delamination on main rotor blades on Hiller UH-12 helicopters. The AD is needed to prevent main rotor blade structural failure which could result in loss of control of helicopter.

**DATE:** Effective September 2, 1980. Compliance schedule—As prescribed in the body of the AD.

**ADDRESSES:** The applicable service information may be obtained from: Hiller Aviation, 2075 West Scranton Avenue, Porterville, California 93275.

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

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

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

**FOR FURTHER INFORMATION CONTACT:**

Robert T. Razzeto, 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 reports of Hiller Aviation main rotor blades P/N 53200-03 experiencing root doubler delaminations. As a result, a Hiller Aviation Service Letter dated June 11, 1979 was issued which required the doubler bonds to be visually checked before each flight and a recurring inspection every 50 hours. Since then, product improvements were made and the bond edges sealed on some main rotor blades. These blades have not experienced doubler delamination and are so designated by serial numbers in the adoption of the amendment as

exceptions to this AD. Blades that have not been sealed continue to have doubler delamination and as a result are part of this AD.

A skin bond separation in flight at the tip of a Hiller Aviation main rotor blade P/N 53200–03 has occurred which resulted in excessive vibration and a forced landing. The skin of the blade had separated from the spar and the honeycomb a distance of approximately two feet from the tip. Sealant had not been applied to this blade.

Since the root doubler and skin delamination are likely to exist or develop on other helicopters of the same type design, an Airworthiness Directive is being issued which requires inspection of certain model main rotor blades on Hiller UH–12 Helicopters.

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, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new Airworthiness Directive:

**Hiller Aviation:** Applies to Models UH–12D, UH–12E, UH–12E4, series helicopters, including military models, OH–23F, and OH–23G and all models converted by STC 178WE and STC 177WE, equipped with main rotor blades P/N 53200–03, serial numbers 038 through 286 except serial numbers 039, 040, 047, 048, 055, 057, 058, 062, 075, 076, 080, 083, 084, 087, 092, 093, 094, 107, 109, 123, 124, 133, 150, 151, 152, 153, 162, 169, 171, 184, 186, 187, 188, 193, 194, 195, 197, 202, 205, 209, 211, 213, 218, 220, 221, 227, 228, 229, 231, 232, 234, 235, 236, 237, 238, 243, 248, 253, 254, 256, 257, 258, 260, 262, 264, 266, 267, 271, 272, 273, 274, 279, 280, and 283.

Compliance is required as indicated, unless already accomplished.

To prevent possible main rotor blade failure due to the delamination of the doublers or the skin, accomplish the following:

(a) Upon receipt of this AD and prior to further flight:

(1) Visually check the main rotor blade root doubler area for evidence of delamination. This check includes all doublers on the leading and trailing edge surfaces, upper and lower, from the fork attachment plate to the tip of the outboard doubler. Delamination will be evidenced by a lifting of the doubler edges and/or cracks in the painted surface.

The check required by this AD may be performed by the pilot provided his logbook is endorsed by a properly rated mechanic to state that the pilot has been trained to conduct the check required by paragraph (a)(1) of this AD.

**Note.**—A maintenance record entry showing compliance and method of compliance with this AD is required by FAR 91.173 (also FAR 121.380 where appropriate).

(2) If delamination is found, comply with paragraph (g).

(b) Repeat preflight visual checks of the doubler area in accordance with paragraph (a) prior to all subsequent flights.

(c) Within 50 hours time in service from the effective date of this AD, inspect the main rotor blade root doubler area for evidence of delamination in accordance with paragraph 2.B of Hiller Aviation Service Letter 51–3A, dated June 11, 1979. If delamination is found, comply with paragraph (g).

(d) Thereafter, at intervals not to exceed 50 hours time in service since the inspection referenced in paragraph (c) above, repeat the inspection required by paragraph (c). If delamination is found, comply with paragraph (g).

(e) Within 100 hours time in service from the effective date of this AD, inspect main rotor blades for evidence of skin delamination in accordance with paragraph 2.A of Hiller Aviation Service Bulletin S/B UH–12–51–7, dated July 23, 1980. If delamination is found, comply with paragraph (h).

**Note.**—Particular attention should be given to the tip area wherein an incident of bond separation of the skin leading edge was reported.

(f) Thereafter, at intervals not to exceed 100 hours time in service since the inspection referenced in paragraph (e) above, repeat the inspection required by paragraph (e). If delamination is found, comply with paragraph (h).

(g) If the visual check or inspection of the main rotor blade root doublers indicates delamination, replace the blade with a like serviceable part before further flight.

(h) If the inspection of the main rotor blade reveals skin delamination, replace the blade with a like service part before further flight.

(i) Mark all rejected blades "Unairworthy" on the blade upper surface at the approximate mid-span with lettering at least 2 inches high, and using a metal stamp, mark "Unairworthy" on data plate.

(j) All checks and inspections are to be recorded in aircraft maintenance records.

(k) 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 September 2, 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)

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

Issued in Los Angeles, California on August 13, 1980.

H. C. McClure,

*Acting Director, FAA Western Region.*

[FR Doc. 80–25542 Filed 8–21–80; 8:45 am]

BILLING CODE 4910–13–M

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**14 CFR Part 39**

**[Docket No. 80–WE–24–AD; Amdt. 39–3896]**

## Sperry Flight Systems Avionics Division STARS Flight Director Instrument System; Airworthiness Directives

**AGENCY:** Federal Aviation Administration (FAA) DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new Airworthiness Directive (AD) which requires an installation wiring change on the STARS Flight Director Instrument System. The AD is needed to prevent an erroneous glide slope display to the flight crew, which could occur under certain circumstances and cause the pilot to believe that the aircraft was on proper glide slope when, in fact, it was not, and was possibly in jeopardy of contacting the ground.

**DATES:** Effective September 29, 1980. Compliance schedule—As prescribed in the body of the AD.

**ADDRESS:** The applicable service information may be obtained from: Sperry Flight Systems, Avionics Division, P.O. Box 29000, Phoenix, Arizona 85038.

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:** Robert T. Razzeto, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536–6351.

**SUPPLEMENTARY INFORMATION:** A proposal to amend Part 39 of the Federal Aviation Regulations to include an Airworthiness Directive requiring an installation wiring change on STARS Flight Director Instrument System was published in the **Federal Register** on June 9, 1980 at 45 FR 38402. The proposal was prompted by a report of an invalid presentation of glide slope information

on the Sperry Flight Systems, Avionics Division, STARS Flight Director System.

Interested persons have been afforded an opportunity to participate in the making of the amendment. There were two comments received in response to this NPRM. Both commentators concur with the adoption of this Airworthiness Directive. The manufacturer, one of the commentators, suggested clarifying language in certain places. The manufacturer also advised that they are correcting a typographical error in the Revision 1 date to the Sperry Technical Newsletter 23—1979–02 by issuing Revision 2 dated July 11, 1980 without change of technical content of the document. The FAA has incorporated the changes suggested by Sperry Flight Systems.

### Adoption of the Amendment

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

**Sperry Flight Systems, Avionics Division:** Applies to the STARS, (Sperry Three Axis Reference Systems), Flight Director Systems installed on aircraft certified in all categories.

Compliance is required as indicated, unless already accomplished.

To prevent possible erroneous presentation of glide slope information, accomplish the following:

(a) Within the next 100 hours' time in service from the effective date of this AD, or within 60 days from the effective date of this AD, whichever occurs sooner, revise the circuit hook-up so that the +28V bias voltage into receptable J1–b, on the Sperry HSI RD 044 (P/N 2592920–44), RD 444 (P/N 2592920–444) is moved from the +28V dc source, (usually the Flight Director Circuit Breaker), to the +28V dc circuit breaker supplying the glide slope receiver.

**Note.**—Sperry Flight Systems Division, Maintenance Manual for STARS Flight Director Instrument System, Pub. No. 15–3321–01 dated 30 November 1969, revised 20 February 1980, shows proper connections.

**Note.**—Sperry Flight Systems Technical Newsletter 23–1979–02, Revision 1 dated March 20, 1979, and Revision 2 dated July 11, 1980 refer to this subject. Revision 2 was published to correct typographical error in Revision 1 issue date. The technical content is not changed.

**Note.**—Beech Aircraft Corporation letter 900 380–281 dated 19 March 1980 refers to STARS installation in Beech Model 90, 100 and 200 aircraft.

(b) 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 modifications required by this AD.

(c) 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 September 29, 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)

**Note.**—The FAA has determined that this document involves a final regulation which is not considered to be significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the expected impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Los Angeles, California, on August 13, 1980.

**H. C. McClure,**

*Acting Director, FAA Western Region.*

[FR Doc. 80–25543 Filed 8–21–80; 8:45 am]

BILLING CODE 4910–13–M

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**14 CFR Part 39**

**[Airworthiness Docket No. 80–ASW–16; Amdt. 39–3883]**

## Swearingen Models SA226–AT and SA226–TC Airplanes; Airworthiness Directives

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment amends an existing airworthiness directive (AD) applicable to Swearingen Models SA226–AT and SA226–TC airplanes so that the Chief, Engineering and Manufacturing Branch, ASW–210, may approve alternate methods of compliance with the AD. The amendment is needed to allow the Chief, Engineering and Manufacturing Branch, Southwest Region, FAA, to adjust the required relationship between the measurements required by paragraph (b) of the AD to account for allowable tolerance of the diameter of the cargo door click-clack receptacle holes.

**DATES:** Effective August 26, 1980.

**ADDRESSES:** The applicable service information may be obtained from the Director of Products Support, Swearingen Aviation Corporation, P.O. Box 32486, San Antonio, Texas 78284.

These documents may also be examined at the Office of the Regional Counsel, Southwest Region, FAA, 4400 Blue Mound Road, Fort Worth, Texas, or Rules Docket in Room 916, FAA, 800 Independence Avenue, S.W., Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** Milton G. Martin, Airframe Section, Engineering and Manufacturing Branch, ASW–212, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas telephone number (817) 624–4911, extension 516.

**SUPPLEMENTARY INFORMATION:** This amendment amends Amendment 39–3758, 45 FR 29004, AD 80–09–08, which currently requires inspection of the latching mechanism of the aft cargo door to assure proper adjustment, operation, and structural integrity. After issuing Amendment 39–3758, the FAA determined that the required relationship between the measurements required by paragraph (b) of the AD may be altered without derogating an equivalent level of safety. It is, therefore, necessary that the Chief, Engineering and Manufacturing Branch, ASW–210, have the authority to adjust the required relationship between the measurements required by paragraph (b) of the AD. Therefore, the FAA is amending Amendment 39–3758 by adding a paragraph to allow the Chief, Engineering and Manufacturing Branch, ASW–210, to approve alternate methods of compliance.

Since this amendment provides alternate means of compliance and imposes no additional burden on any person, notice and public procedure hereon are unnecessary, and good cause exists for making the amendment effective in less than 30 days.

### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Amendment 39–3758, 45 FR 29004, AD 80–09–08 by adding the following new paragraph at the end thereof:

Alternate methods of complying with this AD must be approved by the Chief, Engineering and Manufacturing Branch, Southwest Region, FAA, Fort Worth, Texas.

This amendment becomes effective August 26, 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)

Issued in Fort Worth, Texas, on August 5, 1980.

**C. R. Melugin, Jr.,**

*Director, Southwest Region.*

[FR Doc. 80–25546 Filed 8–21–80; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 79-NE-10; Amdt. 39-3894]

## Airworthiness Directives; Sikorsky S-76A Series Helicopters, Certificated in All Categories

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment amends an existing airworthiness directive (AD) applicable to Sikorsky S-76A series helicopters certificated in all categories by changing part numbers that were stated incorrectly in the existing AD and by relaxing the existing compliance time interval for the horizontal stabilizer support structure fitting under specified conditions.

**DATES:** Effective—August 21, 1980. Compliance schedule—as prescribed in the body of the AD.

**ADDRESSES:** Not applicable.

**FOR FURTHER INFORMATION CONTACT:** Stephen J. Soltis, ANE-212, Engineering and Manufacturing Branch, Flight Standards Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone: (617) 273-7336.

**SUPPLEMENTARY INFORMATION:** This amendment amends Amendment 39-3794, 45 FR 39833, AD 80-12-11. After issuing Amendment 39-3794, the FAA was advised that the manufacturer had changed the part numbers for the horizontal stabilizer support fitting spar clamps from 76070-20020-041 and -042 to 76070-20020-043 and -044.

Additionally, this amendment relaxes the existing compliance time interval for the 76080-20047-041 (76209-04001-106 reference) horizontal stabilizer support structure fitting only if the 76200-06000-059 horizontal stabilizer assembly with 2.4 pounds shot dampers is installed in conjunction with the 76070-20020-043 and -044 spar clamps.

Since a situation exists that requires immediate adoption of this regulation and such action will relax an existing requirement, 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 amending Amendment 39-3794 (45 FR 39833), AD 80-12-11, as follows:

1. By striking out part numbers 76070-20020-041 and -042 as they appear in paragraphs 3.I.C. NOTE, 3.IV, 3.IV.A., and 3.V, and inserting part numbers 76070-20020-043 and -044 in lieu thereof.

2. By revising the compliance statement in paragraph 4.I. to read as follows:

Note.—Paragraphs 4.I.A., 4.I.B, and 4.I.C. remain the same.

"4. Aft Tail Cone Structure.

I. Compliance required, except as noted herein, before the accumulation of 100 hours time in service, unless already accomplished within the last 15 hours time in service, and thereafter at intervals not to exceed 15 hours time in service from the last inspection.

Exception: For aircraft incorporating all of the following modifications and installations, compliance required before the accumulation of 100 hours time in service, unless already accomplished within the last 30 hours time in service and thereafter at intervals not to exceed 30 hours time in service from the last inspection:

76080-20047-041, Production Modification Increased Bolt Diameter Stabilizer Fitting, Fitting Assembly (76080-20047-011, -012, -013, installation drawing (reference))
76200-06000-059, Horizontal Stabilizer (Retrofit Kit 76070-20003-013 (reference) 2.4 pounds shot total)
76070-20020-043 and -044, Fitting Assembly—Horizontal Stabilizer, Steel Retention Fittings (Kit Retrofit Horizontal Stabilizer Fitting Installation, 76070-20020-011 (reference))"

This amendment to FAR Part 39 becomes effective August 21, 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)

A historical file on this AD is maintained by the FAA at its Headquarters in Washington, D.C., and at the FAA, New England Region Headquarters, Burlington, Massachusetts.

Note.—The FAA has determined that this document involves a final regulation which is not considered to be significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the expected impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Burlington, Massachusetts, on August 13, 1980.

**J. Stiglin,**

*Acting Director, New England Region.*

[FR Doc. 80-25547 Filed 8-22-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 79-SO-30, Amdt. No. 39-3895]

## Piper Model PA-31 Series Airplanes; Airworthiness Directives

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment amends an existing Airworthiness Directive (AD) applicable to Piper PA-31 series airplanes, equipped with turbocharged engines by allowing the FAA to adjust the repetitive inspection intervals upon review of substantiating data. The amendment is needed in order to avoid placing undue burden on operators with approved regular maintenance schedules different from the inspection schedules specified in the AD.

**DATES:** Effective September 1, 1980. Compliance as prescribed in body of AD.

**FOR FURTHER INFORMATION CONTACT:** Gil Carter, ASO-214, Engineering and Manufacturing Branch, FAA, Southern Region, P.O. Box 20636, Atlanta, Georgia 30320, telephone (404) 763-7407.

**SUPPLEMENTARY INFORMATION:** This amendment amends Amendment 39-3483 (44 FR 31941), AD 79-12-03, which currently requires the inspection of turbocharger exhaust flanges, couplings, and coupling bolts for cracks, damage and distortion on certain Piper Model PA-31 series airplanes. This AD also requires component replacement, if necessary. After issuing Amendment 39-3483, the FAA has determined that some operators have approved regular maintenance schedules which may vary from the inspection schedules specified in the AD and that compliance with the AD inspection schedules place an undue burden on these operators. Therefore, the FAA is amending Amendment 39-3483 by providing for adjustments to the repetitive inspection intervals specified in the AD upon review of substantiating data submitted to the FAA.

Since this amendment provides for adjustment to the inspection intervals and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and good cause exists for making the 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 amending Amendment 39–3483 (44 FR 31941), AD 79–12–03, as follows:

Add the following paragraph after paragraph (g):

(h) Upon submission of substantiating data through an FAA Maintenance Inspector, the Chief, Engineering and Manufacturing Branch, FAA, Southern Region, may adjust the repetitive inspection intervals specified above.

This amendment becomes effective September 1, 1980.

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

**Note.**—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this action 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 East Point, Ga., on August 13, 1980.

**Louis J. Cardinali,**

*Director, Southern Region.*

[FR Doc. 80–25733 Filed 8–22–80; 8:45 am]

BILLING CODE 4910–13–M

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**14 CFR Part 71**

**[Airspace Docket No. 80–SO–23]**

## Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Beaufort, S.C., Control Zone

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This rule redesignates the Beaufort, South Carolina, control zone from part-time to full-time. It is necessary to alter the control zone description to reflect the hours of operation.

**EFFECTIVE DATE:** October 30, 1980.

**ADDRESS:** Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

**FOR FURTHER INFORMATION CONTACT:** Harlen D. Phillips, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone 404–763–7646.

**SUPPLEMENTARY INFORMATION:** A Notice of Proposed Rulemaking was published in the **Federal Register** on Monday, June 23, 1980 (45 FR 41966), in which the Department of the Navy proposed to increase the operating hours of the control zone from part-time to full-time for operations at the Beaufort Marine Corps Air Station (MCAS). No objections were received in response to the notice.

### Adoption of the Amendment

Accordingly, Subpart F, § 71.171 (45 FR 356) of Part 71 of the Federal Aviation Regulations (14 CFR 71) is amended, effective 0901 GMT, October 30, 1980, by deleting all after the following:

*Beaufort, S.C.*

"* * * northeast of the RBN * * *"

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and 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). 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 East Point, Georgia, on August 15, 1980.

**Louis J. Cardinali,**

*Director, Southern Region.*

[FR Doc. 80–25552 Filed 8–22–80; 8:45 am]

BILLING CODE 4910–13–M

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**14 CFR Part 71**

**[Airspace Docket No. 80–ASW–38]**

## Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Control Zone: San Antonio, Tex. (Randolph Air Force Base)

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The nature of the action being taken is an alteration of the control zone at San Antonio (Randolph AF Base), Texas. The intended effect of the action is to provide controlled airspace for aircraft executing new instrument procedures to Randolph AF Base. A review of the current control zone and the establishment of the Randolph Very High Frequency Omni Range Station (VOR) revealed the need for controlled airspace to protect aircraft executing instrument approach procedures.

**EFFECTIVE DATE:** October 30, 1980.

**FOR FURTHER INFORMATION CONTACT:** Kenneth L. Stephenson, Airspace and Procedures Branch (ASW–535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone 817–624–4911, extension 302.

**SUPPLEMENTARY INFORMATION:** The Randolph VOR has been commissioned and a review of the required airspace for the protection of aircraft executing instrument approaches to Randolph AF Base reveals that the control zone is in excess of the required controlled airspace. Reduction of the control zone area will not eliminate that airspace required for the protection of aircraft executing instrument approach procedures to Randolph AF Base. Since this action releases controlled airspace, circulation and public notice of this action is not considered necessary.

### The Rule

This amendment to Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) alters the San Antonio (Randolph AFB), Tex., control zone. This action provides controlled airspace for the protection of aircraft executing instrument approach procedures to Randolph AFB.

### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 356) is amended, effective 0901 GMT, October 30, 1980, as follows:

In Subpart F, 71.171 (45 FR 356), the San Antonio (Randolph AFB), Tex., control zone is altered as follows:

**San Antonio (Randolph AFB), Tex.**

That airspace within a 5-mile radius of Randolph AFB (latitude 29°31'43"N., longitude 98°16'40"W.), and within 1.5 miles each side of the 334° radial of the Randolph VOR (latitude 29°31'08"N., longitude 98°17'05"W.) extending from the 5-mile radius area to 6 miles northwest of the VOR.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

**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 warrent preparation of a regulatory evaluation.

Issued in Fort Worth, Tex., on August 14, 1980.

**Paul N. McMullen,**

*Director, Southwest Region.*

[FR Doc. 80-25550 Filed 8-22-80; 8:45 am]

BILLING CODE 4910-13-M

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**14 CFR Part 71**

**[Airspace Docket No. 80-SO-26]**

## Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Designation of Transition Area, Russellville, Ky.

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This rule designates the Russellville, Kentucky, 700-foot Transition Area. A public use standard instrument approach procedure has been developed for the Russellville-Logan County Airport and additional controlled airspace is required to protect aircraft Instrument Flight Rule (IFR) operations.

**EFFECTIVE DATE:** September 18, 1980.

**ADDRESS:** Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

**FOR FURTHER INFORMATION CONTACT:** Alton L. Matthews, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404-763-7646.

**SUPPLEMENTARY INFORMATION:** A Notice of Proposed Rulemaking was published in the **Federal Register** on Monday, June 23, 1980 (45 FR 41967), which proposed the designation of the Russellville, Kentucky, Transition Area. No objections were received from this notice.

This action provides controlled airspace protection for IFR operations including the VOR/DME Runway 24 instrument approach procedure, at the Russellville-Logan County Airport. The airport operating status is hereby changed from VFR to IFR.

### Adoption of the Amendment

Accordingly, Subpart G, § 71.181 (45 FR 445) of Part 71 of the Federal Aviation Regulations (14 CFR 71) is amended, effective 0901-GMT, September 18, 1980, by adding the following:

*Russellville, Ky.*

That airspace extended upward from 700 feet above the surface within a 6.5-mile radius of the Russellville-Logan County Airport (Lat. 36°47'57"N., Long. 86°48'40"W.).

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C 1348(a)) and 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). 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 East Point, Georgia, on August 13, 1980.

**Louis J. Cardinali,**

*Director, Southern Region.*

[FR Doc. 80-25549 Filed 8-22-80; 8:45 am]

BILLING CODE 4910-13-M

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**14 CFR Part 71**

**[Airspace Docket No. 80-AAL-6]**

## Alteration of the Anchorage Transition Area

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment alters the Anchorage, Alaska, transition area by designating a 9,500 foot MSL floor area southeast of Anchorage. This action provides more efficient air traffic service to the airspace users along with fuel savings by using radar vectoring procedures above 9,500 feet.

**EFFECTIVE DATE:** October 30, 1980.

**FOR FURTHER INFORMATION CONTACT:** L. Jack Overman, 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:** On July 3, 1980, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Anchorage, Alaska, Transition Area by lowering the floor of controlled airspace to 9,500 feet MSL southeast of Anchorage (45 FR 45308). Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. The comments received expressed no objection. This is the same as that proposed in the notice. Section 71.181 of Part 71 was republished in the **Federal Register** on January 2, 1980 (45 FR 445).

### The Rule

This amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) alters the Anchorage, Alaska, Transition Area by lowering the floor of controlled airspace to 9,500 feet MSL southeast of Anchorage. This action lowers the transition area floor in a large area from the 090°T radial clockwise to the 165°T radial within a 172-mile radius of the Anchorage VORTAC. With the planned establishment of an en route ATC radar facility on Middleton Island, this airspace is needed to provide more efficient service to the airspace user. This would be accomplished by radar vectoring and direct flight in controlled airspace above 9,500 feet MSL.

### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 445) is amended, effective 0901 G.m.t., October 30, 1980, by amending the Anchorage, Alaska, Transition Area by deleting all the text after the words:

"within an 85-mile radius of the Anchorage VORTAC;" and substituting for them the words "that airspace extending upward from 9,500 feet MSL within a 172-mile radius of the Anchorage VORTAC extending from the 090° radial clockwise to the 165° radial, excluding the portions within federal airways, Control 1310, Control 1218, the Middleton Island, Alaska, Johnstone Point, Alaska, Cordova, Alaska, and the Valdez, Alaska, transition areas and the Anchorage Oceanic Control Area; and that airspace extending upward from 14,500 feet MSL within a 172-mile radius of the Anchorage VORTAC extending from the 165° radial clockwise to the 090° radial excluding the portions within the United States, federal airways, Control 1218 and the King Salmon, Alaska, Transition Area."

(Secs. 307(a), 313(a), 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854 (24 FR 9565); 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 August 18, 1980.

**B. Keith Potts,**

*Acting Chief, Airspace and Air Traffic Rules Division.*

[FR Doc. 80-25727 Filed 8-22-80; 8:45 am]

BILLING CODE 4910-13-M

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**14 CFR Part 71**

**[Airspace Docket No. 80-PC-5]**

## Revocation of Eniwetok Island Control Area Extension

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment revokes the Eniwetok Island control area extension. The U.S. Air Force has advised the FAA that there is no longer a military requirement for continued use of the Eniwetok NDB and the airspace to protect the instrument approach procedures associated with them. This action revokes the airspace associated with the cancelled procedures.

**EFFECTIVE DATE:** September 24, 1980.

**FOR FURTHER INFORMATION CONTACT:** L. Jack Overman, 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

The purpose of this amendment to § 71.165 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to revoke the Eniwetok Island control area extension. All instrument approach procedures were suspended by NOTAM, and were deleted from publication on July 10, 1980. This action revokes the protected airspace associated with the procedures. Accordingly, I find good cause that notice and public procedure thereon are impractical and unnecessary.

### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.165 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 355) is amended, effective 0901 G.m.t., September 24, 1980 by deleting the title and text of the Eniwetok Island control area extension in its entirely.

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510; Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(a)); 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 August 18, 1980.

**B. Keith Potts,**

*Acting Chief, Airspace and Air Traffic Rules Division.*

[FR Doc. 80-25729 Filed 8-22-80; 8:45 am]

BILLING CODE 4910-13-M

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**14 CFR Part 71**

**[Airspace Docket No. 18605/79-APC-1]**

## Establishment of Group II Terminal Control Area Honolulu, Hawaii

*Correction*

In FR Doc. 80-24378, appearing at page 54015 in the issue for Thursday, August 14, 1980, on page 54025, in the middle column, in the paragraph beginning "*Area F.*", in the fourth line, "northeast" should be corrected to read "northwest."

BILLING CODE 1505-01-M

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**14 CFR Parts 71 and 73**

**[Airspace Docket No. 80-ANW-10]**

## Amendment to Restricted Area

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action lowers the upper vertical limit of R-6713A, Whidbey Island, Wash., and deletes R-6713B and R-6713C, Whidbey Island, Wash., as a result of a change in the U.S. Navy's operational requirement for restricted airspace in this vicinity. This amendment reduces the burden on the public by returning airspace to public use.

**EFFECTIVE DATE:** September 24, 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

The purpose of these amendments to Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) is to lower the upper vertical limit of R-6713A, Whidbey Island, Wash., from 5,000 feet MSL to 1,000 feet AGL, and to delete in their entirety R-6713B and R-6713C, Whidbey Island, Wash. To reflect the deletion of subdivisions, R-6713A is designated as R-6713. The U.S. Navy's operational requirements have changed to the extent that restricted airspace above 1,000 feet AGL is no longer required to segregate hazardous activity from nonparticipating aircraft. Because this action reduces the burden on the public by restoring airspace to public use, I find that notice and public procedures are unnecessary. Parts 71 and 73 were republished in the **Federal Register** on January 2, 1980 (45 FR 346 and 726).

### The Rule

These amendments to Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) change the designated altitude of R-6713A to read "surface to 1,000 feet AGL" and delete R-6713B and R-6713C in their entirety. "R-6713A" is redesignated as "R-6713" to reflect the deletion of subdivisions.

### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.151 of Part 71 and § 73.67 of Part 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) as republished (45 FR 346 and 726) are amended, effective 0901 G.m.t., September 24, 1980, as follows:

In § 71.151

"R-6713C Whidbey Island, Wash." is deleted.

In § 73.67

1. Under "R-6713A Whidbey Island, Wash."

a. "R-6713A" is deleted and "R-6713" is substituted therefor.

b. "Designated altitudes. Surface to 5,000 feet MSL (less exclusions)." is deleted and "Designated altitudes. Surface to 1,000 feet AGL." is substituted therefor.

2. "R-6713B Whidbey Island, Wash." title and text are deleted in their entirety.

3. "R-6713C Whidbey Island, Wash." title and text are deleted in their entirety.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C 1348(a), 1354(a)); sec. 6(c),

Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.69)

**Note.**—The FAA has determined that this document involves a regulation which is not significant under 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 August 19, 1980.

**B. Keith Potts,**

*Acting Chief, Airspace and Air Traffic Rules Division.*

[FR Doc. 80-25731 Filed 8-22-80; 8:45 am]

BILLING CODE 4910-13-M

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## 14 CFR Part 97

**[Docket No. 20628; Amdt. 1171]**

## Standard Instrument Approach Procedures; Miscellaneous Amendments

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendement establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

**DATES:** An effective date for each SIAP is specified in the amendatory provisions.

**ADDRESSES:** Availability of matters incorporated by reference in the amendment is as follows:

*For Examination*

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

*For Purchase*

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

*By Subscription*

Copies of all SIAPs, mailed once every 2 weeks, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.00.

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

**SUPPLEMENTARY INFORMATION:** This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. § 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

*. . . Effective October 30, 1980*

Saginaw, MI—Tri-City, VOR Rwy 5, Amdt. 12
Saginaw, MI—Tri-City, VOR Rwy 14, Amdt. 10
Saginaw, MI—Tri-City, VOR Rwy 23, Amdt. 11
Saginaw, MI—Tri-City, VOR Rwy 32, Amdt. 6

*. . . Effective October 2, 1980*

Enterprise, AL—Enterprise Muni, VOR Rwy 5, Original
Chandler, AZ—Stellar Airpark, VOR-A, Original
Chandler, AZ—Stellar City Air Park, VOR Rwy 35, Original, cancelled
Oxnard, CA—Oxnard, VOR Rwy 7, Amdt. 9
Oxnard, CA—Oxnard, VOR Rwy 25, Amdt. 6
Olney-Noble, IL—Olney, Noble, VOR/DME-A, Amdt. 3
Albia, IA—Albia Muni, VOR/DME-A, Amdt. 1
Forest City, IA—Forest City Muni, VOR/DME-A, Amdt. 1
Oelwein, IA—Oelwein Muni, VOR-A, Amdt. 1

Waverly, IA—Waverly Muni, VOR–A, Amdt. 1
Salina, KS—Salina Muni, VOR Rwy 17 (TAC), Amdt. 13
Cambridge, MD—Cambridge-Dorchester Muni, VOR–A, Amdt. 3
Salisbury, MD—Salisbury-Wicomico County Regional, VOR Rwy 5, Amdt. 8
Salisbury, MD—Salisbury-Wicomico County Regional, VOR Rwy 23, Amdt. 8
Salisbury, MD—Salisbury-Wicomico County Regional, VOR Rwy 32, Amdt. 8
Mankato, MN—Mankato Muni, VOR Rwy 15, Amdt. 3
Mankato, MN—Mankato Muni, VOR/DME Rwy 15, Original
Mankato, MN—Mankato Muni, VOR Rwy 33, Amdt. 4
Mankato, MN—Mankato Muni, VOR/DME Rwy 33, Original
Gulfport, MS—Gulfport-Biloxi RGNL, VOR Rwy 13 (TAC), Amdt. 18
Monroe City, MO—Monroe City Regional, VOR/DME–A, Amdt. 1
Warrensburg, MO—Skyhaven, VOR Rwy 13, Amdt. 1
Warrensburg, MO—Skyhaven, VOR Rwy 18, Original
Wellsville, NY—Wellsville Muni Arpt-Tarantine Field, VOR–A, Amdt. 2
Lumberton, NC—Lumberton Muni, VOR Rwy 5, Amdt. 3
Lumberton, NC—Lumberton Muni, VOR Rwy 13, Amdt. 3
Waxhaw, NC—Jaars-Townsend, VOR/DME–A, Amdt. 1

*. . . Effective September 18, 1980*

Olathe, KS—Johnson County-Executive Airport, VOR Rwy 17, Amdt. 3
Olathe, KS—Johnson County-Executive Airport, VOR Rwy 35, Amdt. 7
Olathe, KS—Johnson County Industrial, VOR–A, Amdt. 2
North Platte, NE—Lee Bird Field, VOR Rwy 35, Amdt. 14

*. . . Effective September 4, 1980*

Lakeland, FL—Lakeland Muni, VOR Rwy 13, Amdt. 1
Lakeland, FL—Lakeland Muni, VOR Rwy 27, Amdt. 2
Muscatine, IA—Muscatine Muni, VOR Rwy 5, Original
Muscatine, IA—Muscatine Muni, VOR/DME Rwy 12, Original
Muscatine, IA—Muscatine Muni, VOR/DME–A, Amdt. 3, cancelled
Muscatine, IA—Muscatine Muni, VOR Rwy 23, Original
Muscatine, IA—Muscatine Muni, VOR Rwy 30, Original
Princeton, ME—Princeton Muni, VOR Rwy 15, Amdt. 8
Beaver Falls, PA—Beaver County, VOR Rwy 28, Amdt. 6

*. . . Effective August 8, 1980*

Spencer, IA—Spencer Muni, VOR Rwy 12, Amdt. 5
Spencer, IA—Spencer Muni, VOR Rwy 30, Amdt. 5

*. . . Effective August 4, 1980*

Hayward, WI—Hayward Muni, VOR Rwy 2, Amdt. 3
Hayward, WI—Hayward Muni, VOR Rwy 20, Amdt. 3

2. By amending § 97.25 SDF–LOC–LDA SIAPs identified as follows:

*. . . Effective October 30, 1980*

Saginaw, MI—Tri-City, LOC BC Rwy 23, Amdt. 6, cancelled

*. . . Effective October 2, 1980*

Chicago, IL—Chicago Midway, LOC Rwy 31L, Amdt. 8
Chicago, IL—Chicago-O'Hare Intl, LOC Rwy 4L, Amdt. 16
Salisbury, MD—Salisbury-Wicomico County Regional, LOC (BC) Rwy 14, Amdt. 2
Greenville, MS—Greenville International, LOC BC Rwy 35R, Amdt. 6
Maxton, NC—Laurinburg-Maxton, SDF Rwy 5, Amdt. 1

*. . . Effective September 4, 1980*

Beaver Falls, PA—Beaver County, LOC Rwy 10, Original
Huron, SD—Huron Regional, LOC/DME BC Rwy 30, Amdt. 5

*. . . Effective August 7, 1980*

Houston, TX—William P. Hobby, LOC BC Rwy 22, Amdt. 20

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

*. . . Effective October 30, 1980*

Perry, IA—Perry Muni, NDB Rwy 31, Amdt. 2
Saginaw, MI—Tri-City, NDB Rwy 5, Amdt. 6

*. . . Effective October 2, 1980*

Key West, FL—Key West Intl'l, NDB–A, Amdt. 8
Chicago, IL—Chicago Midway, NDB Rwy 4R, Amdt. 9
Chicago, IL—Chicago Midway, NDB Rwy 13R, Amdt. 7
Chicago, IL—Chicago Midway, NDB Rwy 31L, Amdt. 7
Chicago, IL—Chicago-O'Hare Intl, NDB Rwy 4L, Amdt. 13
Olney-Noble IL—Olney-Noble, NDB Rwy 3, Amdt. 7
Forest City, IA—Forest City Muni, NDB Rwy 33, Original
Cambridge, MD—Cambridge-Dorchester Muni, NDB Rwy 34, Amdt. 5
Easton, MD—Easton Muni, NDB Rwy 22, Amdt. 4
Greenville, MS—Greenville International, NDB Rwy 35L, Amdt. 3
Greenville, MS—Greenville International, NDB Rwy 35R, Amdt. 6
Gulfport, MS—Gulfport-Biloxi RGNL, NDB Rwy 13, Amdt. 7
Wellsville, NY—Wellsville Muni Arpt-Tarantine Field, NDB Rwy 28, Amdt. 2
Lumberton, NC—Lumberton Muni, NDB Rwy 13, Amdt. 4
Maxton, NC—Laurinburg-Maxton, NDB Rwy 5, Amdt. 3
Denton, TX—Denton Muni, NDB Rwy 17, Amdt. 1
Minocqua-Woodruff, WI—Lakeland, NDB Rwy 36, Amdt. 3

*. . . Effective September 18, 1980*

North Platte, NE—Lee Bird Field, NDB Rwy 30L, Amdt. 5
North Platte, NE—Lee Bird Field, NDB Rwy 35, Amdt. 7

*. . . Effective September 4, 1980*

Newton, KS—Newton City-County, NDB Rwy 17, Original
Newton, KS—Newton City-County, NDB Rwy 17, Amdt. 4, cancelled
Newton, KS—Newton City-County, NDB Rwy 35, Original
Greenville, MD—Greenville Muni, NDB Rwy 14, Original
Greenville, ME—Greenville Seaplane Base, NDB–A, Original

*. . . Effective August 11, 1980*

Pittsburgh, PA—Allegheny County, NDB Rwy 10, Amdt. 6
Pittsburgh, PA—Allegheny County, NDB Rwy 28, Amdt. 20

*. . . Effective August 8, 1980*

Spencer, IA—Spencer Muni, NDB Rwy 30, Amdt. 5

*. . . Effective August 4, 1980*

Hayward, WI—Hayward Muni, NDB Rwy 20, Amdt. 8

4. By amending § 97.29 ILS–MLS SIAPs identified as follows:

*. . . Effective October 30, 1980*

Saginaw, MI—Tri-City, ILS Rwy 5, Amdt. 8

*. . . Effective October 2, 1980*

Oxnard, CA—Oxnard, ILS Rwy 25, Amdt. 4
Gainesville, FL—Gainesville Regional, ILS Rwy 28, Amdt. 8
Miami, FL—Tamiami, ILS Rwy 9R, Original
Tallahassee, FL—Tallahassee Muni, ILS Rwy 27L, Original
Chicago, IL—Chicago Midway, ILS Rwy 4R, Amdt. 6
Chicago, IL—Chicago Midway, ILS Rwy 13R, Amdt. 34
Chicago, IL—Chicago-O'Hare Intl, ILS Rwy 4R, Amdt. 5
Chicago, IL—Chicago-O'Hare Intl, ILS Rwy 27L, Amdt. 10
Salisbury, MD—Salisbury-Wicomico County Regional, Intl, ILS Rwy 32, Amdt. 3
Gulfport, MS—Gulfport-Biloxi RGNL, ILS Rwy 13, Amdt. 8
Denton, TX—Denton Muni, ILS Rwy 17, Amdt. 1

*. . . Effective September 18, 1980*

North Platte, NE—Lee Bird Field, ILS Rwy 30R, Original

*. . . Effective September 4, 1980*

Lakeland, FL—Lakeland Muni, ILS/DME Rwy 5, Original
Newton, KS—Newton City-County, ILS Rwy 17, Original
Charlotte, NC—Douglas Muni, ILS Rwy 18R, Original
Huron, SD—Huron Regional, ILS Rwy 12, Amdt. 3

*. . . Effective August 11, 1980*

Pittsburgh, PA—Allegheny County, ILS Rwy 10, Amdt. 1
Pittsburgh, PA—Allegheny County, ILS Rwy 28, Amdt. 24

. . . *Effective August 7, 1980*

Fort Collins/Loveland/, CO—Fort Collins-Loveland Muni, ILS Rwy 33, Amdt. 1

5. By amending § 97.31 RADAR SIAPs identified as follows:

. . . *Effective October 30, 1980*

Saginaw, MI—Tri-City, RADAR-1, Amdt. 4

. . . *Effective October 2, 1980*

Ft. Myers, FL—Page Field, RADAR-1, Original
Chicago, IL—Chicago-Midway, RADAR-1, Amdt. 22

. . . *Effective September 18, 1980*

Tallahassee, FL—Tallahassee Muni, RADAR-1, Amdt. 3

6. By amending § 97.33 RNAV SIAPs identified as follows:

. . . *Effective October 2, 1980*

Salina, KS—Salina Muni, RNAV Rwy 17, Amdt. 6
Monroe City, MO—Monroe City Regional, RNAV Rwy 27, Original
Warrensburg, MO—Skyhaven, RNAV Rwy 18, Original

. . . *Effective September 18, 1980*

North Platte, NE—Lee Bird Field, RNAV Rwy 12L, Original
North Platte, NE—Lee Bird Field, RNAV Rwy 12R, Amdt. 2

. . . *Effective September 4, 1980*

Newton, KS—Newton City-County, RNAV Rwy 17, Amdt. 2

. . . *Effective August 11, 1980*

Pittsburgh, PA—Allegheny County, RNAV Rwy 10, Amdt. 4

. . . *Effective August 7, 1980*

Fort Collins/Loveland/, CO—Fort Collins-Loveland Muni, RNAV Rwy 33, Amdt. 3

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C 1348, 1354(a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3))

**Note.**—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented 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 August 15, 1980.

**John S. Kern,**

*Acting Chief, Aircraft Programs Division.*

**Note.**—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

[FR Doc. 80-25551 Filed 8-22-80; 8:45 am]

BILLING CODE 4910-13-M

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## 18 CFR Part 141

**[Docket No. RM80-71; Order No. 100]**

## Electric Utilities; Order Discontinuing Reporting Requirements

August 18, 1980.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Final rule.

**SUMMARY:** The Federal Energy Regulatory Commission (Commission) hereby discontinues FPC Form No. 12–A (18 CFR 141.52), and Form No. 12–D (18 CFR 141.55), which require various reports and information on the generation, transmission or distribution of electricity. These forms are eliminated because the Commission no longer needs the data reported thereon to carry out its regulatory responsibilities.

**EFFECTIVE DATE:** August 18, 1980.

**FOR FURTHER INFORMATION CONTACT:** Daniel G. Lewis, Federal Energy Regulatory Commission, Office of Electric Power Regulation, 825 N. Capitol Street, NE., Mail Stop 300 RB, Washington D.C. 20426 (202) 376–9227.

### I. Background and Summary

The Federal Energy Regulatory Commission (Commission) by this rule eliminates from its regulations the following Federal Power Commission (FPC) forms and concomitant reporting requirements: Form No. 12–A, "Power System Statements for Class III, IV, and V Systems" (18 CFR 141.52); and Form No. 12–D, "Power System Statement for Class III Systems Having Annual Energy Requirements of Less Than 5,000,000 kWh and Class IV and V Systems Where Requested" (18 CFR 141.55).

Form No. 12–A requires the reporting of information on electric equipment, generation, energy received and delivered, system peaks, energy delivered to ultimate consumers, system dependable and assured capacity, and contemplated changes in capacity. Information required by this form is currently being collected for the Commission by the Energy Information Administration (EIA).

Form No. 12–D requires the reporting of information on generation, energy received and delivered, system peaks, energy delivered to ultimate consumers, contemplated changes in system generating plants, and electric equipment which the reporting company owned or operated. Information required by this form is now also collected by EIA.

The forms were devised and promulgated by the Federal Power Commission (FPC) (the Commission's predecessor agency) pursuant to the authority granted in sections 301, 309 and 311 of the Federal Power Act (FPA).[1] The authority under section 311 was transfered to the Secretary of Energy pursuant to section 301(b) of the Department of Energy Organization Act[2] (42 U.S.C. 7101, *et seq.*). The Secretary in turn delegated this authority to the Economic Regulatory Administration (ERA) (Department of Energy Delegation Order No. 0204–4 (10 CFR 1001.1)), and to the Commission to the extent necessary to perform its other functions (Delegation Order No. 0204–1, 42 FR 55637 (October 18, 1977)).

The Commission has determined, however, that the data required by Form Nos. 12–A and 12–D are not sufficiently central to its functions to justify continued collection of the data by this Commission. In view of this, the Commission is hereby eliminating from its regulations those sections which provide for the Commission's collection of the information pursuant to those forms.

### II. Effective Date

The elimination of Form Nos. 12–A and 12–D simply amends the Commission's regulations to reflect that the Commission will no longer require the information gathered from these forms.[3] For this reason, the requirement to report information pursuant to these forms will be eliminated as of August 18, 1980.

The Commission accordingly finds that notice and public procedure are unnecessary pursuant to 5 U.S.C. 553(b), and that there is good cause under the 5 U.S.C. 553(d) to make the amendments in this rulemaking effective immediately.

[1] Form Nos. 12–A and 12–D were established under FPC Order No. 183 and were amended by Order Nos. 224 and 312.

[2] Section 301(b) provides that powers vested in the FPC under the FPA and the Natural Gas Act (NGA) (15 U.S.C. 717) which were not transferred to the Commission by Title IV of the DOE Act are vested in the Secretary.

[3] The ERA, which is responsible for utilizing the information from these forms, has determined that it needs this information to perform its statutory responsibilities. The ERA is, however, authorized to propose and implement its own regulations and to obtain approval from the Office of Management and Budget for the future collection of the data.

(Department of Energy Organization Act, (42 U.S.C. 7101, *et seq.*); Federal Power Act, as amended, (16 U.S.C. 792, *et seq.*); Department of Energy Delegation Order 0204–1, 42 FR 55637 (October 18, 1977); Department of Energy Delegation Order 0204–4 (10 CFR 1001.1))

For the foregoing reasons, Title 18 of the Code of Regulations is amended in Part 141 as provided below, effective immediately.

By the Commission.

**Kenneth F. Plumb,**

*Secretary.*

**§§ 141.52 and 141.55 [Deleted]**

1. Sections 141.52 and 141.55 are deleted in their entirety.

[FR Doc. 80–25749 Filed 8–22–80; 8:45 am]

BILLING CODE 6450–85–M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of Assistant Secretary for Housing—Federal Housing Commissioner

### 24 CFR Parts 203, 213, 234

**[Docket No. R80–860]**

### Mortgage Insurance and Home Improvement Loans; Changes in Interest Rates

**AGENCY:** Department of Housing and Urban Development.

**ACTION:** Final rule.

**SUMMARY:** The change in the regulations increases the FHA maximum interest rate on insured home mortgage loans. The change is necessitated by the current realities of high discounts and declining availability of FHA financing. This action by HUD is designed to bring the maximum interest rate and financing charges on HUD/FHA-insured loans into line with other competitive market rates and help assure adequate supply of FHA financing.

**EFFECTIVE DATE:** August 20, 1980.

**FOR FURTHER INFORMATION CONTACT:** John N. Dickie, Director, Financial Analysis Division, Office of Financial Management, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, (202–426–4667).

**SUPPLEMENTARY INFORMATION:** The following miscellaneous amendments have been made to this chapter to increase the maximum interest rate which may be charged on loans insured by this Department. The maximum interest rate on FHA home mortgage insurance programs has been raised from 11.50 percent to 12.00 percent for level payment mortgages and to 12.50 percent for graduated payment mortgages (GPM).

The Secretary has determined that such changes are immediately necessary to meet the needs of the market and to prevent speculation in anticipation of a change, in accordance with his authority contained in 12 U.S.C. 1709–1, as amended. The Secretary has, therefore, determined that advance notice and public comment procedures are unnecessary and that good cause exists for making this amendment effective immediately.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD's environmental procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

Accordingly, Chapter II is amended as follows:

## PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

### Subpart A—Eligibility Requirements

1. Section 203.20 paragraph (a) is amended to read as follows:

**§ 203.20 Maximum interest rate.**

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 12.00 percent per annum with respect to mortgages insured on or after August 20, 1980.

* * * * *

2. In § 203.45 paragraphs (b) through (f) are redesignated paragraphs (c) through (g) and a new paragraph (b) is added as follows:

**§ 203.45 Eligibility of graduated payment mortgages.**

* * * * *

(b) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 12.50 percent per annum with respect to mortgages insured on or after August 20, 1980.

* * * * *

3. In § 203.46 paragraphs (c) through (j) are redesignated paragraphs (d) through (k) and a new paragraph (c) is added as follows:

**§ 203.46 Eligibility of modified graduated payment mortgages.**

* * * * *

(c) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 12.50 percent per annum with respect to mortgages insured on or after August 20, 1980.

* * * * *

### Subpart C—Eligibility Requirements—Individual Properties Released From Project Mortgage

4. Section 213.511(a) is amended to read as follows:

**§ 213.511 [Amended]**

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 12.00 percent per annum with respect to mortgages insured on or after August 20, 1980.

* * * * *

## PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

### Subpart A—Eligibility Requirements—Individually Owned Units

5. Section 234.29(a) is amended to read as follows:

**§ 234.29 Maximum interest rate.**

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 12.00 percent per annum with respect to mortgages insured on or after August 20, 1980.

* * * * *

6. In § 234.75 paragraphs (b) through (f) are redesignated paragraphs (c) through (g) and a new paragraph (b) is added as follows:

**§ 234.75 Eligibility of graduated payment mortgages.**

* * * * *

(b) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 12.50 percent per annum with respect to mortgages insured on or after August 20, 1980.

* * * * *

7. In § 234.76 paragraphs (c) through (j) are redesignated paragraphs (d) through (k) and a new paragraph (c) is added as follows:

**§ 234.76 Eligibility of modified graduated payment mortgages.**

* * * * *

(c) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not

exceed 12.50 percent per annum with respect to mortgages insured on or after August 20, 1980.

* * * * *

(Section 3(a), 82 Stat. 113; 12 USC 1709–1; Section 7 of the Department of Housing and Urban Development Act, 42 USC 3535(d))

Issued at Washington, D.C. August 19, 1980.

**Lawrence B. Simons,**

*Assistant Secretary for Housing, Federal Housing Commissioner.*

[FR Doc. 80–25789 Filed 8–22–80; 8:45 am]

BILLING CODE 4210–01–M

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Inforcement

### 30 CFR Parts 715, 816 and 817

### Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

**ACTION:** Interpretative rule; Extension of Public Comment Period.

**SUMMARY:** The Office of Surface Mining is hereby extending the public comment period for the interpretive rule on durable rock fills, promulgated April 16, 1980, at 45 FR 26000, interpreting 30 CFR 715.15(d), 816.74 and 817.74. The comment period announced in 45 FR 48129, July 18, 1980, is extended for 30 days at the request of industry for the purpose of submitting to the Administrative Record *additional technical data.* The additional data will, upon submission, be available for public review and comment at the address noted below.

**DATE:** Comments on this interpretive rule must be submitted to the address below by the close of business on September 17, 1980.

**ADDRESS:** Written comments must be mailed or hand-delivered to: Office of Surface Mining, U.S. Department of the Interior, South Building, 1951 Constitution Avenue, NW., Room 153, Washington, D.C. 20240.

**FOR FURTHER INFORMATION CONTACT:**

For further information contact Raymond E. Aufmuth, Physical Scientist, Technical Services Division, Office of Surface Mining, 1951 Constitution Ave. NW., Washington, D.C. 20240 (202) 343–4022.

Dated: August 14, 1980.

**Walter Heine,**

*Director.*

[FR Doc. 80–25750 Filed 8–22–80; 8:45 am]

BILLING CODE 4310–05–M

## DEPARTMENT OF TRANSPORTATION

### 33 CFR Part 401

### Saint Lawrence Seaway Development Corporation, Seaway Regulations; Miscellaneous Amendments

**AGENCY:** Saint Lawrence Seaway Development Corporation.

**ACTION:** Final rule.

**SUMMARY:** This rule corrects errors which appeared in the recent publication (August 7, 1980) of a Final Rule amending existing seaway regulations (33 CFR Part 401) in the **Federal Register.**

**EFFECTIVE DATE:** August 22, 1980.

**FOR FURTHER INFORMATION CONTACT:**

Frederick A. Bush, General Counsel, (315) 764–0271, Ext. 245.

**SUPPLEMENTARY INFORMATION:** On August 7, 1980, the Seaway Corporation published in the **Federal Register** (45 52376) a final rule amending existing Seaway Regulations. The amendments had been developed jointly with the Seaway Corporation's counterpart Canadian agency, the St. Lawrence Seaway Authority and had been published as proposed rulemaking on June 19, 1979 (44 FR 35256). This final rule supplements that published on August 7, 1980 by supplying language which was inadvertently dropped from the earlier publication. The changes and reasons for them, are discussed in detail in the earlier publication.

As noted in the earlier publication, the Seaway Corporation has determined that the expected impact of this regulation is so minimal that it does not warrant either a Regulatory Analysis or a formal Evaluation as required by the Secretary of Transportation's Order concerning Regulatory Policies and Procedures (44 FR 11034). It is expected to result in negligible cost to a few vessel owners. There should be no added cost to or impact on consumers and/or Federal, state and local governments.

Since these amendments supplement regulations already in effect, good cause exists for making them effective upon publication.

1. The caption of § 401.5 is revised to read as follows:

**§ 401.5 Required equipment.**

2. Section 401.71(b) is revised to read as follows:

**§ 401.71 Signals—Explosive and hazardous cargo vessels.**

* * * * *

(b) A hazardous cargo vessel shall display at the masthead or at an equivalent conspicuous position a "B" flag superior to numeral pennant number 1.

3. Section 401.80(b) is revised to read follows:

**§ 401.80 Reporting dangerous cargo.**

* * * * *

(b) The master of any vessel that takes on explosive or hazardous cargo while in the Seaway System shall report to the nearest Seaway station at least three hours prior to commencing transit the nature and quantity of the dangerous cargo and where it is stowed on the vessel.

4. Schedule II, "Table of Speeds*", is amended by revising entries 3 and 5 to read as follows:

| From— | To— | Maximum speed over the bottom (knots) | |
|---|---|---|---|
| | | Col. III | Col. IV |
| 3. Upper Entrance. | Lake St. Francis. | 8.6 (10 mph upb). | 8.6 (10 mph upb). |
| Beaharnois Lock. | Buoy 27F..... | 10.4 (12 mph dnb). | 10.4 (12 mph dnb). |
| 5. Lake St. Francis. | Snell Lock..... | 8.6 (10 mph upb). | 7.7 (9 mph upb). |
| Buoy 87F..... | | 10.4 (12 mph dnb). | 10.4 (12 mph dnb). |

(68 Stat. 93–96, 33 U.S.C. 981–990, as amended and secs. 4, 5, 6, 7, 8, 12 and 13 of Sec. 2 of Pub. L. 95–474, 92 Stat. 1471)

Issued at Washington, D.C., on August 18, 1980.

Saint Lawrence Seaway Development Corporation.

**D. W. Oberlin,**

*Administrator.*

[FR Doc. 80–25701 Filed 8–21–80; 8:45 am]

BILLING CODE 4910–61–M

## DEPARTMENT OF THE INTERIOR

### National Park Service

### 36 CFR Part 7

### Yellowstone National Park; Alcoholic Beverages

**AGENCY:** National Park Service

**ACTION:** Final rule.

**SUMMARY:** The National Park Service has determined that the regulations

contained in 36 CFR § 7.13(i) controlling the use and possession of alcoholic beverages in Yellowstone National Park are unnecessary and should be rescinded. The 7.13(i) subsection is to be reserved for future park use. This activity is adequately covered by the regulations on intoxication (36 CFR § 2.16).

**EFFECTIVE DATE:** September 24, 1980.

**FOR FURTHER INFORMATION CONTACT:** John A. Townsley, Superintendent, Yellowstone National Park, Yellowstone National Park, Wyoming 82190, (307) 344–7381.

**SUPPLEMENTARY INFORMATION:**

**Background**

The Yellowstone National Park regulations which provide a minimum drinking age of 18 and control the scope of use, were promulgated several years ago and were consistent with surrounding State jurisdictions until 1977. The present minimum age for the use of alcohol in the adjoining states of Wyoming and Montana is 19 years. Since 1977, the number of law enforcement incidents relating to the inconsistency of the laws governing alcoholic beverages between the adjacent states and the park has placed an unnecessary burden on law enforcement personnel charged with the enforcement of these regulations.

The general regulations governing the use and possession of alcoholic beverages within all units of the National Park System found in 36 CFR § 2.16, provides that the minimum age for the sale, use or possession of alcoholic beverages is 21 years of age unless a lower age is prescribed by that State. Additional rules in this section also apply to the orderly control of alcoholic beverages.

After a thorough analysis of the Yellowstone National Park regulations in § 7.13, a determination was made not to revise the section to comply with the change made by the surrounding States but to delete the section so that 36 CFR § 2.16 of the general regulation would be applicable to the park and complimentary to the laws of the State in which the park is located.

The National Park Service has determined that it is impractical and unnecessary to provide a notice of proposed rulemaking on this action. Therefore, in accordance with 5 U.S.C. § 553(b)(B) and 43 CFR § 14.5(b) (3)(i), this document is published as a final rule. However, interested persons who wish to make comments or suggestions on this rule may do so by writing to the address noted at the beginning of this rulemaking. All comments received will be reviewed to determine if further revision is necessary.

**Drafting Information**

The following persons participated in the writing of this revision: John A. Townsley, Yellowstone National Park; and Harry DeLashmutt, National Park Service, Washington, D.C.

**Impact Analysis**

The National Park Service has determined that this document is not a significant rule requiring preparation of a regulatory analysis under Executive Order 12044, as amended, and Part 14 of Title 43 of the Code of Federal Regulations; nor is it a major Federal action significantly affecting the quality of the human environment, which would require preparation of an environmental impact statement.

(Sec. 3 of the Act of August 25, 1916 (39 Stat. 535, as amended, 16 U.S.C. § 3); 245 DM 1 (44 FR 23384); and National Park Service Order 77 (38 FR 7478), as amended)

**L. E. Surles,**

*Acting Associate Director, Management and Operations.*

**§ 7.13 [Amended]**

In consideration of the foregoing, Part 7 of Title 36 of the Code of Federal Regulations is amended by the recission of § 7.13(i) and reserved.

[FR Doc. 80–25830 Filed 8–22–80; 8:45 am]

**BILLING CODE 4310–70–M**

## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

### 37 CFR Part 4

### Forms for Trademark Cases; Correction of Section Numbering

**AGENCY:** Patent and Trademark Office, Commerce.

**ACTION:** Correction of final rule.

**SUMMARY:** This notice corrects an error in section numbering which was inadvertently made when the revised trademark forms were adopted on January 1, 1979.

**EFFECTIVE DATE:** August 25, 1980.

**ADDRESS:** Information regarding the revised trademark forms which were adopted on January 1, 1979 is available for public inspection in Room 11E10, Crystal Plaza Building 3, 2021 Jefferson Davis Highway, Arlington, Virginia.

**FOR FURTHER INFORMATION CONTACT:** Peter Harab by telephone at (703) 557–5380 or by mail marked to his attention and addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

**SUPPLEMENTARY INFORMATION:** FR Doc. 78–33097 which was published in the **Federal Register** of November 28, 1978 (43 FR 55395) and in the Official Gazette of January 2, 1979 (978 OG 118 and 978 TMOG 118) refers to section "4.16" in paragraph No. 15 on page 55400. The section number should be "4.16a."

FR Doc. 78–33097 is corrected as follows:

In paragraph No. 15 on page 55400, the two references to "4.16" are changed to read "4.16a."

Dated: August 5, 1980.

**Margaret M. Laurence,**

*Acting Commissioner of Patents and Trademarks.*

Approved: August 11, 1980.

**Francis W. Wolek,**

*Acting Assistant Secretary for Productivity, Technology, and Innovation.*

[FR Doc. 80–25818 Filed 8–22–80; 8:45 am]

**BILLING CODE 3510–16–M**

## VETERANS ADMINISTRATION

### 38 CFR Part 36

### Increase in Maximum Permissible Interest Rate on New Guaranteed, Insured and Direct Loans for Homes and Condominiums

**AGENCY:** Veterans Administration.

**ACTION:** Final regulations.

**SUMMARY:** The VA (Veterans Administration) is increasing the maximum interest rate on guaranteed, insured and direct loans for homes and condominiums. The maximum interest rate is increased because the former interest rate was not sufficiently competitive to induce private sector lenders to make VA guaranteed or insured loans without imposing substantial discounts. The increase in the interest rate will assure a continuing supply of funds for home mortgages.

**EFFECTIVE DATE:** August 20, 1980.

**FOR FURTHER INFORMATION CONTACT:** Mr. George D. Moerman, Loan Guaranty Service (264), Department of Veterans Benefits, Veterans Administration, 810 Vermont Ave., NW., Washington, D.C. 20420 (202–389–3042).

**SUPPLEMENTARY INFORMATION:** The Administrator is required to establish a maximum interest rate for home and condominium loans guaranteed, insured or made by the Veterans Administration as he finds the mortgage money market demands. Recent market indicators—including the rate of discount charged by lenders on VA and Federal Housing Administration loans, the general increase in interest rates charged by

lenders on conventional loans, and the results of the bi-weekly Federal National Mortgage Association auctions—have shown that the mortgage money market has become more restrictive. The maximum rate in effect for VA guaranteed home and condominium loans has not been sufficiently competitive to induce private sector lenders to make this type of VA guaranteed or insured loans without imposing substantial discounts. To assure a continuing supply of funds for home mortgages through the VA loan guaranty program, it has been determined that an increase in the maximum permissible rate applicable to home loans is necessary. The increased return to the lender will make VA loans competitive with other available investments and assure a continuing supply of funds for guaranteed and insured mortgages.

The increase in the maximum interest rate is accomplished by amending §§ 36.4311(a) and 36.4503(a) of title 38, Code of Federal Regulations. Compliance with the procedure for publication of proposed regulations prior to final adoption is waived because compliance would create an acute shortage of mortgage funds pending the final date which would necessarily be more than 30 days after publication in proposed form.

Approved: August 19, 1980.

**Max Cleland,**

*Administrator.*

1. In § 36.4311, paragraph (a) is revised to read as follows:

**§ 36.4311 Interest rates.**

(a) Excepting loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration which specify an interest rate in excess of 12 per centum per annum, effective August 20, 1980, the interest rate on any home or condominium loan guaranteed or insured wholly or in part on or after such date may not exceed 12 per centum per annum on the unpaid principal balance. (38 U.S.C. 1803(c)(1))

* * * * *

2. In § 36.4503, paragraph (a) is revised to read as follows:

**§ 36.4503 Amount and amortization.**

(a) The original principal amount of any loan made on or after October 1, 1978, shall not exceed an amount which bears the same ratio to $33,000 as the amount of the guaranty to which the veteran is entitled under 38 U.S.C. 1810 at the time the loan is made bears to $25,000. This limitation shall not preclude the making of advances, otherwise proper, subsequent to the making of the loan pursuant to the provisions of § 36.4511. Except as to home improvement loans, loans made by the Veterans Administration shall bear interest at the rate of 12 percent per annum. Loans solely for the purpose of energy conservation improvements or other alterations, improvements, or repairs shall bear interest at the rate of 15 percent per annum. (38 U.S.C. 1811(d)(1) and (2)(A))

* * * * *

(38 U.S.C. 210(c), 1803(c))

[FR Doc. 80-25778 Filed 8-22-80; 8:45 am]

BILLING CODE 8320-01-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[FRL 1569-3]**

### State and Federal Administrative Orders Revising the Michigan State Implementation Plan

**AGENCY:** U.S. Environmental Protection Agency.

**ACTION:** Final rulemaking.

**SUMMARY:** U.S. Environmental Protection Agency (USEPA) approves a Michigan Air Pollution Control Commission Order submitted by the Commission as a revision to the Michigan State Implementation Plan (SIP). The Order was issued to the Detroit Edison Company on October 11, 1978 and extends the date that the company is required to meet the opacity limitation contained in the Federally approved Michigan SIP. The Order extends the date to December 31, 1981; and applies to Unit 6 at the Detroit Edison Company's generating facility in the City of St. Clair, East China Township, St. Clair County, Michigan.

Any Order which has been issued to a major source and extends the date for meeting the opacity limitations contained in the SIP must be approved by USEPA before it becomes effective as a SIP revision under the Clean Air Act (CAA) 42 U.S.C. 7410.

**EFFECTIVE DATE:** August 25, 1980.

**FOR FURTHER INFORMATION CONTACT:** Toni Lesser, Air Programs Branch, U.S. Environmental Protection Agency Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6037.

**SUPPLEMENTARY INFORMATION:** The Detroit Edison Company (Edison) operates power generation facilities in the City of St. Clair, East China Township, St. Clair County, Michigan. The plant is commonly known as the St. Clair Plant. The plant is located in an area designated attainment for the total suspended particulates (TSP) National Ambient Air Quality Standards (NAAQS). In accordance with old Rule 336.41 (revised Rule 336.1301 effective Janaury 18, 1980) of the Michigan Administrative Code, Edison requested authorization from the Michigan Air Pollution Control Commission (Commission), to operate Unit 6 at the St. Clair Plant until December 31, 1981, at an opacity greater than that otherwise authorized under the rule. Rule 336.41 (revised rule 336.1301) prohibits the discharge into the atmosphere from a single source of emission, a visible air contaminant with a density more than 20% opacity, except that a visible contaminant with a density of not more than 40% opacity may be emitted for not more than three minutes in any 60 minute period. The emission shall not be permitted on more than three occasions during any 24 hour period. Rule 336.41(c) (revised rule 336.1301(c)) authorizes an exception to the rule where compliance is not technically and economically feasible and all other requirements of the Commission's rules are being met.

The request for a revision was submitted to USEPA in February 23, 1979 as a proposed revision to the Michigan SIP. Additional information was submitted on June 17, 1979 and August 14, 1979. USEPA reviewed the Order and the technical support material, and proposed approval of the Order as a SIP revision on December 19, 1979 (44 FR 75187). In that notice, USEPA proposed approval of the extention of the compliance date to December 31, 1981. Interested parties were given until January 18, 1980 to submit written comments. No comments were received.

The Order requires the Company to complete installation of an electrostatic precipitator for Unit 6 by April 1, 1982. The Order also requires the company to be in compliance with Rule 336.41 (revised Rule 336.1301) after December 31, 1981. The company has informed USEPA that the discrepancy in the date for the completion of the installation of the electrostatic precipitator and the date of compliance is due to the fact that the unit will be shut down December 31, 1981 to enable the company to complete the installation of the electrostatic precipitator.

In the interim, Detroit Edison may operate Unit 6 during periods when the existing precipitator is not malfunctioning at an opacity of not greater than 55% computed as a six minute average. In accordance with the provisions of the January 18, 1978 St.

Clair Power Plant Order No. 194, during the malfunction of the existing precipitator for Unit 6, Detroit Edison may operate Unit 6 at an opacity of not greater than 65% computed as a six minute average. The above provisions are contained in the Consent Order and the supporting documentation demonstrates that this SIP revision will not interfere with the attainment and maintenance of the NAAQS.

The USEPA required contemporaneous testing of the mass particulate emissions and opacity to be performed at the St. Clair Plant. The requirement is to ensure that the particulate emission rate is being met during periods of noncompliance of the opacity standard. On March 19, 1980 Detroit Edison submitted results from their particulate stack tests conducted at the St. Clair Plant on June 6, 22, 23, and 30 and July 1 and 2, 1976 in accordance with MDNR's "Guidelines for Source Testing for Particulate." The opacity measurements were taken with a Lier-Siegler opacity meter which were determined to be valid methodology by the USEPA Surveillance and Analysis Division. The stack test data indicate that all six stacks at the St. Clair Plant are in compliance with the allowable mass emission rate for particulates of 0.15 lbs/1000 lb. exhaust. However, the stack test data also show that Unit No. 6 emissions exceed the allowable opacity limit of 40% for periods greater than 3 minutes.

Since results from contemporaneous stack tests have shown that all TSP sources at the plant comply with the existing mass emission limitation and the area is designated attainment for TSP, USEPA has determined that the SIP revision will not interfere with the attainment and maintenance of the NAAQS. Therefore, this notice takes final rulemaking action to approve as a revision to the Michigan SIP the Consent Order extending the compliance date to December 31, 1981, for Detroit Edison's St. Clair Plant, Unit No. 6 to meet the opacity limitations in Rule 336.41 (revised Rule 336.1301) of the MAPCC Rules and Regulations.

Final approval of the Order as a SIP revision is effective upon publication (date of publication). The Administrator finds good cause for making this revision effective immediately as the Order is already effective in the State of Michigan and federal approval imposes no additional requirement on the affected source.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of (date of publication). Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

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

After review of all relevant materials, the Administrator has determined that the revision meets the requirements of section 110(a)(3) of the Clean Air Act and USEPA regulations in 40 CFR 51.6. The revision is legally enforceable, will not interfere with attainment or maintenance of the NAAQS and has been subjected to reasonable notice and public hearing. Accordingly, the revision is approved.

This Final Rulemaking is issued under the authority of sections 110 and 301 of the Clean Air Act as amended (42 USC 7410, 7601).

Dated: August 8, 1980.

**Douglas Costle,**

*Administrator.*

Part 52 of Chapter 1, Title 40 Code of Federal Regulations is amended as follows:

### Subpart X—Michigan

1. Section 52.1170 is amended by adding new paragraph (c)(27) as follows:

**§ 52.1170 Identification of Plan.**

* * * * *

(c) * * *

(27) On February 23, 1979, compliance schedules were submitted by the State of Michigan, Department of Natural Resources to USEPA for the Detroit Edison, St. Clair Power Plant. Additional material concerning the Final Order issued to the Detroit Edison, St. Clair Power Plant was submitted on June 17, 1979 and August 14, 1979.

2. Section 52.1175 is amended by adding a new line to the table as follows:

**§ 52.1175 Compliance Schedules.**

* * * * *

(e) * * *

* * * * * *

**Michigan**

| Source | Location | Regulations involved | Date schedule adopted | Final compliance date |
|---|---|---|---|---|
| * | * | * | * | * |
| **St. Clair County** | | | | |
| Detroit Edison Unit 6 | East China Township. | 336.41 | Oct. 11, 1978 | Dec. 31, 1981. |
| * | * | * | * | * |

[FR Doc. 80-24810 Filed 8-22-80; 8:45 am]

BILLING CODE 6560-01-M

## 40 CFR Part 180

**[FRL 1587-1; PP 9F2172/R263]**

## Trifluralin; Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This rule establishes a tolerance for residues of the herbicide and plant growth regulator trifluralin in or on grain crops (except fresh corn and rice grain): barley, barley forage, fodder, hay, and straw; sorghum, and sorghum forage and fodder at 0.05 part per million (ppm). The regulation was requested by Elanco Products Company. This rule establishes a maximum permissible level for residues of trifluralin on barley and sorghum.

**EFFECTIVE DATE:** Effective on August 25, 1980.

**ADDRESS:** Richard Mountfort, Product Manager (PM) 23, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460.

**FOR FURTHER INFORMATION CONTACT:** Richard Mountfort, 202–755–1397.

**SUPPLEMENTARY INFORMATION:** Notice was published in the **Federal Register** of March 27, 1979 (44 FR 18278) that Elanco Products Company, a Division of Eli Lilly and Company, Indianapolis, IN 46206 had filed a pesticide petition (PP 9F2172) with EPA. This petition proposed that 40 CFR 180.207 be amended by establishing a tolerance for residues of the herbicide and plant growth regulator trifluralin (alpha,alpha, alpha-trifluoro-2,6-dinitro-N,N-dipropyl-p-toluidine) in or on grain crops with a tolerance limitation of 0.05 ppm.

Notice was published on April 30, 1980 in the **Federal Register** (45 FR 28803) that Elanco Products Company had revised the petition (PP 9F2172) by proposing that 40 CFR 180.207 be amended by establishing a tolerance for the herbicide trifluralin in or on grain crops (except fresh corn and rice), barley (fodder, forage, hay, and straw), and sorghum (forage and fodder) at 0.05 ppm.

No comments were received in response to these notices of filing. The data submitted in the petition and other relevant material have been evaluated. The data considered in support of the proposed tolerances include plant residue data; metabolism studies in plants and animals; rat acute oral toxicity studies with a lethal dose (LD50) varying from 2.8 to 6.0 milligrams (mg)/kilogram (kg) of body weigth (bw) depending on the inert ingredients in the formulations; two rat 2-year feeding studies with a non-observed effect level (NOEL) of 2000 ppm; a rat 4-generation reproduction study with the NOEL of 200 ppm; a rat continuous breeding study (approximately 8 litters from each female) with the NOEL of 2000 ppm; two dog 2-year feeding studies with the NOEL of 400 ppm; a dog breeding study with the NOEL of 400 ppm; and a rabbit teratology study with the NOEL of 450 ppm.

Oncogenicity tests conducted by the National Cancer Institute with trifluralin technical chemical in rats and mice indicate the chemical is not oncogenic in rats nor in male mice. Hepatocellular carcinomas and alveolar/bronchiolar adenomas were observed in female mice at a statistically significant higher incidence than untreated controls. Conclusions reached suggested the possiblity of a dipropylnitrosoamine contaminant which may have been responsible for eliciting the positive results in female mice. N-nitroso-di-n-propylamine (NDPA) was found in the trifluralin at concentrations of 84–88 ppm.

A preliminary notice was published in the **Federal Register** of August 30, 1979 (44 FR 50911) of determination and availability of a position document concerning trifluralin (Treflan®). After extensive review the Agency determined that the benefits outweighed the risk of all uses of trifluralin, if the formulated products contained less than 1 ppm total N-nitrosamine contamination. Thus, the current risks of using products containing trifluralin are far outweighed by the benefits.

Tolerances have previously been established for residues of trifluralin ranging from 0.05 ppm in a number of raw agricultural commodities to 2.0 ppm in or on mung bean sprouts. Based on the NOEL of 400 ppm 3-year dog chronic feeding study and a 100-fold safety factor, the acceptable daily intake (ADI) has been set at 0.1 mg/kg/day with a maximum permissible intake (MPI) of 6.0 mg/day of a 60-kg person. The established tolerances have a theoretical maximum residue contribution (TMRC) of 0.0429 mg/day in a 1.5 kg diet. The proposed tolerance in barley and sorghum at 0.05 ppm would contribute an additional 0.00004 mg/day/1.5-kg diet or an increase of 0.093 percent of the TMRC.

Since tolerances had been established at 0.05 ppm for field corn grain and wheat grain, the commodity grouping is expressed as grain crops (except fresh corn and rice grain).

The metabolism of trifluralin is adequately understood. An adequate analytical method is available for enforcement purposes, and the proposed tolerance level is adequate to cover residues of trifluralin in barley and sorghum.

There is no expectation of residues in meat, milk, poultry, or eggs. The pesticide is considered useful for the purpose of which tolerances are being sought, and it is concluded that this regulation will protect the public health.

Any person adversely affected by this regulation may, on or before September 24, 1980, file written objections with the Hearing Clerk, EPA, Rm. M–3708 (A–110), 401 M Street SW., Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other development procedures. EPA labels these other regulations "specialized". This regulation has been reviewed and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044. Effective date: August 25, 1980.

(Sec. 408(d)(2), 68 Stat. 512, (21 U.S.C. 346a(c)))

Dated: August 19, 1980.

**Edwin L. Johnson,**

*Deputy Assistant Administrator, for Pesticide Programs.*

Therefore, Subpart C of 40 CFR is amended by alphabetically inserting the following raw agricultural commodities in § 180.207 to read as follows:

**§ 180.207 Trifluralin; tolerances for residues**

| Commodity | Parts per million |
|---|---|
| * * * * * | |
| Barley, fodder | 0.05 |
| Barley, forage | 0.05 |
| Barley, hay | 0.05 |
| Barley, straw | 0.05 |
| * * * * * | |
| Grain, crops (except fresh corn and rice grain) | 0.05 |
| * * * * * | |
| Sorghum, fodder | 0.05 |
| Sorghum, forage | 0.05 |
| * * * * * | |

[FR Doc. 80–25773 Filed 8–22–80; 8:45 am]

BILLING CODE 6560–01–M

## 40 CFR Part 180

**[PP OE2285/R259; FRL 1586–2]**

## Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or Raw Agricultural Commodities; Biological Agency Bacillus Thuringiensis Berliner

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This notice establishes an exemption from the requirement of a tolerance for residues of the microbial insecticide *Bacillus thuringiensis* Berliner on beeswax and honey. This request was submitted by the Interregional Research Project No. 4 (IR–4). This rule will permit *Bacillus thuringiensis* Berliner in or on beeswax and honey.

**DATE:** Effective on August 25, 1980.

**ADDRESS:** Send comments to: Clinton Fletcher, Office of Pesticide Programs, Rm. E–124, Registration Division (TS–

767), Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

**FOR FURTHER INFORMATION CONTACT:** Clinton Fletcher (202–426–0223) at the above address.

**SUPPLEMENTARY INFORMATION:** Notice was published in the **Federal Register** of June 13, 1980 (45 FR 40175) in response to a pesticide petition (PP OE2285) submitted to the Agency by the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903 on behalf of the IR–4 Technical Committee and the State Agricultural Experiment Stations. This petition requested that 40 CFR 180.1011 be amended by establishing an exemption from the requirement of a tolerance for residues of the biological agent *Bacillus thuringiensis* Berliner in or on the raw agricultural commodities beeswax and honey. No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking. The data submitted in the petition and other relevant material have been evaluated.

The pesticide is considered useful for the purpose for which the tolerance is sought. Establishment of the tolerance will protect the public health. Therefore, the regulation amending 40 CFR Part 180 by revising § 180.1011 is set forth below.

Any person adversely affected by this regulation may, on or before September 24, 1980, file written objections with the Hearing Clerk, EPA, Room M–3708 (A–110), 401 M Street, SW, Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested the objections must be supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other "specialized" procedures. This regulation has been reviewed and it has been determined that it is a "specialized" regulation not subject to the procedural requirements of Executive Order 12044.

Effective date August 25, 1980.

(Sec. 408(d)(2), 68 Stat. 512, (21 U.S.C. 346a(e)).

Dated: August 19, 1980.

**Edwin L. Johnson,**

*Deputy Assistant Administrator for Pesticide Programs.*

Therefore, Subpart C of 40 CFR Part 180 is amended by revising paragraph (b) in § 180.1011 to read as follows:

**§ 180.1011 Viable spores of the microorganism Bacillus thuringiensis Berliner; exemption from the requirement of a tolerance**

* * * * *

(b) Exemption from the requirement of a tolerance is established for residues of the microbial insecticide *Bacillus thuringiensis* Berliner, as specified in paragraph (a) of this section, in or on beeswax and honey and all other raw agricultural commodities when it is applied either to growing crops, or when it is applied after harvest in accordance with good agricultural practices.

* * * * *

[FR Doc. 80–25796 Filed 8–22–80; 8:45 am]

BILLING CODE 6560–01–M

## DEPARTMENT OF THE INTERIOR

### Office of Hearings and Appeals

### 43 CFR Part 4

### Department Hearings and Appeals Procedures

**AGENCY:** Department of the Interior.

**ACTION:** Final rulemaking.

**SUMMARY:** This document amends the regulations pertaining to appeals to the Interior Board of Land Appeals to require service of notices of appeal, statements of reason, written arguments and briefs upon the Associate Solicitor, Division of Energy and Resources, or the appropriate Regional or Field Solicitor, Office of the Solicitor, Department of the Interior. This change will enable the Office of the Solicitor to participate more effectively in appeals proceedings.

**EFFECTIVE DATE:** September 24, 1980.

**ADDRESS:** Any inquiries should be addressed to: Chief Administrative Judge, Interior Board of Land Appeals, 4015 Wilson Boulevard, Arlington, Virginia 22203.

**FOR FURTHER INFORMATION CONTACT:** Mr. James L. Burski, (703) 557–9040, or Mr. Gary J. Fisher, (202) 343–5757.

**SUPPLEMENTARY INFORMATION:** The regulations at 43 CFR Part 4, Subpart E provide an appeal process to the Interior Board of Land Appeals. Section 4.413 of 43 CFR provides that an appellant must, among other things, serve a copy of the notice of appeal and any statement of reasons, written arguments, or briefs upon each adverse party named in the decision to be appealed, as well as upon the Associate Solicitor, Division of Energy and Resources. The amendment set forth below will require service of such documents on the Regional or Field Solicitor having jurisdiction over the state in which the subject matter of the appeal arises, rather than upon the Associate Solicitor, Division of Energy and Resources, *except* when appeals are taken from decisions of the Director of the U.S. Geological Survey, or the Director of the Bureau of Land Management, or the subject matter of the appeal involves mineral activities on the Outer Continental Shelf. The above documents will continue to be served on the Associate Solicitor, Division of Energy and Resources, in the latter three situations. The Regional or Field Solicitors will have the responsibility of notifying the Associate Solicitor, Division of Energy and Resources, of any appeals that raise questions or issues pertaining to national policies or programs of the Department of the Interior or the resolution of which could significantly impact Departmental programs or policies nationwide. This change will enable the Office of the Solicitor to participate more effectively in appeals proceedings.

The regulation is being published as a final rulemaking under 5 U.S.C. § 553(b)(3)(A) since it pertains to rules of agency practice and procedure. A thirty-day effective date for implementation of the regulation has been chosen to allow the public to become familiar with this change. The principal author of this rulemaking is Gary J. Fisher, Office of the Solicitor, Department of the Interior, Washington, D.C.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

It is hereby determined that publication of this rulemaking is not a major federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (43 U.S.C. § 4332(2)(C)) is required.

Accordingly, under the authority of 43 U.S.C. § 1201, Part 4, Subtitle A, Title 43 of the Code of Federal Regulations is amended as follows: § 4.413 is revised to read as follows:

**§ 4.413 Service of notice of appeal and of other documents.**

The appellant must serve a copy of the notice of appeal and of any

statement of reasons, written arguments, or briefs on the Regional or Field Solicitor having jurisdiction over the State in which the appeal arose, or upon the Associate Solicitor, Division of Energy and Resources, when the appeals are taken from decisions of the Director, U.S. Geological Survey, or the Director, Bureau of Land Management, or the subject matter of the appeal involves mineral activities on the Outer Continental Shelf.

*Address: Associate, Regional or Field Solicitor and States Served*

Associate Solicitor, Division of Energy and Resources, U.S. Dept. of the Interior, Washington, D.C. 20240—n/a

Regional Solicitor, Northeast Region, U.S. Dept. of the Interior, Suite 306, One Gateway Center, Newton Corner, MA 02158—Pennsylvania, Indiana, Michigan, Minnesota, Ohio, Illinois, West Virginia, Wisconsin, Delaware, New Jersey, New York, the New England States, Maryland and Virginia.

Regional Solicitor, Southeast Region, U.S. Dept. of the Interior, 75 Spring Street, S.W., Suite 1328, Atlanta, GA 30303—Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Puerto Rico and the Virgin Islands.

Regional Solicitor, Rocky Mountain Region, U.S. Dept. of the Interior, P.O. Box 25007, Denver Federal Center, Denver, CO 80225—Colorado, Wyoming, Nebraska, Kansas, Iowa and Missouri.

Field Solicitor, U.S. Dept. of the Interior, P.O. Box 1538, Billings, MT 59103—Montana, North Dakota and South Dakota.

Regional Solicitor, Intermountain Region, U.S. Dept. of the Interior, Suite 6201, Federal Bldg., 125 South State Street, Salt Lake City, UT 84138—Utah.

Regional Solicitor, Pacific Southwest Region, U.S. Dept. of the Interior, 2800 Cottage Way, Room E–2753, Sacramento, CA 95825—California, Nevada, Arizona and Hawaii.

Regional Solicitor, Pacific Northwest Region, U.S. Dept. of the Interior, Lloyd 500 Bldg., Suite 607, 500 N.E. Multnomah Street, Portland, OR 97232—Oregon and Washington.

Field Solicitor, U.S. Dept. of the Interior, Box 020, Fed. Bldg. & Courthouse 550 West Fort St., Boise, ID 83724—Idaho.

Field Solicitor, U.S. Dept. of the Interior, P.O. Box 1042, Santa Fe, NM 87501—Oklahoma, Texas, New Mexico, Arkansas and Louisiana.

Regional Solicitor, Alaska Region, U.S. Dept. of the Interior, 510 L Street, Suite 408, Anchorage, AK 99501—Alaska.

and each adverse party named in the decision appealed from, in the manner prescribed in section 4.401(c), not later than 15 days after filing the document.

Failure to serve within the time required will subject the appeal to summary dismissal as provided in § 4.402. Proof of such service as required by § 4.401(c) must be filed with the Board (address: Board of Land Appeals, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203), within 15 days after service unless filed with the notice of appeal.

Dated: August 15, 1980.

**James A. Joseph,**

*Under Secretary.*

[FR Doc. 80-25746 Filed 8-22-80; 8:45 am]

BILLING CODE 4310-17-M

## COMMUNITY SERVICES ADMINISTRATION

### 45 CFR Part 1061

### Community Food and Nutrition Programs; Character and Scope

**AGENCY:** Community Services Administration.

**ACTION:** Final rule.

**SUMMARY:** The Community Services Administration is filing an amendment to its final rule for the Community Food and Nutrition Program, published in the **Federal Register**, May 20, 1980 (45 FR 33788). The purpose of this amendment is two-fold: (1) to notify the T&TA applicants of the extension of the deadline for submitting applications; to provide sufficient time for applicants of T&TA grants to review the work programs of the winners in the local competition, and to design their T&TA programs accordingly; and (2) to make it clear that the provisions of the Rule on two-year programming do not apply to Headquarters and Regional T&TA applications. Based on CSA's published regulations implementing E.O. 12044, we have determined that this amendment is not significant.

**EFFECTIVE DATE:** August 25, 1980.

**FOR FURTHER INFORMATION CONTACT:** Harold Gore, Community Services Administration, 1200 19th St. N.W., Washington, D.C. 20506, Telephone: (202) 632–6694, Teletypewriter: (202) 254–6218.

(Sec. 602, 78 Stat 530; 42 U.S.C. 2942)

**Michael T. Blouin,**

*Assistant Director for Community Action.*

In § 1061.50–13 *Current fiscal year application and review information,* paragraphs (a)(2) and (b)(3) of § 1061.50.13 are revised to read as follows:

**§ 1061.50–13 Current fiscal year application and review information.**

(a) * * *

(2) Applications from Headquarters and Regional T&TA applicants for one year programs, beginning January 1, 1981 and ending December 31, 1981, will be submitted to the appropriate CSA office not later than October 31, 1980.

(b) * * *

(3) The institution of two-year programming does not apply to Headquarters and Regional T&TA applicants, and does not preclude other applicants from applying for a one year grant if a particular set of proposed activities can be accomplished during a twelve-month period and further funding from CSA will not be required.

[FR Doc. 80-25832 Filed 8-22-80; 8:45 am]

BILLING CODE 6315-01-M

# Proposed Rules

Federal Register
Vol. 45, No. 166
Monday, August 25, 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.

## FEDERAL ELECTION COMMISSION

### 11 CFR Part 114

**[Notice 1980-27]**

### Nonpartisan Communications by Corporations or Labor Organizations

**AGENCY:** Federal Election Commission.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** The Commission requests comment on regulations at 11 CFR 114.4 dealing with contributions or expenditures by corporations or labor organizations for nonpartisan communications, particularly those subsections pertaining to contributions or expenditures for: Communications by a corporation to its stockholders and executive or administrative personnel and by a labor organization to its members; Candidate and party appearances on corporate or labor organization premises; Nonpartisan registration and voting information; and Nonpartisan registration and get-out-the-vote drives. In addition to comments on those subsections, the Commission also requests comments on four possible revisions of 11 CFR 114.4: (1) Should 11 CFR 114.4 be revised to permit corporations or labor organizations to make contributions or expenditures for nonpartisan communications to the general public with regard to registration and voting; (2) Should 11 CFR 114.4 be revised to permit corporations or labor organizations to make contributions or expenditures to prepare and distribute to the general public publications concerning the record of a candidate, including the voting record of an officeholder; (3) Should 11 CFR 114.4 be revised to permit corporations or labor organizations to make contributions or expenditures to prepare and distribute to the general public voter guides setting forth the positions of candidates on various issues; and (4) Should 11 CFR 114.4 be revised to include a provision prohibiting any activity which is not specifically permitted under that section or should 11 CFR 114.4 be revised to include a provision permitting any activity which is indistinguishable from those activities specifically permitted under that section. Further information is provided below under supplementary information.

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

**ADDRESS:** Patricia Ann Fiori, Assistant General Counsel, 1325 K Street NW., Washington, D.C. 20463.

**FOR FURTHER INFORMATION CONTACT:** Patricia Ann Fiori, Assistant General Counsel, (202) 523-4143.

**SUPPLEMENTARY INFORMATION:** Under 2 USC 441b, corporations and labor organizations are prohibited from making contributions or expenditures "in connection with" a federal election. Certain exceptions from that general prohibition are set forth in the statute. These statutory exceptions permit a corporation or labor organization to make contributions or expenditures for communications or activities aimed at the corporation's or union's own restricted class. Thus, 2 USC 441b(b)(2)(A) and (B) specifically permit:

1. A corporation to use its treasury funds for communications or for nonpartisan registration and get-out-the-vote campaigns aimed at its stockholders and their families or at its executive or administrative personnel and their families;

2. A labor organization to use its treasury funds for communications or for nonpartisan registration and get-out-the-vote campaigns aimed at its members and their families.

While the above statutory exceptions permit contributions or expenditures for communications or activities aimed at a corporation's or labor organization's restricted class, there are no comparable statutory exceptions carved out for communications or activities aimed at the general public. Commission regulations, however, do permit a corporation or union to use its treasury funds for communications or activities directed to individuals who are outside the restricted class—that is, to all employees of the corporation or labor organization or to the general public, provided that certain requirements are met. 11 CFR 114.4 (c) and (d) of Commission Regulations permit the following activities:

1. A corporation or labor organization may through various communications urge *employees* of the corporation or employees of the labor organization to register, to vote or to otherwise participate in the electoral process, provided that certain specified conditions designed to insure nonpartisanship are met. (See 11 CFR 114.4(c)(1) (i) and (ii).)

2. A corporation or labor organization may reprint in whole and distribute to the *general public* official registration and voting information or materials, provided that certain specified conditions designed to insure nonpartisanship are met. (See 11 CFR 114.4(c)(2).)

3. A corporation or labor organization may distribute to the *general public* voter guides and similar materials describing the candidates and their positions if the materials are obtained from a nonpartisan nonprofit organization and if other specified conditions designed to insure nonpartisanship are met. (See 11 CFR 114.4(c)(3).)

4. A corporation or labor organization may participate in registration and get-out-the-vote drives aimed at the *general public* if the drive is jointly sponsored with and conducted by a nonpartisan nonprofit organization and if other specified conditions designed to insure nonpartisanship are met. (See 11 CFR 114.4(d).)

The above regulations thus specifically permit a corporation or labor organization to make nonpartisan registration and voting communications directly to the corporation's or union's *employees*. There is, however, no provision which specifically permits a corporation or labor organization to use its treasury funds to make such communications directly to the *general public*. Except for official materials prepared by a state government, current regulations specifically permit a corporation or labor organization to make contributions or expenditures for communications or activities directed to the general public only with the involvement of a nonpartisan nonprofit organization. (Note, however, that various Commission advisory opinions (such as AO 80-20 and AO 80-33) have expanded upon current regulations by permitting the expenditure of corporate funds for nonpartisan registration and voting communications directed to the

general public without the involvement of a nonpartisan nonprofit organization.)

The Commission is considering the following four possible revisions to 11 CFR 114.4: (A) Should 11 CFR 114.4 be revised to permit corporations or labor organizations to make contributions or expenditures for nonpartisan communications to the general public with regard to registration and voting; (B) Should 11 CFR 114.4 be revised to permit corporations or labor organizations to make contributions or expenditures to prepare and distribute to the general public publications concerning the record of a candidate, including the voting record of an officeholder; (C) Should 11 CFR 114.4 be revised to permit corporations or labor organizations to make contributions or expenditures to prepare and distribute to the general public voter guides setting forth the positions of candidates on various issues; and (D) Should 11 CFR 114.4 be revised to include a provision permitting any activity which is not specifically permitted under that section or should 11 CFR 114.4 be revised to include a provision permitting any activity which is indistinguishable from those activities specifically permitted under that section.

A. Should 11 CFR 114.4 be revised to permit corporations or labor organizations to make contributions or expenditures for nonpartisan communications to the general public with regard to registration and voting?

The Commission has issued several advisory opinions concerning corporate or union distribution of registration or voting communications to the general public. (See AO–78–102, AO–79–48, AO–80–20, AO–80–33, AO–80–45 and AO–80–55. See also OR 701, (OR 720, OR 728, OR 740, and AOR 1980–15.) On the basis of these opinions, regulations permitting corporations or labor organization to distribute non-partisan registration and voting communications to the general public would involve the following issues:

1. Does the registration or voting communication relate to a federal election?

Discussion: This issue involves the question of whether or not the registration or voting communication is covered by the Federal Election Campaign Act (FECA). A possible guideline on this issue would be: unless the communication is specifically directed to a State election, the communication would be deemed to relate to a federal election and therefore be covered by the FECA.

2. Does the communication fall within the news story/commentary exemption of 2 USC 431(9)(b)(i)?

Discussion: Any news story, commentary or editorial by a broadcasting station, newspaper or other periodical is exempt from the coverage of the FECA (except under certain circumstances where the facility is owned or controlled by a political party, committee or candidate). On the basis of this exemption, if a broadcaster or a newspaper is responsible for the content and production of a registration or voting communication, it would fall outside the prohibitions of 2 USC 44lb. If, however, an entity which is neither a broadcaster nor a newspaper is responsible for the communication's content and production, it would not be exempt (e.g., a corporation or labor organization purchasing space in a newspaper for a registration or voting ad).

3. Is the communication partisan or nonpartisan?

Discussion: On the basis of Commission advisory opinions, a possible guideline would be: the communication would be considered partisan if it: mentions any candidate(s) or political party; urges the public to vote for any candidate(s), group(s) or party; or is directed at an identifiable group. In anaylzing the question of whether or not a communication is directed at a group, two approaches are possible. Under one approach a communication would be regarded as partisan only if an identifiable group is expressly mentioned in the communication (e.g. "Friends of labor should vote;" "Friends of business should vote;" or "vote" messages aimed at either an ethnic or economic group). An alternative approach would be to view a communication as partisan not only if it expressly mentions an identifiable group, but also if the communication is *implicitly* directed at an identifiable group. In determining whether a communication is implicitly directed at a group, the following factors would be considered:

a. What is the particular medium used? If a communication appears in a general circulation newspaper or over a general broadcasting station, it would not be considered partisan. However, if a communication appeared in a newspaper or over a broadcasting station which serves an identifiable group, it would be considered partisan.

b. What is the juxtaposition of the voting or registration communication? If a voting or registration communication and a partisan communication appears immediately after a partisan program, the communication would be considered partisan.

4. Does the communication simply identify the corporation or labor organization responsible for the communication or is a commercial product mentioned?

Discussion: There are two possible approaches to this issue. One approach would be to permit identification of the corporation or labor organization paying for the communication, but prohibit any message which promotes the organization or a commercial product. An alternative approach would be to permit identification of the corporation of labor organization and, in addition, permit messages which promote the organization or a commercial product. (See AOR 1980–15).

B. Should 11 CFR 114.4 be revised to permit corporations or labor organizations to make contributions or expenditures to prepare and distribute to the general public publications concerning the record of a candidate, including the record of an officeholder?

The issue of whether a corporation of labor organization may use its treasury funds to prepare and distribute to the general public publications concerning the record of a candidate or officeholder is also raised in the context of § 114.4. Corporate publication and distribution of voting guides and records to the general public was the subject of two advisory opinions (AO 78–18 and AO 79–70), and of one advisory opinion request (AOR 1978–62) to which the Commission did not respond on the merits but instead found that the requestor had no standing. (See also OR 682, IC 544, OR 790, and OR 840.) On the basis of these opinions, regulations permitting corporations or labor organizations to use their treasury funds to prepare and distribute to the general public publications concerning the record of a candidate or officeholder would involve the following issues:

1. Does the publication concern a federal election?

Discussion: This issue involves the question of whether or not the publication falls within the scope of the FECA. A possible guideline to follow on this issue would be: if the publication discusse an individual running for federal office, it would be covered by the FECA.

2. Does the publication describe the positions of candidates on campaign issues or does the publication present a record of what an individual has done, such as a voting record of an officeholder?

Discussion: There are two possible approaches to this issue. Under one approach, the only publication which a corporation or union would be permitted to distribute directly to the general public would be the record of an officeholder. That record could include a

description of the way an officeholder voted on any legislative measure or a description of any other official action of an officeholder with regard to legislative matters. Any other publications which describe candidates who are not officeholders or which describe candidates' positions on campaign issues would be considered voter guides. Voter guides are subject to the requirements of 11 CFR 114.4(c)(3)—that is, the guides could not favor one candidate or party over another and the guides would have to be obtained from a nonprofit, nonpartisan organization.

An alternative approach would be to permit a corporation or labor organization to distribute directly to the public publications which present a factual record of a candidate's past activities. Such presentations could include biographical information on the candidate, a listing of employment positions held by the candidate and a description of the actions taken by him or her in those positions. If the candidate is an officeholder, the description could include the candidate's record as an officeholder, for example, the way the candidate voted on legislative matters or the candidate's other official actions with regard to legislative matters. A publication which describes the candidates' position on campaign issues is a voter guide, subject to the requirements of 11 CFR 114.4(c)(3).

3. If the publication concerns the voting record of an officeholder, is it distributed during an election campaign?

Discussion: A possible guideline on this issue would be to prohibit a corporation or labor organization from distributing publications concerning the record of a candidate or officeholder within a specified time prior to an election. For instance, such distribution might be prohibited during an election year or during a three month period prior to an election; or such distribution might be permitted only for a certain period (e.g., 60 days) after a legislative session.

4. Could the manner in which the record is presented be viewed as supporting or opposing the candidate?

Discussion: This issue involves the question of whether or not the publication characterizes the candidate's record. Characterization would include a rating, a description of the record as for or against a certain position, or a statement of a discernable voting pattern.

One possible approach would be to prohibit a corporation or labor organization from preparing and distributing any publication which characterizes the record of a candidate. Another possible approach would be to permit a corporation or labor organization to distribute publications which characterize a candidate's record. Yet another alternative would be to prohibit the distribution of publications which characterize a candidate's record during an election campaign, but permit the distribution of such publications at any other time.

C. Should 11 CFR 114.4 be revised to permit corporations or labor organizations to make contributions or expenditures to prepare and distribute to the general public voter guides setting forth the positions of candidates on various issues?

Discussion: In both its regulations and advisory opinions, the Commission has taken the position that a corporation or labor organization may distribute to the general pubic materials describing the positions of candidates only if those materials are obtained from a nonpartisan nonprofit organization. (See 11 CFR 114.4(c)(3) and AO 79–70.) The Commission is considering a revision to its regulations which would permit a corporation or labor organization to prepare and distribute directly to the general public materials describing the positions of candidates on various issues. Such a revision would permit the distribution of materials which contain either statements prepared by the candidates on various issues or statements which present the positions of candidates on various issues but are prepared by the labor organization or corporation.

D. Should 11 CFR 114.4 be revised to include a provision prohibiting any activity which is not specifically permitted under that section or should 11 CFR 114.4 be revised to include a provision permitting any activity which is indistinguishable from those activities specifically permitted under that section?

Discussion: 2 USC 441b contains a very broad prohibition against contributions or expenditures by corporations or labor organizations "in connection with" a federal election, and specifies only a few detailed exceptions to that prohibition. Therefore, the Commission may decide to include in 11 CFR 114.4 a provision which states that any activity which is not specifically permitted in that section is prohibited. On the other hand, the Commission may decide to include in 11 CFR 114.4 a provision which permits any activity which is indistinguishable from those activities specifically permitted under that section.

Dated: August 20, 1980.

**Max L. Friedersdorf,**

*Chairman, Federal Election Commission.*

[FR Doc. 80–25791 Filed 8–22–80; 8:45 am]

BILLING CODE 6715–01–M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. 80–WE–36–AD]**

### McDonnell Douglas DC–10 Series Airplanes; Airworthiness Directives

**AGENCY:** Federal Aviation Administration (FAA) DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice proposes to adopt an Airworthiness Directive (AD) that would require modification of the left and right overwing (No. 3 door) evacuation slide or slide/raft packs and container assemblies installed on McDonnell Douglas Model DC–10 Series Airplanes. This AD is prompted by reports of instances in which the inflation system of the evacuation slide or slide/raft was not initiated automatically which could result in delay in airplane evacuation.

**DATES:** Comments must be received on or before November 3, 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, World Way Postal Center, Los Angeles, California 90009.

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

**FOR FURTHER INFORMATION CONTACT:** Robert T. Razzeto, Executive Secretary Airworthiness, Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 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. Communication 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 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.

There have been reports that during production tests of the evacuation slides and slide/rafts installed at the overwing (No. 3) door on the McDonnell Douglas Model DC–10 aircraft, there were a significant number of instances in which the inflation sytem was not initiated automatically. Upon investigation it was determined that the kickout straps on the slide or slide/raft container were too short to eject the slide or slide/raft far enough onto the wing surface from within the cabin to automatically inflate the slide or slide/raft. In each instance where complete deployment did not occur the slide or slide/raft could have been inflated manually. Federal Aviation Regulations, however, require that the evacuation device be automatically erected upon initiation of emergency exit opening from inside the the airplane. A review of the various design changes which have occurred since original certification was inconclusive in pinpointing any modification which may have adversely affected the automatic inflation sequencing. Further, no occurrence of this condition has been reported on in-service airplanes. Nevertheless, sufficient evidence exists supporting the potential for its occurrence that action designed to preclude such a possibility is deemed warranted.

Since this condition is likely to exist or develop on other airplane of the same type design the proposed AD would require modification of the slide or slide/raft container by lengthening the existing two straps and installing two new straps which will assure proper automatic deployment and erection of the evacuation devise on McDonnell Douglas DC–10 Series Airplanes.

**Proposed amendment**

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

**McDonnell Douglas:** Applies to McDonnell Douglas Model DC–10–10, –10F, –30, –30F and –40 Series Airplanes certified in all categories utilizing the following slide or slide/raft assemblies at the No. 3 door:

| Manufacturer | Part No. |
|---|---|
| **Left Hand Door** | |
| Sargent, Industries, Pico Division. | 5LD230500–112 |
| | 5LD230500–114 |
| | 5WD230500–101 |
| | 5WD230500–101 (DAW95) |
| | 5WD230500–201 |
| | 5WD230500–201 (DAW95) |
| | 5WD230500–401 |
| | 5WD230500–401 (DAW98) |
| Air Cruisers Company | 24D29220–3 |
| | 24D30051–11 |
| | 24D30051–11 (DAW98) |
| | 24D30051–13 (DAW98) |
| | 24D30051–51 |
| | 24D30051–53 (DAW98) |
| | 24D30051–91 |
| **Right Hand Door** | |
| Sargent Industries, Pico Division. | 5LD230600–112 |
| | 5LD230600–114 |
| | 5WD230600–101 |
| | 5WD230600–101 (DAW95) |
| | 5WD230600–201 |
| | 5WD230600–201 |
| | 5WD230600–201 (DAW95) |
| | 5WD230600–401 |
| | 5WD230600–401 (DAW95) |
| Air Cruisers Company | 24D29220–4 |
| | 24D30051–21 |
| | 24D30051–21 |
| | 24D30051–21 (DAW98) |
| | 24D30051–23 (DAW98) |
| | 24D30051–61 |
| | 24D30051–63 (DAW98) |
| | 24D30051–101 |

Compliance is required as indicated unless already accomplished. To prevent improper deployment of No. 3 door slide/slide raft accomplish the following:

At next slide or slide/raft assembly overhaul after the effective date of this AD but in no case exceeding three years from the effective date of this AD, unless already accomplished, modify the affected evacuation system assemblies and container assembly P/N AWD7446—503 (Douglas P/N) in accordance with Part 2, Accomplishment Instructions, of Douglas Service Bulletin No. 25–278 dated March 7, 1980.

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 modifications required by this AD.

Alternative 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)); 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 proposed regulation which is not considered to be significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the expected impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Los Angeles, California, on August 13, 1980.

**H. C. McClure,**

*Acting Director, FAA Western Region.*

[FR Doc. 80–25544 Filed 8–22–80; 8:45 am]

BILLING CODE 4910–13–M

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**14 CFR Parts 71 and 73**

**[Airspace Docket No. 80–AWA–13]**

## Proposed Temporary Restricted Area

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice proposes to establish a temporary restricted area in the vicinity of Clear Creek, Alaska, to contain a major joint military exercise. The area would be included in the Continental Control Area. Federal Airways B–26 and V–444 would be excluded within the proposed restricted area. This action would prohibit unauthorized flight operations by nonparticipating aircraft within the proposed restricted area during the time the area is in use by the military.

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

**ADDRESSES:** Send comments on the proposal in triplicate to: Director, FAA Alaskan Region, Attention: Chief, Air Traffic Division, Docket No. 80–AWA–13, Federal Aviation Administration, P.O. Box 14, 701 C Street, Anchorage, Alaska 99513.

Send comments concerning environmental and land use aspects to: Major Ronald S. Brooks, DOOS Headquarters, Alaskan Air Command, Elmendorf AFB, Alaska 99506. (907) 752–5346.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC–204), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

**FOR FURTHER INFORMATION CONTACT:** 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:**

**Comments Invited**

Interested person may participate in the proposed rulemaking by submitting

such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Alaskan Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 14, 701 C Street, Anchorage, Alaska 99513. All communications received on or before September 24, 1980 will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

**Availability of NPRM**

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

**The Proposal**

The FAA is considering amendments to § 71.109, § 71.125, § 71.151 and § 73.22 of Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) that would designate a temporary restricted area identified as R–2213, Clear Creek, Alaska, to contain a major joint military readiness exercise entitled BRIM FROST 81. The proposed restricted area would be included in the Continental Control Area. This exercise will provide training for several military commands operating under the sponsorship of the Department of the Air Force, Alaskan Air Command. The air activities associated with the exercise will be such that flight by nonparticipating aircraft cannot be safely conducted within the proposed temporary restricted area when it is in use by the military. These activities will consist of air operations such as close air support, air interdiction, tractical reconnaissance, aerial resupply, paradrops and aerial refueling. It is estimated that approximately 160 aircraft would be utilized to conduct approximately 100 fixed wing and 150 helicopter sorties daily. The boundary abutment to the existing Restricted Area R–2202A is necessary to accommodate inter-area transition into and out of R–2202A which will be used extensively during the exercises. Communications equipment would be installed and maintained between the appropriate military and FAA facilities to coordinate movement of nonparticipating aircraft through the exercise area when military activity permits. Additionally, a reverse charge telephone number and a VHF radio communications frequency would be established and published for pilots of nonparticipating aircraft to coordinate directly with the military if desired. The proposed temporary restricted area would be designated as joint use to permit use by the controlling agency for nonparticipating VFR and IFR air traffic when the area is not in use by the military. The military would provide aerial access to private or public use land within the proposed area. Federal Airways B–26 and V–444 would be excluded within the proposed temporary restricted area during its designated period to facilitate participating aircraft performing maneuvers which are not compatible with the existence of an airway. The Department of the Air Force, Alaskan Air Command, will serve as lead agency for purposes of compliance with the National Environmental Policy Act (NEPA). Sections 71.109, 71.125 and 71.151 of Part 71, and § 73.22 of Part 73 were republished in the **Federal Register** on January 2, 1980 (45 FR 306, 342, 346 and 680).

**The Proposed Amendments**

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.109, § 71.125, § 71.151 and § 73.22 of Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) as republished (45 FR 306, 342, 346 and 680) as follows:

1. In § 71.109, under B–26, the following is added: "The airspace within Restricted Area R–2213 is excluded from 0001 January 28 until 2359 local time February 3, 1981."

2. In § 71.125, under V–444, the following is added: "The airspace within Restricted Area R–2213 is excluded from 0001 January 28 until 2359 local time February 3, 1981."

3. In § 71.151, between "R–2211 Blair Lakes, Alaska" and "R–2301 Ajo, Arizona" the following is added: "R–2213 Clear Creek, Alaska, from 0001 January 28, until 2359 local time February 3, 1981."

4. In § 73.22, after "R–2211 Blair Lakes, Alaska;" the following is added:

**R–2213 Clear Creek, Alaska**

*Boundaries.* Beginning at Lat. 64°41'00"N., Long. 147°55'00"W.; to Lat. 64°40'00"N., Long. 147°20'00"W.; to Lat. 64°20'00"N., Long. 147°00'00"W.; to Lat. 64°14'45"N., Long. 146°43'15"W.; thence along the East bank of the East Fork and Little Delta Rivers to Lat. 63°50'50"N., Long. 146°47'30"W.; to Lat. 63°56'00"N., Long. 147°02'00"W.; to Lat. 63°58'00"N., Long. 148°00'00"W.; to Lat. 64°23'00"N., Long. 148°05'00"W.; to point of beginning.
Designated altitudes. Surface to FL200.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Anchorage ARTCC.
Using agency. Alaskan Air Command, Elmendorf AFB, Alaska.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.65)

**Note.**—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on August 18, 1980.

**B. Keith Potts,**

*Acting Chief, Airspace and Air Traffic Rules Division.*

[FR Doc. 80–25728 Filed 8–22–80; 8:45 am]
BILLING CODE 4910–13–M

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**14 CFR Part 75**

**[Airspace Docket No. 80–ARM–5]**

## Establishment of a Jet Route

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of propoesed rulemaking

**SUMMARY:** This notice proposes to establish a new Jet Route J–175 between Cheyenne, Wyo., and Dubois, Idaho. J–175 would improve traffic in the Denver, Colo., terminal area. In addition, J–175 would provide a direct route for aircraft departing Denver and proceeding northwest thereby saving a significant amount of fuel.

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

**ADDRESSES:** Send comments on the proposal in triplicate to: Director, FAA Rocky Mountain Region, Attention: Chief, Air Traffic Division, Docket No. 80–ARM–5, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colo. 80010.

The official docket may be examined at the following location: FAA Office of

the Chief Counsel, Rules Docket (AGC–204), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

**FOR FURTHER INFORMATION CONTACT:**
Lewis Still, Airspace Regulations Branch, AAT–230, Airspace and Air Traffice Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8525.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Rockey Mountain Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colo. 80010. All communications received on or before September 24, 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 Rules Docket for examination by interested persons.

**Availability of NPRM**

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C., 20591, or by calling (202) 426–8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

**The Proposal**

The FAA is considering an amendment to Subpart B of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) that would establish a new jet Route J–175 fromn Cheyenne, Wyo., to Dubois, Idaho, via Laramie, Wyo. This new jet route would aid controllers by establishing a jet route that is aligned with Standard Instrument Departures (SIDs) from Denver, Colo. In addition, a significant savings in fuel consumption would be realized by providing a direct route for aircraft departing Denver and proceeding northwest. Section 75.100 of Part 75 was republished in the **Federal Register** on January 2, 1980 (45 FR 732).

**The Proposed Amendment**

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Subpart B of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as republished (45 FR 732) as follows:

Under § 75.100 "Jet Route No. 175 From Cheyenne, Wyo., via Laramie, Wyo., to Dubois, Idaho." is added.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C 1655(c)); 14 CFR 11.65)

**Note.**—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on August 18, 1980.

**B. Keith Potts,**

*Acting Chief, Airspace and Air Traffic Rules Division.*

[FR Doc. 80–25730 Filed 8–22–80; 8:45 am]

**BILLING CODE 4910–13–M**

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**14 CFR Part 75**

**[Airspace Docket No. 80–ACE–20]**

## Establishment of Jet Route

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice proposes to establish a new Jet Route J–182 between Goodland, Kans., and Razorback, Ark., via Wichita, Kans. J–182 would provide a direct route between Goodland and Razorback thereby improving traffic flow in these terminal areas and save fuel due to the shortened route.

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

**ADDRESSES:** Send comments on the proposal in triplicate to: Director, FAA Central Region, Attention: Chief, Air Traffic Division, Docket No. 80–ACE–20, Federal Aviation Administration, 601 E. 12th Street, Kansas City, Mo. 64106.

The official docket may be examined at the following location: FAA office of the Chief Counsel, Rules Docket (AGC–204), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

**FOR FURTHER INFORMATION CONTACT:**
Lewis Still, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8525.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 601 E. 12th Street, Kansas City, Mo. 64106. All communications received on or before September 24, 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 Rules Docket for examination by interested persons.

**Availability of NPRM**

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

**The Proposal**

The FAA is considering an amendment to Subpart B of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) that would establish a new Jet Route J–182 between Goodland, Kans., and Razorback, Ark., via Wichita, Kans. This new jet route would improve departures/arrivals at Wichita, Kans., and permit more flexibility for maneuvering traffic in the area. Also, a significant savings in fuel consumption would be realized by providing a direct

route for aircraft operating in this area. Section 75.100 of Part 75 was republished in the **Federal Register** on January 2, 1980 (45 FR 732).

**The Proposed Amendment**

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Subpart B of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as republished (45 FR 732) as follows:

Under § 75.100 "Jet Route No. 182 From Goodland, Kans., via Wichita, Kans., to Razorback, Ark." is added.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.65)

**Note.**—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on August 19, 1980.

**B. Keith Potts,**

*Acting Chief, Airspace and Air Traffic Rules Division.*

[FR Doc. 80-25732 Filed 8-22-80; 8:45 am]

**BILLING CODE 4910-13-M**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 15 CFR Part 934

### Proposed Flower Garden Banks National Marine Sanctuary

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

**ACTION:** Extension of comment period.

**SUMMARY:** NOAA is extending the deadline for the inclusion of comments on the revised regulations in the final environmental impact statement (FEIS). As a result of a substantial number of responses attesting to the lack of time to prepare comments, NOAA is extending the date for inclusion of comments in the Flower Garden Banks National Marine Sanctuary FEIS to September 15, 1980.

**DATE:** Comments due September 15, 1980.

**FOR FURTHER INFORMATION CONTACT:**

Dr. Richard J. Podgorny, (202) 634-4236.

**ADDRESS:** Send comments and information to: Dr. Nancy Foster, Deputy Director, Sanctuary Programs Office, Office of Coastal Zone Management, NOAA, 3300 Whitehaven Street, N.W., Washington, D.C. 20235.

**SUPPLEMENTARY INFORMATION:** The regulations for the proposed Flower Garden Banks National Marine Sanctuary (the Sanctuary) were first proposed on Aptil 13, 1979, (44 FR 22081) and a draft environmental impact statement (DEIS) describing the effect of the proposed designation and regulations was issued concurrently. As a result of comments received on the regulations and the DEIS, and after consultation with interested Federal Agencies, NOAA revised the original proposed regulations.

These revised regulations were published on June 26, 1980 (45 FR 43205). At that time, it was stated that all comments received by July 25, 1980, would be considered in the preparation of the FEIS. However, a substantial number of responses were received attesting to the lack of time to prepare comments. Therefore, NOAA is extending the date for inclusion of comments in the FEIS to September 15, 1980. In addition, in order to assure that a broader spectrum of the public that will be most affected by the Sanctuary is aware of the present status of the Sanctuary proposal, notices will be placed in the major newspaper in the Texas-Louisiana region. Copies of the revised regulations will be available on request from the sanctuary Programs Office.

Dated: August 15, 1980.

**Michael Glazer,**

*Assistant Administrator for Coastal Zone Management.*

[FR Doc. 80-25357 Filed 8-22-80; 8:45 am]

**BILLING CODE 3510-08-M**

## WATER RESOURCES COUNCIL

### 18 CFR Parts 703 and 740

### State Water Management Planning; Proposed Program Guidelines

**AGENCY:** U.S. Water Resources Council.

**ACTION:** Cancellation of Kansas City, MO public hearing scheduled for August 26, 1980.

**SUMMARY:** This is to announce cancellation of the public hearing previously announced in the **Federal Register**, Vol. 45, No. 141, dated Monday, July 21, 1980, to be held on August 26, 1980, at 601 E. 12th Street, Room 114, Kansas City, Missouri, by the U.S. Water Resources Council, to solicit comments on the State Water Management Planning—Proposed Program Guidelines. This action has been necessitated due to the anticipated lack of participation in the hearing, however, all interested parties are encouraged to submit written comments with respect to the proposed guidelines by September 5, 1980, as previously annonuced. Additionally, the hearing scheduled to be conducted on August 28, 1980, in Washington, DC will be held as originally announced in the **Federal Register**, Vol. 45, No. 141, dated Monday, July 21, 1980.

**FOR FURTHER INFORMATION CONTACT:**

Denzel L. Fisher, Acting Director, State Programs Division, U.S. Water Resources Council, 2120 L Street, N.W., Washington, DC 20037, (202) 254-6446.

**Wellington L. Hundley,**

*Program Manager.*

[FR Doc. 80-26157 Filed 8-22-80; 11:02 am]

**BILLING CODE 8410-01-M**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

### 23 CFR Part 660

**[FHWA Docket No. 80-16]**

### Forest Highways; Administration and Construction Provisions

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** Comments are requested on a proposal that would amend existing regulations on the administration and construction of forest highways. The proposed amendment would coincide with a change in the statutory definition of forest highways and would revise and update existing procedures.

**DATE:** Comments must be received on or before October 24, 1980.

**ADDRESS:** Anyone wishing to submit written comments may do so, preferably in triplicate, to FHWA Docket 80-16, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed stamped postcard.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Robert C. Coles, Office of Highway Operations (HHO-13), 202-426-0460, or Mr. Lee J. Burstyn, Office of the Chief

Counsel (HCC–10), 202–4226–0754, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

**SUPPLEMENTARY INFORMATION:**

Currently, there are 22,000 miles of public roads in 40 States and Puerto Rico designated as forest highways. These highways are of special Federal interest because they provide access to the resources of the national forests. Forest highways also provide benefits to communities in or near national forest boundaries.

Forest highways are under the jurisdiction of, and maintained by, State of local authorities. The Federal Highway Administration (FHWA) administers the forest highway program in cooperation with the Forest Service (FS), United States Department of Agriculture. Under this program Federal funds are made available to State and local authorities for the construction and improvement of forest highways.

The regulations governing the forest highway program are codified in Part 660 of title 23, Code of Federal Regulations (23 CFR 660). Subpart A contains the procedures which are used to select forest highway projects for Federal funding and to administer the construction of those projects. Subpart B establishes a Forest Highway System and the procedures for classifying, numbering, and modifying forest highway routes.

The administration of the Forest Highway System was reviewed by the United States General Accounting Office (GAO) and was the subject of a report entitled "Federal Interests Should Receive More Consideration Under the Forest Highway Program" (CED–77–130, October 13, 1977.* The GAO report found that certain roads essential to the national forests were not being given sufficient consideration in the financing of forest highway improvements. For example, some 3,700 miles of forest roads were found to be ineligible for Federal funding because of legislative and administrative changes between 1970 and 1977. State and local funding then became the only source of funding for needed improvements on these routes. The GAO report recommended legislative action to permit those forest roads that were formerly considered forest highways to be eligible for funding under the forest highway program.

The Surface Transportation Assistance Act of 1978 (STAA) (P.L. 95–599) amended the definition of "forest highway" in § 101(a) of title 23, United States Code (23 U.S.C. § 101(a)). This amendment was recommended by the President in response to the GAO report.

The definition of forest highways in 23 U.S.C. § 101(a) is now broad enough to incorporate those roads which had become ineligible for Federal funding. It includes all forest roads which are under the jurisdiction of, and maintained by, a public authority and open to public travel. It allows the FHWA and the FS to develop a more integrated forest road system by extending funding to those highways which link the various Federal-aid highway systems (i.e., primary, secondary, etc.) with the forest development roads, which are administered by the FS.

The GAO report also recommended that the FHWA and the FS jointly develop and issue specific criteria for selecting projects for forest highway funding. Because of limited funds authorized for the program, the GAO recommended that project development and selection be based on sound criteria to assure that those projects that best meet the program's intent are given top consideration.

Section 660.103(b) of this proposed regulation would incorporate the new definition of forest highways which has been in effect since 1978. Section 660.109 would establish a formal program and project selection process based on specific criteria. The proposed process would also better protect the Federal interest in forest highways by providing a greater role for the FS in the development and selection of programs and projects.

It is also proposed to eliminate the current Forest Highway System as such. All references to the Forest Highway System in 23 CFR 660, Subpart A would be deleted and the entire Subpart B would be deleted (i.e., "vacated") from the CFR. The existing Forest Highway System was not established as a result of any statutory requirement, but rather was created as an administrative mechanism for designating forest highway routes. Under proposed § 660.105, forest roads would be designated as forest highways on the basis of three fundamental criteria, without reference to a formal Forest Highway System. This change is designed to eliminate unnecessary paperwork and administrative burdens in the forest highway program.

The proposed regulation would provide for consultation between the FHWA, the FS, State highway agencies, and local government agencies, as appropriate, in a number of important areas including the designation of forest highways (§ 660.105), program and project selection (§ 660.109), and maintenance (§ 660.115). The FHWA encourages agencies with an interest in forest highways to consult with each other on a regular basis and to share their expertise in all program areas.

This proposal represents a condensed version of the current regulation for administering forest highways. Extraneous material and requirements would be eliminated. Other provisions would be revised or supplemented with references to existing policies and procedures in order to improve the clarity and usefulness of the document.

Proposed § 660.111 retains the concept of a statewide or countywide forest highway agreement, with a project level agreement required only under certain specified conditions. It is intended that all existing agreements between the FHWA and cooperating agencies (i.e., "cooperators") would remain in effect under the proposed regulation.

Section 660.113 of the proposed regulation recognizes that forest highway projects may be constructed or administered directly by the FHWA under the FHWA's "direct Federal" procedures, or by a cooperator under normal Federal-aid highway program procedures. This section also indicates that the design standards approved for use by the FHWA in 23 CFR 625 apply to forest highways unless other standards are approved by the FHWA for use on a particular project.

Proposed § 660.117(a) recognizes that the Federal share of funding for forest highway projects may be any amount up to and including 100 percent, but also makes it clear that participation by cooperators is not required. However, the FHWA encourages cooperators to participate in project funding, as this allows Federal funds to be used for a greater number of projects. Proposed § 660.117(c) is a statement of the FHWA's existing policy which discourages the use of forest highway funds for right-of-way acquisition and maintenance. This policy is based on the same concept of making limited Federal funds available for as many projects as possible.

Section 204(d) of title 23, U.S.C., requires that all appropriations for forest highways be administered in conformity with regulations jointly approved by the Secretary of Transportation and the Secretary of Agriculture. That approval authority has

*This report is available from the U.S. GAO, Distribution Section, Room 4522, 441 G Street, NW., Washington, D.C. 20548. It is available for inspection and copying from the Office of Highway Operations (ATTENTION: HHO–13), Room 3110, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590.

been delegated to the Federal Highway Administrator and the Chief of the Forest Service respectively. The issuance of this notice of proposed rulemaking has been approved by both the FHWA and the FS as indicated by the signatures below.

**Note.**—The FHWA has determined that this document does not contain a significant proposal according to the criteria established by the Department of Transportation pursuant to Executive Order 12044. The aniticipated impact of this proposal is so minimal as to not require preparation of a full regulatory evaluation at this time.

In consideration of the foregoing, it is proposed to revise Chapter I, Part 660 of Title 23, Code of Federal Regulations, as set forth below.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued on: August 14, 1980.

**L. P. Lamm,**

*Executive Director, Federal Highway Administration.*

**R. Max Peterson,**

*Chief, Forest Service.*

1. Part 660, Subpart A is revised to read as set forth below.

## PART 660—SPECIAL PROGRAMS (DIRECT FEDERAL)

### Subpart A—Forest Highways

Sec.

660.101 Purpose.
660.103 Definitions.
660.105 Designation of forest highways.
660.107 Apportionments.
660.109 Program and project selection.
660.111 Agreements.
660.113 Construction.
660.115 Maintenance.
660.117 Funding, records and accounting.

**Authority:** 16 U.S.C. §§ 1608–1610; 23 U.S.C. §§ 101, 204, 315; and 49 CFR 1.48(b).

### Subpart A—Forest Highways

#### § 660.101 Purpose.

To enhance local, regional, and national benefits by providing for the construction and maintenance of forest highways which serve the National Forest System (NFS) and its renewable resources.

#### § 660.103 Definitions.

In addition to the definitions in 23 U.S.C. § 101(a), the following shall apply to this subpart:

(a) *Cooperator*—a State or local government agency which has jurisdiction over and/or maintenance responsibility for forest highways.

(b) *Forest highway*—a forest road under the jurisdiction of, and maintained by, a public authority and open to public travel.

(c) *National Forest System*—lands and facilities administered by the Forest Service (FS), U.S. Department of Agriculture, as set forth in the National Forest Management Act of 1976, as amended (16 U.S.C. § 1609(a)).

(d) *Open to public travel*—except during scheduled periods, extreme weather conditions, or emergencies, open to the general public for use with a standard passenger auto, without restrictive gates or prohibitive signs or regulations, other than for general traffic control or restrictions based on size, weight, or class of registration.

(e) *Renewable resources*—those matters within the scope of responsibilities and authorities of the FS as defined in the National Forest Management Act of 1976, as amended (16 U.S.C. § 1610), such as recreation, wilderness, wildlife and fish, range, timber, land, water, and human and community development.

#### § 660.105 Designation of forest highways.

(a) The Federal Highway Administration (FHWA), in consultation with the FS, the State highway agency (SHA), and local government agencies, where appropriate, will designate forest highways from the forest roads which serve the NFS in each State.

(b) A forest road designated as a forest highway for purposes of this subpart will meet the following criteria:

(1) It is under the authority of a cooperator and open to public travel.

(2) It provides access, with adequate and safe public roads, between the renewable resources of the NFS which are essential to the local, regional, or national economy, and the communities, shipping points, or markets which depend upon those renewable resources.

(3) It serves other local needs such as schools, mail delivery, commercial supply, and access to private property within the NFS, or serves traffic of which a preponderance is generated by use of the NFS and its resources.

#### § 660.107 Apportionments.

On October 1 of each fiscal year the FHWA will apportion the funds authorized for forest highways for that fiscal ear as follows:

(a) the FHWA will deduct such sums as deemded necessary for the administrative requirements of the FHWA and the necessary expenses of the FS.

(b) The balance of the authorization will be apportioned for expenditure by the FHWA according to the area and value of the land owned by the United States within the NFS, as certified to the FHWA by the FS.

#### § 660.109 Program and project selection.

(a) For each fiscal year that funds are apportioned for forest highways, the FHWA will request that the FS and the SHA (acting for all cooperators in the State) each submit a list of projects proposed for financing with such funds, together with supporting data including:

(1) Data identifying and supporting the need for the project,

(2) A discussion of the benefits to be attained,

(3) A record of planning and surveys conducted, and

(4) A preliminary cost estimate and the proposed Federal share.

(b) The projects submitted to the FHWA for consideration should be listed in order of priority.

(c) Following receipt of the lists of projects and supporting data, the FHWA will conduct a joint conference with the FS and the SHA to resolve any disagreements and to select the projects which will be included in the programs for the current fiscal year and at least the next four years. If there are no disagreements, a conference will not be required. Projects included in each program will be jointly selected based upon a review of the data submitted pursuant to paragraph (a) of this section, the priority listing, and the following criteria:

(1) The development, utilization, protection and administration of the NFS and its renewable resources,

(2) The enhancement of economic development at the local, regional, and national level,

(3) The continuity of the transportation network serving the NFS and its dependent communities,

(4) The mobility of the users of the transportation network and the goods and services provided,

(5) The improvement of the transportation network for economy of operation and maintenance and the safety of its users, and

(6) The protection and enhancement of the rural environment associated with the NFS.

(d) The recommended program of projects will be prepared by the FHWA and submitted to the FS and SHA for concurrence. Following concurrence, the SHA shall advise any other cooperators in the State of the projects included in the final program. The SHA shall also determine the amount of State and local participation required for the funding of each project.

**§ 660.111 Agreements.**

(a) A forest highway agreement shall be entered into between the FHWA and each cooperator prior to the expenditure of any funds by the FHWA in the State, county, or other local jurisdiction involved. The forest highway agreement shall set forth the responsibilities of each party, including adherence to the applicable provisions of Federal statutes and regulations.

(b) A project agreement implementing the forest highway agreement shall be entered into between the FHWA and the cooperator involved under one or more of the following conditions:

(1) A cooperator's funds are to be made available to the FHWA for the project or any portion of the project.

(2) Federal funds are to be made available to a cooperator for any work.

(3) Special circumstances exist which make a project agreement necessary for payment purposes or to clarify any aspect of the project.

**§ 660.113 Construction.**

(a) Forest highway projects will be constructed or administered by the FHWA unless otherwise provided for in an agreement approved under this subpart.

(b) Projects to be constructed or administered by the FHWA will be developed in accordance with FHWA procedures and the Federal Highway projects Nationwide Action Plan.* Projects to be constructed or administered by a cooperator shall be developed in accordance with Federal-aid procedures and the appropriate Environmental Action Plan approved by the FHWA under Part 795 of this chapter.

(c) No construction shall be undertaken on any forest highway project until plans, specifications and estimates have been reviewed by the cooperator and approved by the FS and the FHWA.

(d) Forest highway projects shall be constructed according to the standards in Part 625 of this chapter or those specifically approved by the FHWA for a particular project.

(e) The construction of forest highways will be performed by the contract method, unless construction by the FHWA or a cooperator on its own account is warranted under 23 U.S.C. § 204(c).

(f) Construction of any project shall not be accepted by the FHWA as completed until the project has been approved and inspected by the FS and the FHWA.

*Available for inspection and copying as prescribed in 49 CFR 7, Appendix D.

**§ 660.115 Maintenance.**

The cooperator having jurisdiction over a forest highway shall have the responsibility for maintaining it, unless otherwise provided for in an agreement approved under this subpart. The cooperator shall consult with the SHA and the FS on matters regarding the adequacy of such maintenance.

**§ 660.117 Funding, records and accounting.**

(a) The Federal share of funding for eligible forest highway projects may be any amount up to and including 100 percent. A cooperator may participate in the cost of construction, but participation shall not be required.

(b) Forest highway funds shall be available for adjacent vehicular parking areas and for sanitary, water, and fire control facilities.

(c) Forest highway funds shall not be available for right-of-way acquisition or maintenance unless warranted by unusual circumstances.

(d) Cooperators which administer construction of forest highway projects and the SHA's shall maintain their forest highway records according to the provisions of Part 17 of this chapter.

(e) Funds provided to the FHWA by a cooperator in advance of construction will be deposited in the Treasury of the United States to the credit of "Cooperative Work, Forest Highways, Federal Highway Administration."

**§§ 660.201—660.213 (Subpart B) [Reserved]**

2. Part 660, Subpart B is vacated and reserved.

[FR Doc. 80-25684 Filed 8-22-80; 8:45 am]
BILLING CODE 4910-22-M

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Parts 1, 53, 54, and 301

### Procedure and Administration of Certain Excise Taxes

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document contains proposed regulations relating to Procedure and Administration with respect to chapters 41, 42, 43, and 44 excise taxes, black lung benefit trusts, and the unrelated business income tax. Changes in the applicable law were made by the Tax Reform Act of 1969, the Employee Retirement Income Security Act of 1974, the Tax Reform Act of 1976, and the Revenue Act of 1978. These regulations would provide the public with the guidance needed to comply with those Acts and would affect all persons liable for tax under chapters 41, 42, 43, and 44 of the Code.

**DATES:** Written comments and requests for a public hearing must be delivered or mailed by October 24, 1980. The amendments are proposed to be effective at varying dates dependent upon the effective date of the underlying excise tax.

**ADDRESS:** Send comments and request for a public hearing to Commissioner of Internal Revenue, Attention: CC:LR:T (EE–159–78), Washington, D.C. 20224.

**FOR FURTHER INFORMATION CONTACT:** Leonard S. Hirsh of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3430) (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

#### Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1), the Regulations on Foundation and Similar Excise Taxes (26 CFR Part 53), Pension Excise Taxes (26 CFR Part 54), and the Regulations on Procedure and Administration (26 CFR Part 301) under various provisions of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations relating to procedure and administration of the excise taxes to present law, and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

#### Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

#### Drafting Information

The principal author of these proposed regulations was Leonard S. Hirsh of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel

from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

**Proposed Amendments to the Regulations**

The proposed amendments to 26 CFR Parts 1, 53, 54, and 301 are as follows:

## PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

**Paragraph 1.** Section 1.6012–2(e) is amended to read as follows:

**§ 1.6012–2 Corporations required to make returns of income.**

* * * * *

(e) *Charitable and other organizations with unrelated business income.* Every organization described in section 511(a)(2) which is subject to the tax imposed by section 511(a)(1) on its unrelated business taxable income shall make a return on Form 990–T for each taxable year if it has gross income, included in computing unrelated business taxable income for such taxable year, of $1,000 or more. The filing of a return of unrelated business income does not relieve the organization of the duty of filing other required returns.

* * * * *

**Par. 2.** Section 1.6012–3(a)(5) is amended to read as follows:

**§ 1.6012–3 Returns by fiduciaries.**

(a) *For estates and trusts.* * * *

(5) *Trusts with unrelated business income.* Every fiduciary for a trust described in section 511(b)(2) which is subject to the tax on its unrelated business taxable income by section 511(b)(1) shall make a return on Form 990–T for each taxable year if the trust has gross income, included in computing unrelated business taxable income for such taxable year, of $1,000 or more. The filing of a return of unrelated business income does not relieve the fiduciary of such trust from the duty of filing other required returns.

* * * * *

**Par. 3.** Paragraph (a)(2)(i) of § 1.6033–2 is amended by adding a new sentence at the end to read as follows:

**§ 1.6033–2 Returns by exempt organizations; taxable years beginning after December 31, 1969.**

(a) *In general.* * * *

(2)(i) * * * For taxable years beginning after December 31, 1977, every section 501(c)(21) black lung trust shall file an annual information return on Form 990–BL or any other form prescribed by the Internal Revenue Service for that purpose.

* * * * *

## PART 53—FOUNDATION AND SIMILAR EXCISE TAXES

**Par. 4.** A new paragraph (e) is added to § 53.6011–1 to read as follows:

**§ 53.6011–1 General requirement of return, statement, or list.**

* * * * *

(e) For taxable years beginning after December 31, 1977, every person liable for tax under section 4951, 4952, or 4953 (relating to taxes on self-dealing, taxable expenditures, and excess contributions involving black lung benefit trusts) shall file an annual return with respect to the tax on the form prescribed by the Internal Revenue Service for that purpose. The person liable for the tax shall include the information required by the form and its related instructions.

**Par. 5.** Section 53.6071–1 is amended by changing a cross-reference in paragraph (a) and adding a new paragraph (d). The amended and new paragraphs read as follows:

**§ 53.6071–1 Time for filing returns.**

(a) *General rule.* Except as otherwise provided in this section, a return required by § 53.6011–1 shall be filed at the time the private foundation or trust described in section 4947(a)(2) is required to file its annual information or tax return under section 6033 or 6012 (as may be applicable).

* * * * *

(d) *Taxes related to black lung benefit trusts.* Forms 990–BL and 6069 shall be filed on or before the 15th day of the fifth month following the close of the filer's taxable year.

## PART 54—PENSION EXCISE TAXES

**Par. 6.** New § 54.6011–1 is added to read as follows:

**§ 54.6011–1 General requirement of return, statement, or list.**

(a) *Minimum funding standards or excess contributions for self-employed individuals.* Every employer liable for tax under section 4971, 4972 or 4973(c) shall file an annual return on Form 5330 and shall include therein the information required by such form and the instructions issued with respect thereto.

(b) *Tax on prohibited transactions.* Every disqualified person (as defined in section 4975(e)(2)) liable for the tax imposed under section 4975(a) with respect to a prohibited transaction shall file an annual return on Form 5330 and shall include therein the information required by such form and the instructions issued with respect thereto. The annual return on Form 5330 shall be filed with respect to each prohibited transaction and for each taxable year (or part thereof) of the disqualified person in the taxable period (as defined in section 4975(f)(2)) beginning on the date on which such prohibited transaction occurs.

## PART 301—PROCEDURE AND ADMINISTRATION

**Par. 7.** Section 301.6204–1 is amended to read as follows:

**§ 301.6204–1 Supplemental assessments.**

If any assessment is incomplete or incorrect in any material respect, the district director or the director of the regional service center, subject to the restrictions with respect to the assessment of deficiencies in income, estate, gift, chapter 41, 42, 43, and 44 taxes, and subject to the applicable period of limitation, may make a supplemental assessment for the purpose of correcting or completing the original assessment.

**Par. 8.** Section 301.6211–1 is amended by revising paragraph (a) and the first sentence of paragraph (f) to read as follows:

**§ 301.6211–1 Deficiency defined.**

(a) In the case of the income tax imposed by subtitle A of the Code, the estate tax imposed by chapter 11, subtitle B, of the Code, the gift tax imposed by chapter 12, subtitle B, of the Code, and any excise tax imposed by chapter 41, 42, 43, or 44 of the Code, the term "deficiency" means the excess of the tax (income, estate, gift, or excise tax, as the case may be) over the sum of the amount shown as such tax by the taxpayer upon his return and the amounts previously assessed (or collected without assessment) as a deficiency; but such sum shall first be reduced by the amount of rebates made. If no return is made, or if the return (except a return of income tax pursuant to sec. 6014) does not show any tax, for the purpose of the definition "the amount shown as the tax by the taxpayer upon his return" shall be considered as zero. Accordingly, in any such case, if no deficiencies with respect to the tax have been assessed, or collected without assessment, and no rebates with respect to the tax have been made, the deficiency is the amount of the income tax imposed by subtitle A, the estate tax imposed by chapter 11, the gift tax imposed by chapter 12, or any excise tax imposed by chapter 41, 42, 43, or 44. Any amount shown as additional tax on an "amended return," so-called (other than amounts of

additional tax which such return clearly indicates the taxpayer is protesting rather than admitting) filed after the due date of the return, shall be treated as an amount shown by the taxpayer "upon his return" for purposes of computing the amount of a deficiency.

* * * * *

(f) As used in section 6211, the term "rebate" means so much of an abatement, credit, refund, or other repayment as is made on the ground that the income tax imposed by subtitle A, the estate tax imposed by chapter 11, the gift tax imposed by chapter 12, or the excise tax imposed by chapter 41, 42, 43, or 44, is less than the excess of (1) the amount shown as the tax by the taxpayer upon the return increased by the amount previously assessed (or collected without assessment) as a deficiency over (2) the amount of rebates previously made. * * *

**Par. 9.** Section 301.6212–1 is amended by revising paragraph (a), (b)(1), and the first sentence of paragraph (c) to read as follows:

**§ 301.6212–1 Notice of deficiency.**

(a) *General rule.* If a district director or director of a service center (or regional director of appeals), determines that there is a deficiency in respect of income, estate, or gift tax imposed by subtitle A or B, or excise tax imposed by chapter 41, 42, 43, or 44, of the Code, such official is authorized to notify the taxpayer of the deficiency by either registered or certified mail.

(b) *Address for notice of deficiency*—(1) *Income, gift, and chapter 41, 42, 43, and 44 taxes.* Unless the district director for the district in which the return in question was filed has been notified under the provisions of section 6903 as to the existence of a fiduciary relationship, notice of a deficiency in respect of income tax, gift tax, or tax imposed by chapter 41, 42, 43, or 44 shall be sufficient if mailed to the taxpayer at his last known address, even though such taxpayer is deceased, or is under a legal disability, or, in the case of a corporation, has terminated its existence.

* * * * *

(c) *Further deficiency letters restricted.* If the district director or director of a service center (or regional director of appeals) mails to the taxpayer notice of a deficiency, and the taxpayer files a petition with the Tax Court within the prescribed period, no additional deficiency may be determined with respect to income tax for the same taxable year, gift tax for the same calendar quarter (calendar year with respect to gifts made before January 1, 1971), estate tax with respect to the taxable estate of the same decedent, chapter 41, 43, or 44 tax of the taxpayer for the same taxable year, section 4940 tax for the same taxable year, or chapter 42 tax of the taxpayer (other than under section 4940) with respect to the same act (or failure to act) to which such petition relates.* * *

**Par. 10.** Section 301.6213–1 is amended by revising paragraph (a)(2) and by adding a new paragraph (e). These revised and added provisions read as follows:

**§ 301.6213–1 Restrictions applicable to deficiencies; petition to Tax Court.**

(a) *Time for filing petition and restrictions on assessment.* * * *

(2) *Restrictions on assessment.* Except as otherwise provided by this section, by sections 6851 and 6861(a) (relating to terminaton and jeopardy assessments), by section 6871(a) (relating to immediate assessment of claims for income, estate, and gift taxes in bankruptcy and receivership cases), or by section 7485 (in case taxpayer petitions for a review of a Tax Court decision without filing bond), no assessment of a deficiency in respect of a tax imposed by subtitle A or B or chapter 41, 42, 43, or 44 of the Code and no levy or proceeding in court for its collection shall be made until notice of deficiency has been mailed to the taxpayer, nor until the expiration of the 90-day or 150-day period within which a petition may be filed with the Tax Court, nor, if a petition has been filed with the Tax Court, until the decision of the Tax Court has become final. As to the date on which a decision of the Tax Court becomes final, see section 7481. Notwithstanding the provisions of section 7421(a), the making of an assessment or the beginning of a proceeding or levy which is forbidden by this paragraph may be enjoined by a proceeding in the proper court. In any case where the running of the time prescribed for filing a petition in the Tax Court with respect to a tax imposed by chapter 42 or 43 is suspended under section 6213(e), no assessment of a deficiency in respect of such tax shall be made until expiration of the entire period for filing the petition.

* * * * *

(e) *Suspension of filing period for certain chapter 42 and chapter 43 taxes.* The period prescribed by section 6213(a) for filing a petition in the Tax Court with respect to the taxes imposed by section 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4971, or 4975, shall be suspended for any other period which the Commissioner has allowed for making correction under section 4941(e)(4), 4942(j)(2), 4943(d)(3), 4944(e)(3), 4945(i)(2), 4951(e)(4), 4952(e)(2), 4971(c)(3), or 4975(f)(6). Where the time for filing a petition with the Tax Court has been suspended under the authority of this paragraph (e), the extension shall not be reduced as a result of the correction being made prior to expiration of the period allowed for making correction.

**Par. 11.** Section 301.6501(c)–1 is amended by revising paragraph (c) to read as follows:

**§ 301.6501(c)–1 Exceptions to general period of limitations on assessments and collections.**

* * * * *

(c) *No return.* In the case of a failure to file a return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time after the date prescribed for filing the return. For special rules relating to filing a return for chapter 42 and similar taxes, see §§ 301.6501(n)–1, 301.6501(n)–2, and 301.6501(n)–3.

**Par. 12.** Section 301.6501(e)–1 is amended by redesignating paragraph (c) as paragraph (d) and adding a new paragraph (c) to read as follows:

**§ 301.6501(e)–1 Omission from return.**

* * * * *

(c) *Excise taxes*—(1) *In general.* If the taxpayer omits from a return of a tax imposed under a provision of subtitle D an amount properly includable thereon, which amount is in excess of 25 percent of the amount of tax reported thereon, the tax may be assessed or a proceeding in court for the collection thereof may be begun without assessment, at any time within 6 years after the return was filed. For special rules relating to chapter 41, 42, 43, and 44 taxes, see subparagraphs (2), (3), (4), and (5) of this paragraph.

(2) *Chapter 41 excise taxes.* If an organization discloses an expenditure in its return (or in a schedule or statement attached thereto) in a manner sufficient to apprise the district director or director of a service center of the existence and nature of such expenditure, the three year limitation on assessment and collection described in section 6501(a) shall apply with respect to any tax under chapter 41 arising from such expenditure. If a taxpayer fails to so disclose an expenditure in its return (or in a schedule or statement attached thereto), the tax arising from the expenditure not so disclosed may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return was filed.

(3) *Chapter 42 excise taxes.* (i) If a private foundation omits from its annual return with respect to the tax imposed

by section 4940 an amount of tax properly includible therein which is in excess of 25 percent of the amount of tax imposed by section 4940 which is reported on the return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return was filed.

(ii) If a private foundation or trust (as the case may be) discloses an item in its return (or in a schedule or statement attached thereto) in a manner sufficient to apprise the district director or director of a service center of the existence and nature of such item, the three year limitation on assessment and collection described in section 6501(a) shall apply with respect to any tax imposed under sections 4941(a), 4942(a), 4943(a), 4944(a), 4945(a), 4951(a), 4952(a), and 4953 arising from any transaction disclosed by such item. If a private foundation or trust (as the case may be) fails to so disclose an item in its return (or in a schedule or statement attached thereto), the tax arising from any transaction not so disclosed may be assessed or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return was filed.

(4) *Chapter 43 excise taxes.* If a taxpayer discloses an item in its return (or in a schedule or statement attached thereto) in a manner sufficient to apprise the district director or director of a service center of the existence and nature of such item, the three year limitation on assessment and collection described in section 6501(a) shall apply with respect to any tax imposed under sections 4971(a), 4972, 4973, 4974, and 4975(a) arising from any transaction disclosed by such item. If a taxpayer fails to so disclose an item in its return (or in a schedule or statement attached thereto), the tax arising from any transaction not so disclosed may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return was filed. The applicable return for the tax under sections 4971, 4972, 4973 and 4974 is the return designated by the Commissioner for reporting the respective tax. The applicable return for the tax under section 4975 is the return filed by the plan used to report the act giving rise to the tax.

(5) *Chapter 44 excise taxes.* If a real estate investment trust omits from its annual return with respect to the tax imposed by section 4981 an amount of tax properly includible therein which is in excess of 25 percent of the amount of tax imposed by section 4981 which is reported on the return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return was filed.

(d) *Exception.* * * *

**Par. 13.** New §§ 301.6501(n)–1, 301.6501(n)–2, and 301.6501(n)–3 are added which read as follows:

**§ 301.6501(n)–1 Special rules for chapter 42 and similar taxes.**

(a) *Return filed by private foundation, plan, or trust.* (1) A return filed by a private foundation, plan, or trust (as the case may be) with respect to any act giving rise to a tax imposed by chapter 42 (other than a tax imposed by section 4940), or by section 4975 shall be considered, for purposes of section 6501, to be the return of all persons required to file a return with respect to any such tax arising from such act, notwithstanding that all such persons have not signed the return. In the case of a private foundation that files a Form 990–PF (or a Form 5227 in the case of a nonexempt foundation described in section 4947(a)), which contains questions with respect to such taxes, the filing of such form by such foundation shall constitute the filing of a return with respect to any such act, even though the foundation incorrectly answered such questions.

(2) For purposes of section 4940, the return referred to in this section is the return filed by the private foundation for the taxable year for which the tax is imposed.

(b) *Failure of private foundation, plan, or trust to file.* The period of limitations on assessment and collection described in section 6501 does not begin with respect to any person liable for tax under chapter 42 (other than section 4940) or section 4975 arising from a given act, where the private foundation, plan, or trust (as the case may be) has not filed its required return that reports such act for the year in which the act (or failure to act) giving rise to liability for such tax occurred.

(c) *Example.* The provisions of this section may be illustrated by the following example:

*Example.* In 1973, D, an individual taxpayer who was a disqualified person under the provisions of section 4946(a)(1), participated in an act of self-dealing with a private foundation and incurred a tax under section 4941(a)(1). On May 15, 1974, the private foundation files a Form 990–PF and answers all the questions thereon with regard to any acts of self-dealing (as defined in section 4941(d)) in which it may have engaged in 1973. Assuming that the foundation's return was not a false or fraudulent return nor made with the willful attempt to defeat tax, the period of limitations on assessment and collection under section 6501(a) shall start with respect to any tax under section 4941 imposed on D arising out of that transaction with such foundation.

**§ 301.6501(n)–2 Certain contributions to section 501(c)(3) organizations.**

If a private foundation makes a contribution to a section 501(c)(3) organization as provided in section 4942(g)(3), and a deficiency of tax of such foundation occurs due to the failure of the section 501(c)(3) organization to make the distribution prescribed by section 4942(g)(3), then such deficiency may be assessed within one year after the expiration of the period within which a deficiency may be assessed for the taxable year with respect to which the contribution was made.

**§ 301.6501(n)–3 Certain set-asides described in section 4942(g)(2).**

Where a deficiency of tax of a private foundation results from the failure of an amount set aside by such foundation for a specific project to be treated as a qualifying distribution under section 4942(g)(2)(B)(ii)(II), such deficiency may be assessed within two years after the expiration of the period within which a deficiency may be assessed for the taxable year to which the amount set aside relates.

**Par. 14.** Paragraph (a) of § 301.6503(a)–1 is amended to read as follows:

**§ 301.6503(a)–1 Suspension of running of period of limitation; issuance of statutory notice of deficiency.**

(a) *General rule.* (1) Upon the mailing of a notice of deficiency for income, estate, gift, chapter 41, 42, 43, or 44 tax under the provisions of section 6212, the period of limitation on assessment and collection of any deficiency is suspended for 90 days after the mailing of a notice of such deficiency if the notice of deficiency is addressed to a person within the States of the Union and the District of Columbia, or 150 days if such notice of deficiency is addressed to a person outside the States of the Union and the District of Columbia (not counting Saturday, Sunday, or a legal holiday in the District of Columbia as the 90th or 150th day), plus an additional 60 days thereafter in either case. If a proceeding in respect of the deficiency is placed on the docket of the Tax Court, the period of limitaiton is suspended until the decision of the Tax Court becomes final, and for an additional 60 days thereafter. If a notice of deficiency is mailed to a taxpayer within the period of limitation and the taxpayer does not appeal therefrom to the Tax Court, the notice of deficiency so given does not suspend the running of the period of limitation with respect to any additional

deficiency shown to be due in a subsequent deficiency notice.

(2) This paragraph may be illustrated by the following example:

*Example.* A taxpayer filed a return for the calendar year 1973 on April 15, 1974; the notice of deficiency was mailed to him (at an address within the United States) on April 15, 1977; and he filed a petition with the Tax Court on July 14, 1977. The decision of the Tax Court became final on November 6, 1978. The running of the period of limitation for assessment is suspended from April 15, 1977, to January 5, 1979, which date is 60 days after the date (November 6, 1978), on which the decision became final. If in this example the taxpayer had failed to file a petition with the Tax Court, the running of the period of limitation for assessment would then be suspended from April 15, 1977 (the date of notice), to September 12, 1977 (that is, for the 90-day period in which he could file a petition with the Tax Court, and for 60 days thereafter).

* * * * *

**Par. 15.** Section 301.6503(g)–1 is redesignated as § 301.6503(f)–1 and a new § 301.6503(g)–1 is added to read as follows:

**§ 301.6503(g)–1 Suspension pending correction.**

The running of the periods of limitations provided in sections 6501 and 6502 on the making of assessments, the collection by levy, or a proceeding in court in respect of any tax imposed by chapter 42 or section 507, 4971, or 4975 shall be suspended for any period described in section 507(g)(2) or during which the Commissioner has extended the time for making correction under section 4941(e)(4), 4942(j)(2), 4943(d)(3), 4944(e)(3), 4945(i)(2), 4951(e)(4), 4952(e)(2), 4971(c)(3), or 4975(f)(6).

**Par. 16.** A new § 301.6511(f)–1 is added which reads as follows:

**§ 301.6511(f)–1 Special rules for chapter 42 taxes.**

(a) *In general.* Claims for credit or refund of an overpayment of any tax imposed by chapter 42 shall be filed by the taxpayer within 3 years from the time a return was filed by the private foundation or trust (as the case may be) with respect to such tax, or within 2 years from the time the tax was paid, whichever of such periods expire the later.

(b) *Examples.* This section may be illustrated by the following examples:

*Example (1).* In 1972, D, an individual taxpayer who was a disqualified person under the provisions of section 4946(a)(1), participated in an act of self-dealing with a private foundation and incurred a tax under section 4941(a)(1). The private foundation files a Form 990–PF on May 15, 1973, and discloses thereon that it has engaged in an act of self-dealing with D. D files a Form 4720 on July 2, 1973, and pays the amount of tax imposed by section 4941(a) with respect to such act of self-dealing. For purposes of this section, the return was filed on May 15, 1973, and any claim for credit or refund by D must be filed by May 17, 1976 (May 15, 1976, was a Saturday).

*Example (2).* Assume the same facts as in example (1) except that D filed a Form 4720 on July 1, 1974, and pays the tax on that date. D must then file any claim for credit or refund by July 1, 1976.

**Par. 17.** Section 301.6512–1 is amended by revising paragraphs (a)(1) and (b) to read as follows:

**§ 301.6512–1 Limitations in case of petition to Tax Court.**

(a) *Effect of petition of Tax Court*—(1) *General rule.* If a person having a right to file a petition with the Tax Court with respect to a deficiency in income, estate, gift, or excise tax imposed by subtitle A or B, or chapter 41, 42, 43, or 44 of the Code has filed such petition within the time prescribed in section 6213(a), no credit or refund of income tax for the same taxable year, of gift tax for the same calendar year or calendar quarter, of estate tax in respect of the taxable estate of the same decedent, or of tax imposed by chapter 41, 42, 43, or 44 with respect to any act (or failure to act) to which such petition relates, in respect of which a district director or director of a service center (or a regional director of appeals) has determined the deficiency, shall be allowed or made, and no suit in any court for the recovery of asny part of such tax shall be instituted by the taxpayer, except as to items set forth in paragraph (a)(2) of this section.

* * * * *

(b) *Overpayment determined by Tax Court.* If the Tax Court finds that there is no deficiency and further finds that the taxpayer has made an overpayment of income tax for the same taxable year, of gift tax for the same calendar year or calendar quarter, of estate tax in respect of the taxable estate of the same decedent, or of tax imposed by chapter 41, 42, 43, or 44 with respect to any act (or failure to act) to which such petition relates, in respect of which a district director, or director of a service center (or a regional director of appeals) has determined the deficiency, or finds that there is a deficiency but that the taxpayer has made an overpayment of such tax, the overpayment determined by the Tax Court shall be credited or refunded to the taxpayer when the decision of the Tax Court has become final. (See section 7481, relating to the date when a Tax Court decision becomes final.) No such credit or refund shall be allowed or made of any portion of the tax unless the Tax Court determines as part of its decision that such portion was paid—

(1) After the mailing of the notice of deficiency, or

(2) Within the period which would be applicable under section 6511(b)(2), (c), (d) or (g) (see §§ 301.6511(b)–1, 301.6511(c)–1, 301.6511(d)–1, 301.6511(d)–2, and 301.6511(d)–3), if on the date of the mailing of the notice of deficiency a claim had been filed (whether or not filed) stating the grounds upon which the Tax Court finds that there is an overpayment.

* * * * *

**§ 301.6601–1 [Amended]**

**Par. 18.** Paragraph (d) of § 301.6601–1 is amended by striking out "or gift tax" and inserting in lieu thereof "gift, or chapter 41, 42, 43, or 44 tax."

**Par. 19.** Section 301.6653–1 is amended by revising so much of paragraph (c) as precedes paragraph (c)(2)(i) to read as follows:

**§ 301.6653–1 Failure to pay tax.**

* * * * *

(c) *Definition of underpayment*—(1) *Income, estate, gift, and chapter 41, 42, 43, and 44 taxes.* In the case of income, estate, gift, and chapter 41, 42, 43, and 44 taxes, an underpayment for purposes of section 6653 and this section is—

(i) The total amount of all deficiencies as defined in section 6211, if a return was filed on or before the last date (determined with regard to any extension of time) prescribed for filing such return, or

(ii) The amount of the tax imposed by subtitle A or B, or chapter 41, 42, 43, or 44, as the case may be, if a return was not filed on or before the last date (determined with regard to any extension of time) prescribed for filing such return.

However, for purposes of paragraph (c)(1)(i) of this section, any amount of additional tax shown on the amended return, so called, filed after the due date of the return is a deficiency.

(2) *Other taxes.* In the case of any tax other than an income, estate, gift or chapter 41, 42, 43, or 44 tax, an underpayment for purposes of section 6653 and this section is the amount by which the tax imposed exceeds—

* * * * *

**Par. 20.** Section 301.6659–1 is amended by revising so much of paragraph (c)(1) as precedes example (1) and by revising paragraph (c)(2) to read as follows:

**§ 301.6659–1 Applicable rules.**

* * * * *

(c) *Deficiency procedures*—(1) *Addition to the tax for failure to file tax*

*return.* (i) Subchapter B, chapter 63, of the Code (deficiency procedures) applies to the additions to the income, estate, gift, and chapter 41, 42, 43, and 44 taxes imposed by section 6651 for failure to file a tax return to the same extent that it applies to such taxes. Accordingly, if there is a deficiency (as defined in section 6211) in the tax (apart from the addition to the tax) where a return has not been timely filed, deficiency procedures apply to the addition to the tax under section 6651. If there is no deficiency in the tax where a return has not been timely filed, the addition to the tax under section 6651 may be assessed and collected without deficiency procedures.

(ii) The provisions of paragraph (c)(1)(i) of this section may be illustrated by the following examples:

* * * * *

(2) *Additions to the tax for negligence or fraud.* Subchapter B of chapter 63 (deficiency procedures) applies to all additions to the income, estate, gift, and chapter 41, 42, 43, and 44 taxes imposed by sections 6653 (a) and (b) for negligence and fraud.

* * * * *

**Par. 21.** Section 301.6861–1 is amended by revising its heading, by revising the first sentence of paragraph (a), and by adding a new paragraph (g) to read as follows:

**§ 301.6861–1 Jeopardy assessments of income, estate, gift, and certain excise taxes.**

(a) *Authority for making.* If a district director or director of a service center believes that the assessment or collection of a deficiency in income, estate, gift, or chapter 41, 42, 43, or 44 tax will be jeopardized by delay, then the director is required to assess such deficiency immediately, together with the interest, additional amounts, and additions to the tax provided by law. * * *

* * * * *

(g) *Special rules for chapters 42 and 43 taxes.* For purposes of paragraph (a) of this section, the amount of a deficiency with respect to any tax imposed by section 4941(a), 4942(a), 4943(a), 4944(a), 4945(a), 4951(a), 4952(a), 4971(a) or 4975(a) shall include the amount of additional tax imposed by section 4941(b), 4942(b), 4943(b), 4944(b), 4945(b), 4951(b), 4952(b), 4971(b) or 4975(b) for failure to correct the act (or failure to act) which gave rise to liability for the initial tax. For purposes only of determining the amount to be assessed with respect to such additional tax, the correction period (as defined in sections 4941(e)(4), 4942(j)(2), 4943(d)(3), 4944(e)(3), 4945(i)(2), 4951(e)(4), 4952(e)(2), 4971(c)(3), and 4975(f)(6)) shall be considered to end on the day such jeopardy assessment is made.

**Par. 22.** Paragraph (a) of § 301.6862–1 and the heading of such section are amended to read as follows:

**§ 301.6862–1 Jeopardy assessment of taxes other than income, estate, gift, and certain excise taxes.**

(a) If the district director believes that the collection of any tax (other than income, estate, gift, chapter 41, 42, 43, or 44 tax) will be jeopardized by delay, the director shall, whether or not the time otherwise prescribed by law for filing the return or paying such tax has expired, immediately assess such tax, together with all interest, additional amounts and additions to the tax provided by law. A district director will make an assessment under this section if collection is determined to be in jeopardy because at least one of the conditions described in § 1.6851–1(a)(1)(i), (ii), or (iii) (relating to termination assessments) exists. For example, assume that a taxpayer incurs on January 18, 1977, liability for tax imposed by section 4061, that the last day on which return and payment of such tax is required to be made is May 2, 1977, and that on January 18, 1977, the district director determines that collection of such tax would be jeopardized by delay. In such case, the district director shall immediately assess the tax.

* * * * *

**Par. 23.** The heading and first sentence of paragraph (b) of § 301.6863–1 are amended to read as follows:

**§ 301.6863–1 Stay of collection of jeopardy assessments; bond to stay collection.**

* * * * *

(b) *Additional conditions applicable to income, estate, gift, and chapter 41, 42, 43 and 44 tax assessments.* In the case of a jeopardy assessment of income, estate, gift, chapter 41, 42, 43, or 44 tax, the bond must be conditioned upon the payment of so much of the amount included therein as is not abated by a decision of the Tax Court which has become final, together with the interest on such amount. * * *

**Par. 24.** A new § 301.7422–1 is added which reads as follows:

**§ 301.7422–1 Pendency of suit for purposes of the chapter 42 excise taxes.**

(a) The "correction period" under sections 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4971, and 4975 shall be extended in certain circumstances while a refund suit referred to in section 7422 is pending. For purposes of such sections and the regulations thereunder, a suit for refund instituted under the provisions of this section shall be deemed to be pending until—

(1) The expiration of time allowed for filing a notice of appeal from a decision of the United States District Court, if no timely notice of appeal is filed; or

(2) The expiration of the time allowed for filing a petition for certiorari from a decision of the United States Court of Claims, or from a decision of the United Staes District Court which has been affirmed or the appeal dismissed by the United States Court of Appeals, if no timely petition for certiorari is filed; or

(3) If a petition for certiorari has been filed, thirty days from the denial of such petition; or

(4) Thirty days from the date of a decision of the United States Supreme Court if no timely petition for rehearing is filed; however, if a timely petition for rehearing from such a decision is filed, and is denied, thirty days from the denial thereof.

(b) If a decision is entered upon a rehearing or if a decision is modified or reversed as the result of a decision of a higher court, rules similar to the rules applicable if such decision were the original decision shall apply.

(c) Example. The provision of this section may be illustrated by the following example:

*Example.* On December 14, 1973, 60 days after having received a notice of deficiency under section 6212 with respect to the taxes arising from an act of self-dealing, D files a Form 4720 with respect to such act for 1972 and pays the amount of initial tax. The payment of the tax extends the correction period, pursuant to § 53.4941(e)–1, until 90 days after payment. On February 1, 1974, D files a claim for refund, thereby extending the correction period pursuant to § 53.4941(e)–1 during the pendency of the claim plus an additional 90 days on May 1, 1974, the claim for refund is denied, and on July 1, 1974, D files a suit for refund in the United States District Court, thereby extending the correction period in accordance with § 53.4941(e)–1 during the pendency of the suit. On June 2, 1975, the Court denies D's claim for refund. D files a timely notice of appeal on June 16, 1975, thereby extending the correction period. On September 2, 1975, the Court of Appeals affirms the decision of the District Court. If D does not file a petition for certiorari with the United States Supreme Court, the correction period will end upon the expiration of the time to so file.

**Par. 25.** Immediately after § 301.7454–1 there is inserted the following new section § 301, 7454–2 to read as follows:

**§ 301.7454–2 Burden of proof in foundation manager, etc. cases.**

(a) *Foundation manager.* In any proceeding involving the issue whether

a foundation manager as defined in section 4946(b) has "knowingly" participated in an act of self-dealing within the meaning of section 4941, participated in an investment which jeopardizes the carrying out of exempt purposes within the meaning of section 4944, or agreed to the making of a taxable expenditure within the meaning of section 4945, the burden of proof in respect of such issue shall be upon the Commissioner.

(b) *Trustee of a black lung benefit trust.* In any proceeding involving the issue whether a trustee of a trust described in section 501(c)(21) has "knowingly" participated in an act of self-dealing within the meaning of section 4951 or agreed to the making of a taxable expenditure within the meaning of section 4952, the burden of proof in respect of such issue shall be upon the Commissioner.

**Jerome Kurtz,**

*Commissioner of Internal Revenue.*

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**26 CFR Part 48**

**[LR-175-78]**

## Excise Tax on Fuel Used in Commercial Waterway Transportation; Public Hearing on Proposed Regulations.

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Public hearing on proposed regulations.

**SUMMARY:** This document provides notice of a public hearing on proposed regulations relating to the new excise tax on the use of fuel in commercial waterway transportation.

**DATES:** The public hearing will be held on September 25, 1980, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by September 11, 1980.

**ADDRESS:** The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T. (LR-175-78), Washington, D.C. 20224.

**FOR FURTHER INFORMATION CONTACT:** Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, 202-566-3935, not a toll-free call.

**SUPPLEMENTARY INFORMATION:** The subject of the public hearing is proposed regulations under section 4042 of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Monday, June 9, 1980 (45 FR 38412).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and also desire to present oral comments at the hearing on the proposed regulations should submit an outline of oral comments to be presented at the hearing and the time they wish to devote to each subject by September 11, 1980.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive on improving government regulations appearing in the **Federal Register** for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue:

**Robert A. Bley,**

*Director, Legislation and Regulations Division.*

[FR Doc. 80-25826 Filed 8-22-80; 8:45 am]

BILLING CODE 4830-01-M

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## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

**30 CFR Part 785**

## Surface Coal Mining and Reclamation Operations Interim and Permanent Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior, Washington, D.C. 20240.

**ACTION:** Reopening of public comment period.

**SUMMARY:** The public comment period for the proposed rule revising the grandfather exemption as applied to prime farmland, which was published at 45 FR 25995, (April 16, 1980), is hereby reopened in response to public request in light of recent court decisions. The Court of Appeals for the District of Columbia on June 30, 1980, modified its May 2, 1980 decision on the Secretary's prime farmland rulemaking. *In re: Surface Mining Regulation Litigation*, No. 78-2190 (D.C. Cir., June 30, 1980). The Court deleted language in the opinion which suggested that industry's interpretation of the grandfather clause (which would have allowed extensive grandfathering) is reasonable and in keeping with the intent of Congress.

**DATES:** The new due date for public comments in 5 p.m. E.S.T. on September 4, 1980.

**ADDRESSES:** Written comments must be mailed or hand delivered to the Office of Surface Mining, U.S. Department of the Interior, Room 153, South Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240.

**FOR FURTHER INFORMATION CONTACT:** Edward Johnson, Agronomist, Office of Surface Mining, U.S. Department of the Interior, Room 117, South Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240. (202) 343-5261.

Dated: August 19, 1980.

**Paul L. Reeves,**

*Acting Director, Office of Surface Mining and Reclamation.*

[FR Doc. 80-25779 Filed 8-22-80; 8:45 am]

BILLING CODE 4310-05-M

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

**33 CFR Part 117**

**(CGD 80-104)**

## Drawbridge Operation Regulations; Root River, Wis.

**AGENCY:** Coast Guard, DOT.

**ACTION:** Proposed rule.

**SUMMARY:** At the request of the City of Racine, Wisconsin, the Coast Guard is considering changing the regulations governing the operations of the Main and State Street bridges across the Root River, Racine, Wisconsin, by permitting the draws of the Main Street bridge to remain closed for extended periods of time and revising the regulations on the State Street bridge by removing the restrictions during the navigation season. Also both bridges would require a two hour advance notice to effect an

opening during the winter months. This proposal is being made to accommodate an increase in vehicular traffic. This action may accommodate the needs of vehicular traffic while still providing for the reasonable needs of navigation.

**DATE:** Comments must be received on or before September 26, 1980.

**ADDRESS:** Comments should be submitted to, and are available for examination at, the office of the Commander (obr), Ninth Coast Guard District, 1240 East Ninth Street, Cleveland, Ohio 44199.

**FOR FURTHER INFORMATION CONTACT:** Robert W. Bloom, Jr., Chief, Bridge Branch, United States Coast Guard, 1240 East Ninth Street, Cleveland, Ohio 44199 (216) 522–3993.

**SUPPLEMENTARY INFORMATION:** Interested persons are invited to participate in this proposed rule making by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgment that their comment has been received should enclose a stamped self-addressed postcard or envelope.

The Commander, Ninth Coast Guard District, will evaluate all communications received and make a final determination on this proposal. The proposed regulations may be changed in the light of comments received. Drafting Information: The principal persons involved in drafting this proposal are: Robert W. Bloom Jr., Chief, Bridge Branch, Ninth Coast Guard District, and Project Attorney, Lt. M. E. Reeves, Ninth Coast Guard District, Legal Officer.

**Discussion of the Proposed Regulations**

This requested change is being proposed because of a significant increase in vehicular traffic and to simplify the existing regulations. Under present regulations, the Main Street bridge may remain closed to the passage of vessels, Monday through Friday, except holidays, during the following periods: 7:30 a.m. to 8:10 a.m., 11:50 a.m. to 12:10 p.m., 12:50 p.m. to 1:10 p.m., 3:30 p.m. to 4:10 p.m. and 4:30 p.m. to 5:10 p.m. The State Street bridge may remain closed to the passage of vessels, Monday through Friday, except holidays, during the following periods: 6:30 a.m. to 7 a.m., 12 noon to 12:15 p.m. and 12:45 p.m. to 1 p.m. This proposal would remove restrictions on the State Street bridge and apply less confusing restrictions on the Main Street Bridge. In addition, it would allow the bridge owner to remove the bridgetenders during the winter months when navigation on the river is negligible, with a requirement that the bridges would open on signal upon a two hour advance notice.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by revising § 117.600(a)(1), (2) and (e) to read as follows:

## PART 117—DRAWBRIDGE OPERATION REGULATIONS

**§ 117.600 Root River, Racine, Wisconsin, Main Street and Street bridges.**

(a)(1) *Main Street Bridge.* (i) From April 1 through December 1 from 6 a.m. to 6 p.m. the draw need only open on signal every 20 minutes (on the hour, 20 minutes after the hour and 20 minutes before the hour). The draw shall remain open long enough during these periods of time to allow all awaiting vessels to safely pass.

(ii) From December 2 through March 31 the draw shall open on signal if at least two hours notice is given.

(2) *State Street Bridge.* From October 16 through April 30, the draw shall open on signal if at least two hours notices is given.

* * * * *

(e) The owner of or agency controlling these bridges shall keep a copy of these regulations conspicuously posted both upstream and downsteam, either on the bridges or elsewhere in such a manner that it can be easiliy read from an approaching vessel at all times, with instructions stating exactly how notice is to be given to the authorized representative of the bridge owner to effect an opening during the periods of closure specified in paragraph (a)(1)(ii) and (a)(2) of this section.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05–1(g)(3))

Dated: August 19, 1980.

**A. F. Fugaro,**

*Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.*

[FR Doc. 80–25822 Filed 8–22–80; 8:45 am]

**BILLING CODE 4910–14–M**

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**33 CFR Part 162**

**[CGD 79–151]**

## Inland Waterways Navigation Regulations—Great Lakes

**AGENCY:** Coast Guard, DOT.

**ACTION:** Proposed rule.

**SUMMARY:** The Coast Guard is proposing to revise certain Inland Waterways Navigation Regulations applicable to the Great Lakes region. Certain applicability provisions would be changed, substituting vessel length for tonnage. Additional changes, primarily editorial, would delete redundant and archaic requirements. The changes would enable the regulations to be more clearly understood and more easily enforced.

**DATES:** Comments must be received on or before October 9, 1980.

**ADDRESSES:** Comments may be mailed to Commandant (G–CMC/24) (CGD 79–151), U.S. Coast Guard, Washington, DC 20593. Comments may be delivered to and will be available for inspection or copying at the Marine Safety Council (G–CMC/24), Room 2418, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, DC, between 7:00 a.m. and 5:00 p.m. Monday through Thursday, except holidays.

**FOR FURTHER INFORMATION CONTACT:** Ensign Edward G. LeBlanc, Office of Marine Environment and Systems (G–WWM–2), Room 1608, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, DC 20593, telephone (202) 426–4958 between 7:30 a.m. and 4:30 p.m. Monday through Thursday, except holidays.

**SUPPLEMENTARY INFORMATION:** The public is invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Comments should include the name and address of the person submitting them, identify this notice (CGD 79–151) and the specific section of the proposal to which each comment applies, and give the reasons for the comments. If acknowledgement is desired, a stamped addressed post card should be enclosed. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held at a time and place to be set in a later notice in the **Federal Register** if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

Drafting Information: The principal persons involved in the drafting of this proposal are: Lieutenant (jg) George W. Molessa, Jr., and Ensign Edward G. LeBlanc, Project Managers, Office of Marine Environment and Systems, and Lieutenant Collin Lau, Project Counsel, Office of the Chief Counsel.

**Discussion of the Proposed Regulation**

Enforcement responsibility for certain Inland Waterways Navigation Regulations was transferred from the U.S. Army Corps of Engineers to the

Coast Guard on September 29, 1977 (42 FR 51758). At the time of the transfer, only minor changes, such as changing the term "District Engineer" to either "District Commander" or "Captain of the Port" as appropriate, were made to make the regulations compatible with Coast Guard operations.

The Coast Guard is now proposing to revise certain sections of the Inland Waterways Navigation Regulations which are applicable to the Great Lakes region and enforced by the Commander, Ninth Coast Guard District. The revision would retain substantially the same controls.

All references to tonnage would be deleted and comparable lengths substituted, however the applicability of the sections is not substantially affected. Using length in the applicability provision of each section would enable mariners to more easily determine which regulations are applicable to their vessel. Deleting the references to tonnage would also enhance enforcement of the regulations since length is more identifiable.

In some areas, speed limits would no longer apply to vessels 40 feet or less in length. For these waters, the Coast Guard feels that speed limits for small boats would be more appropriately established by local authorities.

References to patrol vessels and patrol signals would be deleted because they no longer exist.

References to government structures such as piers or breakwaters would be deleted. Any damages to such structures resulting from negligent operation or a marine casualty would be pursued as such.

References to sound signals would be deleted since they are covered in the Pilot Rules for the Great Lakes (33 CFR 90) and in 33 CFR 207.470.

Green Bay, Wisconsin would be included in the listing of harbors on Lake Michigan due to the increase in commercial traffic there.

Section 162.190 concerning Cape Vincent Harbor, New York, would be deleted. Since Cape Vincent Harbor is located within the International Section of the St. Lawrence Seaway, the Coast Guard feels that any speed limits would more apropriately be established by the St. Lawrence Seaway Development Corporation.

Sections 162.170 and 162.185 would be deleted. Buffalo and Rochester Harbors, New York would be addressed in proposed § 162.165.

The restricted area found in § 162.180 would be redescribed, making it more understandable, and relocated in Part 165—Safety Zones. The section would be renumbered as § 165.902.

**Evaluation**

The proposed regulations have been evaluated under the Department of Transportation Order 2100.5, "Policies and Procedures for Simplification, Anaylsis, and Review of Regulations," dated May 22, 1980 and have been determined to be nonsignificant. An evaluation is not warranted because the expected impact of the proposed regulations is so minimal. The proposed rule causes no substantial change to the regulations.

In consideration of the foregoing, it is proposed that Part 162 and Part 165 of Title 33 of the Code of Federal Regulations be amended:

## PART 162—INLAND WATERWAYS NAVIGATION REGULATIONS

1. By revising § 162.110 to read:

**§ 162.110 Duluth-Superior Harbor, Minnesota and Wisconsin.**

(a) No vessel greater than 100 feet in length may exceed 8 miles per hour in Duluth-Superior Harbor.

(b) In the Duluth Ship Canal:

(1) No vessel may meet or overtake another vessel if either vessel is greater than 150 feet in length (including tug and tow combinations).

(2) An inbound vessel has the right of way over an outbound vessel.

2. By revising § 162.115 to read as follows:

**§ 162.115 Keweenaw Waterway, Michigan.**

(a) No vessel greater than 40 feet in length may exceed 8 miles per hour between Lily Pond and Pilgrim Point.

(b) No vessel may use either the Portage River harbor of refuge or the Lily Pond harbor of refuge longer than 24 hours unless given permission to do so by the Captain of the Port.

3. By revising § 162.120 to read as follows:

**§ 162.120 Harbors on Lake Michigan.**

(a) No vessel greater than 40 feet in length may exceed 8 miles per hour in the harbors of Michigan City, Indiana; St. Joseph, South Haven, Saugatuck, Holland (Lake Macatawa), Grand Haven, Muskegon, White Lake, Pentwater, Ludington, Manistee, Portage Lake (Manistee County), Frankfort, Charlevoix, and Petroskey, Michigan.

(b) No vessel greater than 40 feet in length may exceed 4 miles per hour in the harbors of Menominee, Michigan and Wisconsin; Algoma, Kewaunee, Two Rivers, Manitowoc, Sheboygan, Port Washington, Milwaukee, Racine, Kenosha, and Green Bay, Wisconsin; and Waukegan, Illinois.

4. By revising § 162.125 to read as follows:

**§ 162.125 Sturgeon Bay and the Lake Michigan Ship Canal; Wisconsin.**

(a) In the Lake Michigan Ship Canal:

(1) No vessel may exceed 5 miles per hour.

(2) No vessel greater than 150 feet in length (including tug and tow combinations) may come about.

(3) No vessel 65 feet or greater in length (including tug and tow combinations (may either:

(i) enter or pass through the canal two or more abreast; or

(ii) overtake another vessel.

(4) No vessel may anchor or moor unless given permission to do so by the Captain of the Port.

(5) Each vessel must keep to the center, except when meeting or overtaking another vessel.

(b) In Sturgeon Bay and the Lake Michigan Ship Canal:

(1) Each laden vessel must be towed with at least two towlines. Each towline must be shortened to the extent necessary to provide maximum control of the tow.

(2) Each unladen vessel may be towed with one towline.

(3) No towline may exceed 100 feet in length.

(4) No vessel may tow another vessel alongside.

(5) No vessel may tow a raft greater than 50 feet in width.

**Note.**—The Corps of Engineers also has regulations dealing with these areas in 33 CFR 207.

**§ 122.130 [Deleted]**

5. By deleting § 162.130.

6. By revising § 162.145 to read as follows:

**§ 162.145 Monroe Harbor, Michigan.**

(a) In the lake channel, no vessel greater than 40 feet in length may exceed 10 miles per hour.

(b) In the river channel:

(1) No vessel greater than 40 feet in length may exceed 6 miles per hour.

(2) No vessel may use a towline exceeding 200 feet in length.

7. By revising § 162.150 to read as follows:

**§ 162.150 Maumee Bay and River, Ohio.**

(a) In Maumee Bay (lakeward of Maumee River Lighted Buoy 49 (L/L No. 770)), no vessel greater than 100 feet in length may exceed 12 miles per hour.

(b) In Maumee River (inward of Maumee River Lighted Buoy 49 (L/L No. 770)):

(1) No vessel greater than 40 feet in length may exceed 6 miles per hour.

(2) No vessel greater than 100 feet in length (including tug and tow combinations) may overtake another vessel.

8. By revising § 162.155 to read as follows:

**§ 162.155 Sandusky and Huron Harbors, Ohio.**

(a) In Sandusky Harbor, no vessel greater than 40 feet in length may exceed 10 miles per hour.

(b) In Huron Harbor, no vessel greater than 40 feet in length may exceed 6 miles per hour, except in the outer harbor where no vessel greater than 40 feet in length may exceed 10 miles per hour.

**Note.**—The Corps of Engineers also has regulations dealing with these areas in 33 CFR 207.

9. By revising § 162.160 to read as follows:

**§ 162.160 Vermilion, Lorain, Cleveland, Fairport, Ashtabula, and Conneaut Harbors, Ohio.**

(a) In Vermilion Harbor, no vessel may exceed 6 miles per hour.

(b) In Lorain, Cleveland, Fairport, Ashtabula, and Conneaut Harbors, no vessel may exceed 6 miles per hour, except in the outer harbors where no vessel may exceed 10 miles per hour.

**Note.**—The Corps of Engineers also has regulations dealing with these areas in 33 CFR 207.

10. By revising § 162.165 to read as follows:

**§ 162.165 Buffalo and Rochester Harbors, New York**

In Buffalo and Rochester Harbors, no vessel may exceed 6 miles per hour, except in the outer harbors where no vessel may exceed 10 miles per hour.

**Note.**—The Corps of Engineers also has regulations dealing with these areas in 33 CFR 207.

**§ 162.170 [Deleted]**

11. By deleting § 162.170.

12. By revising § 162.175 to read as follows:

**§ 162.175 Black Rock Canal and Lock at Buffalo, New York.**

In the Black Rock Canal and Lock, no vessel may exceed 6 miles per hour.

**Note.**—The Corps of Engineers also has regulations dealing with these areas in 33 CFR 207.

**§§ 162.180, 162.185, and 162.190 [Deleted]**

13. By deleting § 162.180.

14. By deleting § 162.185.

15. By deleting § 162.190.

## PART 165—SAFETY ZONES

16. By adding a new § 165.902 to read as follows:

**§ 165.902 Niagara River at Niagara Falls, New York.**

(a) The following is a Safety Zone—The United States waters of the Niagara River from the crests of the American and Horseshoe Falls, Niagara Falls, New York to a line drawn across the Niagara River from the downstream side of the mouth of Gill Creek to the upstream end of the breakwater at the mouth of the Welland River.

(33 U.S.C. 1221, 33 U.S.C. 1223, 33 U.S.C. 1231; 49 CFR 1.46)

Dated: August 20, 1980.

**W. E. Caldwell,**

*Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.*

[FR Doc. 80-25820 Filed 8-22-80; 8:45 am]

BILLING CODE 4910-14-M

## POSTAL SERVICE

## 39 CFR Part 111

## Controlled Circulation Applications

**AGENCY:** Postal Service.

**ACTION:** Proposed rule.

**SUMMARY:** This proposal would amend postal regulations to make the application procedures for controlled circulation mail privileges similar to procedures that currently exist for second-class mail privileges.

**DATE:** Comments must be received on or before September 24, 1980.

**ADDRESS:** Written comments should be directed to the Director, Office of Mail Classification, Rates and Classification Department, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, D.C. 20260. Copies of all written comments received will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in the Office of Mail Classification, Room 1640, L'Enfant Plaza, SW., Washington, D.C. 20260.

**FOR FURTHER INFORMATION CONTACT:** Marie J. Chamberlin at 202/245-4663.

**SUPPLEMENTARY INFORMATION:** Publishers are presently required by postal regulations to file a written application at each post office where copies of a publication will be mailed at controlled circulation rates of postage. Application for controlled circulation mail privileges is made by letter since no Postal Service application form is presently available. Publishers have requested that the Postal Service make the application procedures for controlled circulation mail privileges similar to those for second-class mail privileges. Under the proposed change, a publisher will be required to maintain an office of publication where the original entry for controlled circulation mail privileges is authorized. Also, if copies of a controlled circulation publication are to be mailed at more than one post office, the publisher of the publication would be required to file an additional entry application at the office of original entry for each additional entry post office.

To facilitate postal transportation planning, publishers will be required to give 30 days notice on all requests for additional entries.

Domestic Mail Manual sections 541, 561.1, 561.5, 570, 583 and 584 would be changed to conform with the new application procedures, if adopted.

In addition, minor editorial changes would also be made to sections 521, 561, 584 and 585.

If this proposal is adopted, publishers of publications currently authorized controlled circulation mail privileges would be required to establish an original entry at the post office where the office of publication is located, or to indicate which office of entry will be the office of original entry. If a publication has controlled circulation mail privileges at more than one post office, any office not designated as the office of original entry would become an additional entry office.

Presently there are no application fees for controlled circulation mail privileges.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revisions of the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

### Part 521—Description and Qualifications

Amend 521 to read as follows:

*521.1 General.* A publication, whether circulated free or to paid subscribers, is eligible for controlled circulation authorization if it meets *all* of the following qualifications:

a. Each issue must contain at least 24 pages;

b. No issue may contain more than 75 percent advertising (see 522);

c. The publication must be issued at regular intervals of four or more times a year;

d. The publication may not be owned or controlled by one or more individuals or business concerns and conducted as an auxillary to and essentially for the advancement of the main business or calling of those who own or control the publication; and

e. The name of the publication must be shown on the front/cover page in a

position and in a style and size of type that make it clearly distinguishable from the publisher's name or from any other items on the front/cover page.

*521.2 Issuance From an Office of Publication.* The publisher of a controlled circulation publication must maintain an office at the location where the original entry for controlled circulation is authorized. The office of publication must be an office where the circulation records of the publication are maintained and are available for examination by postal officials during normal business hours.

**Part 541—Controlled Circulation Applications**

In Part 541, amend 541.2, 541.3 and 541.41 to read as follows:

*541.2 Application Procedures.*

.21 Original Application. Applications must be made on Form 3511, *Application for Mailing Under Controlled Circulation Privileges,* to the postmaster at the office serving the office of publication. Two copies of the issue published nearest to the date of application must accompany the application. These copies must meet the preparation requirements contained in 560. The copies must be marked to show the nonadvertising content and the percentage of nonadvertising content must be stated on the cover. If the publication is in a foreign language, a translation must accompany the application. A synopsis is usually sufficient.

.22 Additional Entry. If multiple entry points are desired, a Form 3512, *Application for Additional Entry or Reentry of a Controlled Circulation Publication,* must be filed by the publisher at the original entry post office 30 days prior to making a controlled circulation mailing at the proposed additional entry office(s). Postage for mailings presented prior to the expiration of the 30-day period must be made at the first-, third-, or fourth-class postage rates.

A separate form must be submitted for each desired additional entry office. A publisher may apply for permission to mail at additional entry post office(s) at the time of the original entry application. Two copies of the issue nearest the application date must accompany the application(s). These must be marked to show the nonadvertising content as described in 541.21.

*541.3 Approving or Denying the Application.* The postmaster will forward the application and one copy of the publication to his Mail Classification Center. The Mail Classification Center, after reviewing the application for completeness, will forward it and one copy of the publication to the Office of Mail Classification, Rates and Classification Department, Washington, D.C. 20260. The General Manager, Domestic Mail Classification Division, Office of Mail Classification, rules on all controlled circulation applications. He will notify the postmaster whether the application was approved or denied. The postmaster will then notify the applicant.

*541.4 Mailing While Application Pending.*

*541.41 General.* A publisher may not mail at controlled circulation rates until the application for controlled circulation mail privileges is approved by the Office of Mail Classification, Rates and Classification Department, Washington, D.C. 20260. Postage at the applicable first-, third-, or fourth-class rates must be paid while the application is pending. Exception: If the publication is authorized second-class rates, the publisher may continue to pay second-class postage while the application for controlled circulation mail privileges for the publication is pending.

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**Part 542—Change in Title or Frequency**

Amend 542 to read as follows:

*542 Change in Title, Frequency or Office of Publication.* An application for reentry must be filed on Form 3512, *Application for Additional Entry or Reentry of Controlled Circulation Publication,* whenever the name, frequency of issuance or location of the office of publication is changed. When the name or frequency changes, a Form 3512 must be filed at the post office of original entry. When the location of the office of publication is changed, a Form 3512 must be filed at the new mailing office. Two copies of the publication showing the new name, frequency or office of publication must accompany the application. These copies must be marked to show the nonadvertising content as prescribed in 541.21. A reentry application need not be filed if the office of publication is moved to a location served by the same original entry post office. An application for reentry is not required when only the ownership of the publication is changed. A separate Form 3512 must be filed for each reentry action requested.

**Part 543—Revocation of Controlled Circulation Privileges**

In Part 543, amend 543.1 to read as follows:

*543.1 Notice by Postmaster.* The Postal Service will revoke the controlled circulation authorization of any publication which fails to meet the requirements in 521. The postmaster will notify the General Manager, Domestic Mail Classification Division, when a publication is discontinued or when it fails to meet the conditions set forth in its authorization. The postmaster will include the publisher's current mailing address, title of the publication and its authorized frequency with any notice of discontinuance or failure to meet the requirements.

* * * * *

**Part 561—Identification Statements in Copies**

In Part 561, delete 561.5 and amend 561.1a, 561.1g and 561.2 to read as follows:

*561.1 Information Required.*

* * * * *

a. Name of Publication and Publication Number. The publication number includes an alpha prefix and is to be placed within parentheses immediately following or below the name of the publication, for example, *The Weekly Journal* (ISSN 9876–543X) or *The Civic Bulletin* (USPS 876–690). The publication number will be furnished to the publisher by the Office of Mail Classification and must be included in the publication within 90 days of the notification. The publication number may be omitted if it appears on the front/cover page.

* * * * *

g. Controlled Circulation Imprint. If the publication is authorized to be mailed at only one office, the imprint must read "Controlled Circulation Postage Paid at [insert name and ZIP Code of Office]." If the publication is authorized to mail at two or more post offices, the imprint must read "Controlled Circulation Paid at [insert name and ZIP Code of original entry office] and at Additional Mailing Offices." A notice of pending application must be imprinted to read "Application to Mail at Controlled Circulation Postage Rates is Pending at [insert name and ZIP Code of original entry office] (and at Additional Mailing Offices)."

* * * * *

*561.2 Sample Format.* The following is an example of a correctly prepared identification statement format:

"MANAGEMENT WIDGETS (ISSN 7132–698X) is published daily except Sundays and holidays for $28 per year by Business Ideas Co., 44 South Street, Hyattsville, MD 20784. Controlled Circulation Postage Paid at Hyattsville, MD 20784 and at Additional Mailing Offices.

POSTMASTER: Send address changes to MANAGING WIDGETS, Post Office Box 4, Boulder, CO 80302."

**Part 570—Mailing**

Amend 570 to read as follows:

*570.1 Who May Mail.* Only publishers of publications authorized controlled circulation mail privileges may mail at controlled circulation postage rates. Postage at the applicable first-, third- or fourth-class rate according to weight must be paid on all copies mailed by the general public.

*570.2 Place of Mailing.* A publisher may mail at the controlled circulation postage rates only at the post office(s) where an authorization for original entry or additional entry has been obtained. Mailings must be made between the times and at the locations designated by the postmaster of the office of mailing.

* * * * *

**Part 583—Marked Copy**

Amend 583 to read as follows:

*583 Marked Copy.* The publisher of the controlled circulation publication must submit a copy of each issue to the postmaster at the original entry office. In addition, the publisher must submit a copy of the issue being mailed with each mailing statement at each office of additional entry. All copies submitted must be marked by the publisher to show the nonadvertising content so that advertising content can be verified.

**Part 584—Statistical Statement**

Amend 584 to read as follows:

*584 Statistical Statement.* Publishers authorized controlled circulation mail privileges must complete a Form 8–C, *Pieces by Destination, Controlled Circulation Publication,* and submit it along with the mailing statement to the postmaster at each post office of mailing for the first mailing of each Postal Service fiscal year. A Form 8–C must be submitted with the mailing statement for the first mailing at each new office of entry after the controlled circulation authorization has been received by the publisher. Forms 3541–A and 8–C are distributed to publishers by the postmaster at the office of mailing. If the publisher fails to submit a Form 8–C, the Postal Service will not accept the publisher's mailing at the controlled circulation postage rates.

**Part 585—Mailer's Records**

Amend 585 to read as follows:

*585 Publisher's Records.* The publisher must maintain records to verify the number and weight of copies reported on Forms 3541–A at the office of publication. These records are subject to periodic review and audit by the Postal Service.

An appropriate amendment to 39 CFR 111.3 to reflect the changes will be published if these proposals are adopted.

**W. Allen Sanders,**

*Associate General Counsel, General Law and Administration.*

[FR Doc. 80–25940 Filed 8–22–80; 8:45 am]

BILLING CODE 7710–12–M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[FRL 1585–1]**

### Approval and Promulgation of Implementation Plans; Proposed Revision to the New York State Implementation Plan

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rulemaking.

**SUMMARY:** On May 21, 1980 (45 FR 33981) the Environmental Protection Agency (EPA) promulgated partial conditional approval of the New York State Implementation Plan (SIP) for the New York City metropolitan area (New York City and Nassau, Suffolk, Westchester, and Rockland Counties) with regard to its ability to meet the requirements of Part D of the Clean Air Act. Today's notice discusses one of the conditions of EPA's approval and announces EPA's intent to find the provisions of the condition met. This condition required the State to submit to EPA on or before May 1, 1980 three separate listings of the transportation related studies, demonstration projects, and permanent projects committed to in its SIP. The State made its submission in response to this requirement on May 21, 1980.

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

**ADDRESSES:** Written comments should be submitted to: Charles S. Warren, Regional Administrator, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278.

Copies of the submittal are available for public inspection during normal business hours at:

U.S. Environmental Protection Agency, Air Programs Branch, Room 908, Region II Office, 26 Federal Plaza, New York, New York 10278.

U.S. Environmental Protection Agency, Central Docket Section, Waterside Mall, Room 2903 B, 401 M Street S.W., Washington, D.C. 20460

New York State Department of Environmental Conservation, Division of Air, 50 Wolf Road, Albany, New York 12233.

New York State Department of Environmental Conservation, Region 1, SUNY, Building 40, Stony Brook, New York 11790.

New York State Department of Environmental Conservation, Region 2, 2 World Trade Center, 61st Floor, New York, New York 10047.

New York State Department of Environmental Conservation, Region 3, 211 South Putt Corners Road, New Paltz, New York 12561.

New York State Department of Environmental Conservation, Region 3, 202 Mamaronech Avenue, White Plains, New York 10601.

New York State Department of Transportation, 1220 Washington Avenue, Building 5, Room 115, State Campus, Albany, New York 12232.

**FOR FURTHER INFORMATION CONTACT:** William S. Baker, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region II office, 26 Federal Plaza, New York, New York 10278 (212) 264–2517.

**SUPPLEMENTARY INFORMATION:**

**I. Introduction**

On May 21, 1980 (45 FR 33981) the Environmental Protection Agency (EPA) promulgated conditional approval of parts of the New York State Implementation Plan (SIP) with regard to their ability to meet requirements of Part D of the Clean Air Act. The contents of these parts of the SIP and the history of their development are summarized in an EPA notice of proposed rulemaking, which was published in the **Federal Register** on December 10, 1979 (44 FR 70754). In addition, with regard to the remaining contents of the plan, concerning public transportation improvement measures, the reader is referred to an EPA notice of proposed rulemaking published on June 30, 1980 (45 FR 43794). Generally, the SIP contains regulations and other control measures aimed at attainment of the ozone and carbon monoxide national ambient air quality standards and public transportation improvement measures necessary to meet basic transportation needs. These measures were to be supported by plans, programs, projects, studies and other actions needed to insure the development, commitment and implementation of various transportation controls.

In its review of the SIP, EPA found that the commitments contained therein were not clear. As such, EPA's

December 10, 1979 **Federal Register** notice stated that the format of the proposed SIP revision, especially as it related to the discussion of transportation control measures, could lead to confusion that might hinder the ability of responsible agencies and the interested public to understand the plan's contents. This problem was found to be further complicated by the use of inconsistent terminology. It was often unclear whether an element in the plan was a study, permanent project, or a demonstration project. Thus, it was uncertain as to what actions were being committed to.

As a result of these shortcomings, in its May 21, 1980 **Federal Register** notice, EPA promulgated the following condition at 40 CFR 52.1674(e)(4):

*On or before May 1, 1980, the State must submit to EPA three separate listings covering, respectively, all of the transportation related studies, demonstration projects and permanent projects committed to in the SIP.*

On May 21, 1980, the Commissioner of the New York State Department of Environmental Conservation submitted to EPA information which responded to this condition. Today's notice describes this State submittal as it relates to this condition and EPA's preliminary finding as to its adequacy.

## II. State Submittal

### A. Content

The State's May 21, 1980 submittal provided the required listing of permanent projects, demonstration projects, and transportation related studies committed to in the SIP for the New York City metropolitan area. Tables 1 and 2 of the submittal list permanent projects and demonstration projects, respectively. Table 3 is a description of two actions which, although not originally committed to in the SIP, are now being considered by the State as SIP commitments. Table 4 lists of all studies in the SIP, classified according to whether they are underway, committed to, or proposed.

In addition, the submittal includes two categories of information not discussed in today's notice of proposed rulemaking. The first is a narrative discussing the SIP development process. Among other things it suggests definitions for terms to be used in describing the process and discusses the nature of SIP commitments. This narrative will be the subject of a future **Federal Register** proposal by EPA. The second concerns information with respect to public transportation improvement measures for attainment of air quality standards and for meeting basic transportation needs. This information was treated in EPA's June 30, 1980 **Federal Register** notice and is not dealt with here.

The contents of Tables 1, 2 and 4 of the State's May 21, 1980 submittal are summarized in Figure 1.

**Figure 1.**—*Summary of New York State Listings of Studies, Permanent Projects and Demonstration Projects as Submitted on May 21, 1980*

| Measure | Studies | Permanent projects | Demonstration projects |
|---|---|---|---|
| A. Land use and development controls. | New York City: 1. Transit area zoning. | New York City: 1. Zoning revision for off street parking restrictions in Manhattan Central Business District. 2. Repeal all parking restrictions under 6 NYCRR Part 203 (in Manhattan after zoning revision). | None. |
| B. Parking restrictions. | New York City: 1. Transportation regulation administration. 2. Parking management. 3. Midtown Circulation Study Phases I and II. 4. Illegal parking. 5. Residential parking management study. Nassau County: 1. Selected central business districts. Suffolk County: 1. Selected central business districts. Westchester County: 1. "Various" studies. | New York City: 1. Reduction of legal on street parking space in Midtown Core. 2. Referral procedures for out-of-state violators. 3. Seek scofflaw vehicle transfer restriction. 4. Seek legislation to control scofflaw vehicles. | New York City: 1. Reduction of parking in Downtown and Midtown Manhattan. |
| C. Freight transportation. | New York City: 1. Intermodel rail freight study phases I and II. 2. Garment center goods movement. 3. Manhattan goods movement Phases I and II. 4. Impact of Transportation Control Plan on economy of Manhattan Central Business District. 5. Truck consolidation. 6. Goods movement patterns. | New York City: 1. Trailer on Flat Car (TOFC) terminal at High Bridge with increased clearances to the north. 2. Rail link to Brooklyn waterfront. 3. Designation of truck routes. | None. |
| D. Express bus and carpool lanes. | New York City: 1. Brooklyn Queens Expressway taxi lane. 2. Madison Avenue Express Street. 3. 49–50th Street improvements. 4. 42nd Street Transitway. 5. Bus and carpool lane opportunities. 6. Right hand curb bus. 7. Bus Priority zones. 8. Prospect Expressway high vehicle occupancy lanes. 9. Lower Broadway bus priority. 10. Toll booth bus lanes. 11. Eastside transit service. 12. Flatbush Avenue exclusive bus lanes. 13. 56th Street Transitway. 14. High occupancy lanes study. 15. Removal of Grand Army Plaza express bus layover. | New York City: 1. Fulton Street transitway. 2. Continue increased level of enforcement on express bus lanes on Manhattan Central Business District streets. 3. Improve bus lane signing on Manhattan street. 4. Rehabilitate FDR Drive. 5. Rehabilitate upper level of Queensboro Bridge. | New York City: 1. Additional bus priority lanes on 59th–60th Street corridor and another site to be identified on the east of Manhattan. |

**Figure 1.**—*Summary of New York State Listings of Studies, Permanent Projects and Demonstration Projects as Submitted on May 21, 1980—Continued*

| Measure | Studies | Permanent projects | Demonstration projects |
|---|---|---|---|
| | 16. 3rd Avenue bus layover between 32nd–37th Streets.<br>17. Herald Square layover.<br>18. Madison Square Park bus layover.<br>19. Church Street bus layover.<br>20. Extension of contra-flow approach to Battery Tunnel.<br>21. Non-CBD high occupancy vehicle incentive.<br>22. Express Bus Study—Phase II.<br>23. Private Bus Operators Assistance Study.<br>Westchester County: 1. Tappan Zee Bridge high occupancy vehicle preference. | | |
| E. Pedestrian priority zones. | New York City:<br>1. South Bronx transportation improvement planning.<br>2. Midtown pedestrian improvement project.<br>3. Herald/Greely Square improvement project.<br>4. Queens subway station impacts.<br>5. Staten Island Ferry Terminal II.<br>6. Lower Manhattan Transportation Management Program.<br>7. Flatbush Avenue pedestrian amenities.<br>Westchester County: 1. Getty Square Mall.<br>Nassau County: 1. Suburban pedestrian malls. | New York City:<br>1. Broadway Plaza.<br>2. 165th Street Mall.<br>3. Fulton Mall.<br>4. Nassau Street Mall.<br>Nassau County:<br>1. Freeport Mall.<br>2. Hempstead Semi-Mall.<br>Westchester County:<br>1. White Plains Mall Street.<br>2. New Rochelle Main Street Mall.<br>3. Peekskill Division Street Semi-Mall. | |
| F. Traffic flow improvements. | Regional: 1. Effectiveness of Transportation Systems Management (TSM).<br>New York City:<br>1. South Richmond Transportation Study.<br>2. Westside Improvement Program.<br>3. Taxi vehicle-miles-traveled reduction study.<br>4. Improving street performance.<br>5. Traffic management—North Brooklyn Study.<br>6. Traffic management—N.W. Queens.<br>7. Capacity management of Manhattan streets & river crossings.<br>8. Flatbush Avenue TSM Study.<br>9. Metering of various high density sectors of central business district.<br>10. Various TOPICS type studies.<br>11. Before/after evaluation of Van Wyck surveillance.<br>12. Before/after evaluation of Integrated Motorist Information System.<br>13. Downtown Brooklyn Bus Study.<br>14. Manhattan "Valley" Transportation Study—(Phase I).<br>15. Various TOPICS Studies. | New York City: 1. Computerization of signal system.<br>All Suburban Counties: 1. Continued advancement in suburban areas of computer signalization and spot Transportation System Management and Traffic Operations Program to Increase Capacity and Management (TOPICS) improvements. | New York City: 1. Van Wyck Expressway traffic management.<br>Nassau County: 1. Northern Long Island Corridor Integrated Motorist Information System on Long Island Expressway Northern State Parkway, and Grand Central Parkway. |

**Figure 1.**—*Summary of New York State Listings of Studies, Permanent Projects and Demonstration Projects as Submitted on May 21, 1980—Continued*

| Measure | Studies | Permanent projects | Demonstration projects |
|---|---|---|---|
| | 16. Reduction of through trips on Manhattan streets.<br>17. Extension of strict traffic enforcement beyond Manhattan Central Business District.<br>18. Revisions of environmental regulations related to transportation.<br>19. Additional through movement street operations.<br>20. Computerized signals with bus priority. | | |
| G. Alternate work schedules. | New York City:<br>1. Alternate work schedules for Manhattan Central Business District.<br>2. Alternative work schedules for non-Manhattan.<br>Nassau County: 1. Work schedules and bike studies.<br>Suffolk County: 1. Feasibility of staggered work hours. | New York City:<br>1. Port Authority Program in Manhattan, Phase I.<br>Westchester County: 1. County government employees. | |
| H. Bicycles lanes and storage facilities. | New York City:<br>1. Bicycle pilot projects.<br>2. Comprehensive bikeway plan.<br>3. Verrazano bridge bikeway.<br>Rockland County: 1. Rockland County bikeway study. | | New York City:<br>1. Implement 4 bikelanes in New York City in commuter corridors of Brooklyn, Staten Island, Queens, and Manhattan.<br>2. North Bronx Bikeway.<br>Westchester County:<br>1. Route 117.<br>2. Putnam Division Railroad Right of Way.<br>3. Bronx River Parkway. |
| I. Employer based programs. | New York City:<br>1. Transit employer incentives.<br>2. Transportation brokerage.<br>3. Data base for feasibility of exclusive lanes, carpools and employer programs. | | Nassau County: 1. Nassau County-wide major employers university program.<br>Westchester County: 1. Westchester County Commuter Vanpool Program. |
| J. Private car restrictions. | New York City: 1. Private car restriction policies. | | |
| K. Park-and-ride and fringe parking. | New York City: 1. Central Business District Parking Study.<br>Suburban Areas: 1. Commuter park-and-ride. | Suburban Areas: 1. Construct, expand or upgrade at least 14 park-and-ride lots providing at least 3000 new spaces by 1981. | New York City:<br>1. Implement at least one parking facility with feeder transit near Manhattan Central Business District.<br>2. Implement park-and-ride lots at 5 locations in outer boroughs of New York City. |
| L. Overall SIP coordination. | 1. Evaluation of alternative strategies to achieve cleaner air in the region.<br>2. Air quality plan—technical studies.<br>3. N.Y. air quality plan alternatives, economic and financial impacts.<br>4. N.Y. State air quality implementation plan: progress reports to EPA.<br>5. Hot spot analysis; identification of potential carbon monoxide problem areas on the regional highway system—N.Y.<br>6. Interstate consistency among state air quality plans: Connecticut, New Jersey and New York.<br>7. Public participation in the SIP revision process.<br>8. Community & public involvement.<br>9. Carbon monoxide regional hot spot study. | Not Applicable. | Not Applicable. |

B. Adequacy.

EPA's review focused on confirming that each project or study contained in the State's SIP revision submittal was similarly classified (i.e., as a permanent project, a demonstration project, or a study) and included in the State's May 21, 1980 listings. Generally these listings were found to be complete and accurate as to EPA's understanding of the classification system used in the SIP. However, the following omissions and apparent misclassifications were noted by EPA:

1. The SIP contains a permanent project to extend "trailor on flat car" rail service to the South Bronx (Vol. 2, p. 20–10). The listings identify this project as a "potential additional implementation action".

2. The following high occupancy vehicle priority projects identified as permanent projects in the SIP have been listed by the State as studies:

Brooklyn Queens Expressway exclusive bus and taxi lane (Vol. 2, p. 9–3).

Non-central business district high occupancy vehicle implementation program (Vol. 2, p. 9–12).

Extension of contraflow lane approaching Brooklyn Battery Tunnel from the Brooklyn Queens Expressway (Vol. 2, p. 9–11).

3. The 42nd Street Transitway demonstration project identified in the SIP (Vol. 1, p. IV–55) has been omitted from the demonstration project and listed as a study listing. In its submittal the State notes that reclassification of this project is consistent with comments made in EPA's December 10, 1979 **Federal Register** notice. However, the State apparently has misinterpreted EPA's position which was stated as: "* * * it would appear more appropriate to categorize it [the 42nd Street Transitway] as a "Reasonably Available Control Measure Subject to Transportation Planning Process Action." EPA was suggesting that the decision to implement the transitway as a demonstration project could be reassessed as feasibility studies are completed. Nevertheless, EPA is currently not aware of any finding that the transitway should not be pursued as a demonstration project. Therefore, EPA believes that this project should not only appear in the State's study listing, but also be listed as a demonstration project.

4. The study of carpool lanes to JFK International Airport identified in the SIP (Vol. 1, p. 26) has been omitted from the study listing.

5. "Several" high occupancy vehicle priority studies in Nassau and Suffolk Counties identified in the SIP (Vol. 2, p.

9–25) are not identified in the study listing.

6. The listing of permanent projects omits the following SIP commitments to pedestrian improvements:

South Bronx Hub transit mall (Vol. 2, p. 13–1)
Flatbush Avenue—pedestrian amenities program (Vol. 2, p. 13–10)
Yonkers Getty Square project (Vol. 2, p. 13–15).

However, these projects appear in the State's listing of studies.

7. The following permanent bicycle improvement projects identified in the SIP have been listed by the State as demonstration projects:

Four bike lanes in New York City commuter corridors (Vol. 2, p. 15–3)
North Bronx bikeway (Vol. 2, p. 15–2)
Westchester County bikeways (Route 117, Putnam Division Railroad right of way, Bronx River Parkway) (Vol. 2, p. 15–18).

8. The following permanent bicycle improvement projects identified in the SIP were omitted from the listings:

Eastern Queens from Flushing Meadow Park to Cummingham Park (Vol. 2, p. 15–3)
Grassland Road (Vol. 2, p. 15–18)
Old Croton Trailway (Vol. 2, p. 15–18)
Saw Mill River Parkway (Vol. 2, p. 15–18)
Hutchinson River Parkway (Vol. 2, p. 15–18)
Sprain Brook Parkway (Vol. 2, p. 15–18).

### III. EPA Proposal

EPA proposes to find that, with the exceptions noted in Section II.B of today's notice, the State's May 21, 1980 submittal adequately meets the condition on approval of the New York SIP promulgated at 40 CFR 52.1674(e)(4). The purpose of requiring the submittal was to clarify the contents of the SIP with respect to transportation related studies and projects and not to alter the substantive commitments to them. Consequently, for purposes of requiring implementation and enforcement of the New York SIP, the projects and studies discussed in Section II.B of today's notice will be considered by EPA as originally committed to and as a part of the SIP. If the State wishes to revise its SIP to eliminate or reclassify any of these (or other) projects and studies, it is free to do so through the SIP revision process. Such requests for revision will be announced by EPA in the **Federal Register.** However, SIP revision requests must be developed and they must be supported by justification sufficient to meet the provisions of the Clean Air Act.

### IV. Public Comment

This notice is issued as required by Section 110 of the Clean Air Act, as amended, to advise the public that comments may be submitted as to whether the proposed revision to the New York State Implementation Plan for the New York City metropolitan area should be approved or disapproved. The Administrator's decision regarding approval or disapproval of this proposed plan revision will be based on whether it meets the requirements of Sections 110 and 172 of the Clean Air Act and applicable EPA requirements in 40 CFR Part 51. This current SIP revision request was submitted to EPA in accordance with the appropriate CFR conditions.

EPA particularly invites comments from the Tri-State Regional Planning Commission (the Metropolitan Planning Organization for the New York City metropolitan area), its subcommittees, and any other agencies or organizations which have SIP-related responsibilities. Section 174(b) of the Clean Air Act requires that SIP revisions be coordinated with the continuing, cooperative, and comprehensive transportation planning process required under Section 134 of Title 23 of the United State Code.

Comments received on or before October 24, 1980 will be considered in EPA's final decision. All comments received will be available for inspection at the Region II Office of EPA at 26 Federal Plaza, Room 908, New York, New York 10278.

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

(Secs. 110, 172 and 301 of the Clean Air Act, as amended (42 U.S.C. 7410, 7502 and 7601))

Dated: July 29, 1980.

**Charles S. Warren,**

*Regional Administrator, Environmental Protection Agency.*

[FR Doc. 25795 Filed 8–22–80 8:45 am]

BILLING CODE 6560–01–M

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## 40 CFR Part 60

**[FRL 1588–7]**

## Standards for Performance for New Stationary Sources; Organic Solvent Cleaners

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Extention of public comment period and correction to proposed rule.

**SUMMARY:** On June 11, 1980, the Environmental Protection Agency proposed in the **Federal Register** (45 FR 39765) standards of performance for new, modified or reconstructed organic solvent cleaners. In this action, EPA also proposed to add Reference Method 23 to Appendix A of 40 CFR Part 60. Today's notice makes corrections to the proposed reference method, and extends the public comment period for the proposed rule from August 25, 1980, to October 24, 1980.

**DATE:** Written comments to be included in the record should be postmarked no later than October 24, 1980.

**ADDRESSES:** Comments should be submitted (in duplicate if possible) to: Central Docket Section, U.S. Environmental Protection Agency, West Tower Lobby, Gallery 1, 401 M Street, S.W., Washington, D.C. 20460, Attention: Docket No. OAQPS–78–12.

**FOR FURTHER INFORMATION CONTACT:** Mr. John D. Crenshaw, Standards Development Branch, Emission Standards and Engineering Division (MD–13), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5421.

**SUPPLEMENTARY INFORMATION:** In response to requests from several manufacturers of equipment and chemicals that would be affected by the proposed rule, the public comment period will be extended for 60 days from August 25, 1980, to October 24, 1980. These requests expressed the need to review more completely the large amount of information that is being developed, and to prepare written comments on the associated health, technological and policy related issues.

Make the following corrections: On page 39776 in the **Federal Register,** replace the last sentence in paragraph 4.3.2 Chromatographic Column as follows: "Calculation of area overlap is explained in Appendix C of 40 CFR part 61, Supplement A, 'Determination of Adequate Chromatographic Peak Resolution.'" On page 39783 in the **Federal Register,** replace paragraph 7.3.1 Analysis Audit as follows: "Immediately after the preparation of the calibration curve and prior to the sample analyses, perform the analysis audit described in Appendix C of 40 CFR Part 61, Supplement B: 'Procedures for Field Auditing GC Analysis'" (45 FR 26660).

Persons interested in this rulemaking are also reminded that a Subcommittee

of the Agency's Science Advisory Board will be meeting to review the Agency's assessments of carcinogenicity and human exposure for a number of pollutants, including four to be regulated by this proposed rule: Methyl chloroform, methylene chloride, perchloroethylene and trichloroethylene. The Subcommittee on Airborne Carcinogens will meet to review these assessments on September 4–5 at EPA Headquarters, 401 M Street, S.W., Washington, D.C. For further details, see the full notice of the meeting at 45 FR 50652 (July 30, 1980).

Dated: August 20, 1980.

**Edward Tuerk,**

*Acting Assistant Adminsitrator for Air, Noise, and Radiation.*

[FR Doc. 80-26042 Filed 8-22-80; 8:45 am]

BILLING CODE 6560-01-M

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**40 CFR Part 228**

**[FRL 1574-6]**

## Ocean Dumping; Proposed Designation of Site

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA today proposes to designate a fish cannery waste site in the Pacific Ocean as an EPA approved interim ocean dumping site for the dumping of fish cannery wastes originating in American Samoa.

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

**ADDRESS:** Send comments to Mr. T. A. Wastler, Chief, Marine Protection Branch (WH-548), Oil and Special Materials Control Division, EPA, Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Mr. T. A. Wastler, 202/472-2836.

**SUPPLEMENTARY INFORMATION:** Section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1401 et seq., (hereafter "the Act") gives the Administrator of EPA the authority to designate sites where ocean dumping may be permitted. The EPA Ocean Dumping Regulations (40 CFR Chapter I, Subchapter H, Section 228.4) state that ocean dumping sites will be designated by publication in this Part 228. A list of "Approved Interim and Final Ocean Dumping Sites" was published on January 11, 1977 (42 FR 2461 et seq.) and extended on January 16, 1980 (45 FR 3053 et seq.).

The purpose of this notice is to provide the public an opportunity to comment on the proposed designation, as an EPA Approved Interim Ocean Dumping Site, of a fish cannery waste site located in the Pacific Ocean off American Samoa.

In 1974 Star-Kist Samoa and Van Camp Seafood obtained permission from the Government of American Samoa to dispose of dissolved air flotation (DAF) cell sludge on a five-acre site at Tafuna. Initially, the combined disposal volume was 15–16,000 gallons per day. The present combined volume is 35–40,000 gallons per day, and it is anticpated that this volume will more than double in five years. In 1976 Star-Kist obtained land at Futiga and moved its disposal operation there, while Van Camp continued to use the Tafuna site. Both sites have had repeated problems with inadequate percolation. Evaporation is minimal at both sites. Failure of the sludge to dewater properly has caused the disposal sites to become sources of noxious odors and disease vectors, hazards to human safety, and potential sources of drinking water well contamination.

In addition, the Star-Kist site at Futiga has been the source of two unauthorized discharges of sludge to Larsen Bay, which occurred when the disposal pond dikes failed. Use of this site ceased in June 1979. Star-Kist again shares the Tafuna site with Van Camp.

On March 9, 1979, the Chairman of the American Samoa Environmental Quality Commission requested that Star-Kist and Van Camp cease use of the sludge disposal sites effective December 31, 1979. On August 22, 1979, the American Samoa Director of Public Health modified the effective date to February 28, 1980. It has since been extended on a month-to-month basis.

In 1977 EPA determined that the dumping of fish wastes which contain any other wastes, including chemical coagulants, would not be excluded from the requirement for an ocean dumping permit, as provided for in section 220.1(c)(1) of the Ocean Dumping Regulations. Consequently, EPA Region IX has received ocean dumping permit applications from both Van Camp and Star-Kist for special permits to dump into ocean waters DAF sludge, stickwater, and press liquor at a combined rate of 101,200 gallons per day. Stickwater, or cooker juice, is formed in the precooking process where live steam contacts the fish, and the resulting wastewater contains high concentrations of natural organic material from the fish. Press liquor is wastewater resulting from the compaction of recovered fish waste solids in the fish meal process. Neither of these is subject to any treatment.

Both applicants have proposed that the same disposal site be designated and have jointly provided a dispoal site designation study. At the request of EPA Region IX, the National Enforcement Investigations Center (NEIC) evaluated the disposal alternatives for the DAF sludge. In a report dated March 1979, NEIC concluded that ocean disposal was the preferred alternative. In addition to ocean disposal of the sludge, the report recommended that the stickwater and press liquor be separated from other waste streams and disposed with the sludge in order to reduce the pollutant load discharge to Pago Pago Harbor.

Because there is no approved EPA ocean disposal site for these waste materials, EPA today proposes to approve a new ocean dumping site for the disposal of DAF sludge, stickwater, and press liquor under section 102(c) of the Act and section 228.4(b) of the Ocean Dumping Regulations and Criteria.

The proposed site is one nautical mile in diameter with its center located at 14d, 22′ S. latitude, 170d 41′ W. longitude. the proposed site is 2.9 nautical miles offshore of Tutuila Island. Depths at the site exceed 1,200 meters (4,000 feet).

No Environmental Impact Statement (EIS) has been prepared on this site. EPA has received sufficient information for an environmental assessment. The applicants provided a disposal site designation study, and NEIC has provided an evaluation of alternatives to ocean disposal. EPA proposes to designate the site on an interim basis for the ocean disposal of fish cannery wastes generated in American Samoa, where the applicants have demonstrated a need for ocean dumping, lack of alternatives to dumping, and compliance with EPA's marine environmental criteria. Interim designation is proposed because an alternative to pond disposal is urgently needed, and ocean dumping is the only available alternative. The material proposed for ocean disposal has no potential for significant environmental impact, and the proposed disposal site is located in an area where its use will not interfere with other activities in the marine environment. Interim designation would allow use of the site while the permittees are conducting monitoring during dumping operations and collecting the information needed to make a determination as to whether or not the site is suitable for permanent designation following completion of an IES. The interim designation would be made for a 24-month period to allow time for collection of the monitoring data and preparation of an EIS.

Section 228.6 of the Ocean Dumping Criteria lists 11 factors to be considered in selecting an ocean disposal site. Discussion of the proposed site in relation to these factors follows.

1. *Geographical position, depth of water, bottom topography, and distance from coast.* The geographical position of the proposed disposal site is off the southern coast of the Island of Tutuila in American Somoa. The proposed site is a circle one nautical mile in diameter centered at 14d 21' 50" south latitude and 170d 40' 5" west longitude. The water depth at this location is approximately 4,800 feet. The edge of the one nautical mile diameter circle closest to shore has a depth of about 4,000 feet, while the seaward side is approximately 5,500 feet deep. The bottom in this area appears to slope downward toward the southeast at a rate of about 25 percent. Because of the great depth, the detailed topography or other bottom characteristics are not known. The closest shoreline to the center of the proposed site is the airport runway fill area about 2.4 nautical miles to the northwest.

2. *Location in relation to breeding, spawning, nursery, feeding, or passage areas of living resources in adult or juvenile phases.* The proposed site is located in the open South Pacific Ocean and is characterized by high clarity, very low nutrients, great depth, and very sparse pelagic organism density. The area that might be affected by the proposed discharge supports no known critical development of living resources. Pala Lagoon and Pago Pago Harbor, which may serve as nursery areas, are about 3.1 and 5.5 nautical miles respectively from the center of the proposed site and are not in the direction of transport.

3. *Location in relation to beaches and other amenity areas.* The Tutuila coastal area closest to the proposed site is the Tafuna coastline and the airport runway fill area to which access is restricted. The coastline is characterized by rugged sea cliffs with almost no sandy areas except for a small area by Fogagogo near Vai cove adjacent to the existing sewage outfall. Because of the general lack of ready access, and with the rough coastal and sea conditions, this coastal area is not used for recreational purposes involving water contact. Public amenity areas for beachgoers are rare on Tutuila, with the one most used being in Utulei in Pago Pago Harbor.

4. *Types and quantities of wastes proposed to be disposed of and proposed methods of release, including methods of packing the waste, if any.* The wastes to be disposed of are sludges resulting from the dissolved air flotation treatment of the wastewaters from the Star-Kist and Van Camp cannery operations in American Samoa. The principal quality factor of these sludges is the high organic content and resulting oxygen demanding character. There is no evidence of direct toxic effects or significant concentrations of heavy metals or pesticides in these sludges. The average amount of sludge to be disposed of is about 400,000 gallons per month, with approximately half coming from each cannery. It is expected that the expansion of operations over the next five years will result in approximately double the amount of sludge to be disposed. The proposed method of release will be to pump the sludge to below the water surface at a rate no greater than 500 gpm from a vessel moving within the disposal area at 5 knots. The controlled release rate, combined with the vessel speed, will insure that adequate initial dilution and subsequent disperson will occur to meet the high oxygen demand of the organic fish wastes while still meeting the water quality standard of at least 80 percent saturation. The subsurface disposal will help minimize the formation of a slick.

5. *Feasibility of surveillance and monitoring.* It is expected that frequent monitoring and surveillance by the permittees would be conducted for the first portion of the disposal program in order to confirm the compliance with the dissolved oxygen standard and to observe the fate of any slick that might form. Such monitoring and surveillance would be conducted from a second vessel utilizing a dissolved oxygen meter and probe with measurement and observation locations being established using a sextant to measure horizontal angles between three landmarks. If the first portion of the disposal program proves effective in meeting EPA and Government of American Samoa requirements, the frequency of monitoring could be reduced, possibly to four times a year.

6. *Dispersal, horizontal transport, and vertical mixing characteristics of the area, including prevailing current direction and velocity, if any.* The horizontal dispersion coefficient was measured in the nearshore area off the Tafuna coast and found to indicate good dispersion conditions. It is expected that dispersion in the open ocean area at the proposed disposal site is somewhat better than in the nearshore area because there are no restrictions on the size of eddy formations and the dispersing coefficient increase with scale can approximate the ⅔ power rate noted by Richardson's Law. Vertical mixing in the proposed disposal area is not restricted by any salinity or temperature stratification to at least a depth of 300 feet. Horizontal transport is due to the current structure, which consists of a wind-influence surface layer overlying an easterly setting lower layer that was measured to have an average speed of about 10 cm/sec at a depth of 100 feet. It is expected that the easterly subsurface current will transport the material from the proposed discharge operation offshore and away from the coral communities near the shoreline and on the Taema Bank. Any slick forming from the proposed discharge will be transported in the downwind direction and will dissipate due to bacteriological breakdown, weathering processes, and solubilization. The original formation of a slick is minimized by the planned subsurface discharge from the moving vessel.

7. *Existence and effects of current and previous discharges and dumping in the area (including cumulative effects).* No known discharge or dumping has occurred in the area.

8. *Interference with shipping, fishing, recreation, mineral extraction, desalination, fish and shellfish culture, areas of special scientific importance, and other legitimate uses of the ocean.* The proposed disposal site was selected specifically to avoid the predominant shipping lanes approaching Pago Pago Harbor. Although the disposal site is within the general area covered by commercial and recreational fishing activity operating out of Pago Pago Harbor, no significant interference is expected. The disposal site is small in comparison to the fishing area and has no unique characteristics related to fishing activity. The cannery sludge, with proper dilution to minimize dissolved oxygen depletion, has no known detrimental effects on pelagic fish. Ocean disposal of the sludge essentially constitutes the return of a small portion of the organic material that was taken out of the same general area in the form of fish. No mineral extraction, desalination, or fish and shellfish culture activities occur or are planned in the proposed discharge area. In addition, the site has no unique or special characteristics that would give it scientific importance.

9. *The existing water quality and ecology of the site as determined by available data or by trend assessment or baseline surveys.* A baseline water quality survey of the waters around American Samoa was conducted. The water quality can generally be

characterized as being of high clarity, low nutrient content, and low phytoplankton concentration. Such a dilute base supports a food web of pelagic organisms of correspondingly low population densities. The pelagic fish are highly mobile and are not restricted to a specific location; consequently they would not be particularly susceptible to any possible detrimental effects that are site specific.

10. *Potentiality for the development or recruitment of nuisance species in the disposal site.* The photic depth (depth to 1 percent incident light) is about 170 feet in the open ocean around American Samoa. Below this depth, the addition of nutrients has no significant effect, except to participate in the bacterial action on organic material. Above the photic depth, the potential for the development of undesirable plankton blooms depends on the average (not maximum) nutrient concentrations and on the exposure time. Since the material to be dumped is expected to sink, the exposure time in the photic zone would be too short for any significant growth response. Since the discharge is to a moving mass of water, no cumulative effect is anticipated from periodic discharges at the same location. Because of the great depth and the associated increase in sea water density, it is highly unlikely that any significant concentrations of discharged materials will accumulate on the bottom to affect the benthic ecosystem. Rather, it is expected that the organic sludge material will end up, along with much of the other sinking oceanic detritus, at the oxygen minimum zone some 1,000 to 3,000 feet below the surface.

11. *Existence at, or in close proximity to, the site of any significant natural or cultural features of historical importance.* No historically important natural or cultural features exist at or near the proposed discharge site.

The designation of the proposed American Samoa fish cannery wastes dump site as an EPA Approved Ocean Dumping Site is being published as proposed rulemaking. Management authority on this site will be delegated to the Regional Administrator of EPA Region IX.

Interested persons may participate in this proposed rulemaking by submitting written comments within 60 days of the date of this publication to the address given above.

Although this proposed site designation may have substantial local impacts in the vicinity of the dump site and to those who use it, we have determined that this proposed rule is not a "significant" regulatory action within the meaning of Executive Order 12044, Improving Government Regulations (March 23, 1978).

(33 U.S.C. Secs. 1412 and 1418)

Dated: August 18, 1980.

**Barbara Blum,**

*Acting Administrator.*

In consideration of the foregoing, Subchapter II of Chapter I of Title 40 is proposed to be amended by adding to Section 228.12(a) an ocean dumping site for Region IX as follows:

**§ 228.12 Delegation of management authority for interim ocean dumping sites.**

(a) * * *

Approved interim dumping sites.

* * * * *

Fish Cannery Wastes Site—Region IX.
Location:
Latitude—14d 22′ S
Longitude—170d 41′ W (center point).
Size: 1 nautical mile in diameter.
Depth: 1,200 meters (4,000 feet).
Primary Use: Fish cannery wastes.
Period of Use: 24 months of continual use.
Restriction: Disposal shall be limited to not more than 130,000 tons per year of fish cannery wastes generated on the island of Tutuila, American Samoa.

[FR Doc. 80-25794 Filed 8-22-80; 8:45 am]

BILLING CODE 6560-01-M

## DEPARTMENT OF TRANSPORTATION

### 46 CFR Part 151

### Unmanned Barges Carrying Certain Bulk Dangerous Cargoes

**AGENCY:** U.S. Coast Guard, DOT.

**ACTION:** Extension of comment period for proposed rule.

**SUMMARY:** The Coast Guard published a proposed rule (CGD 80-001) in the **Federal Register** on July 3, 1980 for which comments were to have been received on or before August 18, 1980. Barge Owners have requested an extension of the comment period in order to collectively review the proposed changes. The Coast Guard agrees that the requested extension should be granted.

**DATE:** Consequently, the comment period will be extended to September 19, 1980.

**ADDRESSES:** Comments should be submitted to the Commandant (G-CMC/24), (CGD 80-001), U.S. Coast Guard, Washigton, D.C. 20593. Comments may be delivered to and will be available for inspection or copying from 7 a.m. to 5 p.m., Monday through Thursday, at the Marine Safety Council (G-CMC/24), Room 2418, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** Joseph J. Jakabcin, Office of Merchant Marine Safety, (G-MHM-3/14), Room 1402, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593, (202) (526-6262).

Drafting Information: The principal persons involved in drafting this proposal are Joseph J. Jakabcin, Project Manager, Office of Merchant Marine Safety, and Michael N. Mervin, Project Attorney, Office of Chief Counsel.

(46 U.S.C. 170, 379a: 49 CFR 1.46(n)(4) and (t))

Dated: August 20, 1980.

**Henry H. Bell,**

*Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.*

[FR Doc. 80-25825 Filed 8-22-80; 8:45 am]

BILLING CODE 4910-14-M

# Notices

Federal Register
Vol. 45, No. 166
Monday, August 25, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### Tattnall County Feeder Pig Sale, Glennville, Ga.; Deposting of Stockyards

It has been ascertained, and notice is hereby given, that the livestock markets named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), no longer come within the definition of a stockyard under said Act and are, therefore, no longer subject to the provisions of the Act.

*Facility No., Name, and Location of Stockyard,* GA–133 Tattnall County Feeder Pig Sale, Glennville, Ga.; *Date of Posting,* June 15, 1959.

Notice or other public procedure has not proceeded promulgation of the foregoing rule. There is no legal justification for not promptly deposting a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a rule relieving a restriction and may be made effective in less than 30 days after publication in the **Federal Register.** This notice shall become effective August 25, 1980.

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 *et seq.*)

Done at Washington, D.C., this 19th day of August, 1980.

**Jack W. Brinckmeyer,**

*Chief, Rates and Registrations Branch, Livestock Marketing Division.*

[FR Doc. 80–25851 Filed 8–22–80; 8:45 am]

BILLING CODE 3410–02–M

### Trenton Livestock Market, Inc., Trenton, Fla.; Proposed Posting of Stockyards

The Chief, Rates and Registrations Branch, Packers and Stockyards, Agricultural Marketing Service, United States Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the Act.

FL–126 Trenton Livestock Market, Inc., Trenton, Fla.
MN–175 Hecksel Auction, Inc., Winsted, Minn.
MN–176 Minnesota Feeder Pig Markets, Inc., Elysian, Minn.
TX–319 Ranchers and Farmers Livestock, Inc., Uvalde, Tex.
TX–320 Van Alstyne Livestock Commission, Inc., Van Alstyne, Tex.

Notice is hereby given, therefore, that the said Chief, pursuant to authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), proposes to issue a rule designating the stockyards named above as posted stockyards subject to the provisions of the Act as provided in section 302 thereof.

Any person who wishes to submit written data, views, or arguments concerning the proposed rule, may do so by filing them with the Chief, Rates and Registrations Branch, Packers and Stockyards, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, by September 10, 1980.

All written submissions made pursuant to this notice shall be made available for public inspection at such times and places in manner convenient to the public business (7 U.S.C. 1.27(b)).

Done at Washington, D.C., this 19th day of August, 1980.

**Jack W. Brinckmeyer,**

*Chief, Rates and Registrations Branch, Livestock Marketing Division.*

[FR Doc. 80–25852 Filed 8–22–80; 8:45 am]

BILLING CODE 3410–02–M

## CIVIL AERONAUTICS BOARD

### Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits

Notice is hereby given that, during the week ended August 15, 1980 CAB has received the applications listed below, which request the issuance, amendment, or renewal of certificates of public convenience and necessity or foreign air carrier permits under Subpart Q of 14 CFR 302.

Answers to foreign permit applications are due 28 days after the application is filed. Answers to certificate applications requesting restriction removal are due within 14 days of the filing of the application. Answers to conforming application in a restriction removal proceeding are due 28 days after the filing of the original application. Answers to certificate applications (other than restriction removals) are due 28 days after the filing of the application. Answers to conforming applications or those filed in conjunction with a motion to modify scope are due within 42 days after the original application was filed. If you are in doubt as to the type of application which has been filed, contact the applicant, the Bureau of Pricing and Domestic Aviation (in interstate and overseas cases) or the Bureau of International Aviation (in foreign air transportation cases).

**Subpart Q Applications**

| Date filed | Docket No. | Description |
|---|---|---|
| Aug. 12, 1980 | 37718 | Air Caravane, Inc., c/o John E. Gillick, Kirby & Gillick, Suite 905, 1625 K Street, N.W., Washington, D.C. 20006. Amendment No. 1 to the Application of Air Caravane, Inc. for a new or amended foreign air carrier permit authorizing nonscheduled or charter foreign air transportation between any point or points in Canada and any point or points in the United States using large aircraft. Order 80–3–151 (March 20, 1980) Deferred processing of Air Caravane's application because the application did not, at that time, comply with the evidence requirements of Part 211. Accordingly, in order to comply with the requirements of Part 211 and Subpart Q of Part 302 of the Board's regulations as well as to set forth Air Caravane's current ownership, Air Caravane hereby submits, in acordance with Section 302.5 of those regulations, this amendment to its original application. Answers may be filed on or before September 9, 1980. |

**Subpart Q Applications**—Continued

| Date filed | Docket No. | Description |
|---|---|---|
| Aug. 13, 1980 | 38592 | American Airlines, Inc., c/o Alfred V. J. Prather, Prather Seeger Doolittle & Farmer, 1101 Sixteenth Street, N.W., Washington, D.C. 20036.<br>Application of American Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations for the amendment of its certificate of public convenience and necessity for Route 137 to authorize it to engage in foreign air transportation between all points in the United States and points in the foreign countries listed:<br>"1. Between a point or points in the United States (except Sarasota/Bradenton, Fla., Orange County, Cal., and West Palm Beach, Fla.) and a point or points in Jamacia, Haiti, Dominican Republic, St. Maarten, St. Kitts, Antigua, Guadeloupe, Martinique, Barbados, Grenada, Trinidad and Tobago, Curacao and Aruba.<br>"2. Between a point or points in the United States (except Sarasota/Bradenton, Fla., Orange County, Cal., and West Palm Beach, Fla.) and a point or points in the Bahamas islands.<br>* * * * * * *<br>"4. Between a point or points in the United States (except Sarasota/Brandenton, Fla., Orange County, Cal., and West Palm Beach, Fla.) and a point or points in Belize, El Salvador, Guatemala, Honduras, Nicaragua and Panama.<br>"5. Between a point or points in the United States (except Sarasota/Bradenton, Fla., Orange County, Cal., and West Palm Beach, Fla.) and a point or points in Belgium, the Netherlands and Luxembourg.<br>"6. Between a point or points in the United States (except Sarasota/Brandenton, Fla., Orange County, Cal., and West Palm Beach, Fla.) and a point or points in the Federal Republic of Germany."<br>and that the new segment in its certificate for Route 134 added by Order 80-1-110 be replaced by the following additional segment in its certificate for Route 137:<br>"8. Between a point or points in the United States (except Miami, Fla., New Orleans, La., Sarasota/Bradenton, Fla., Orange County, Cal., and West Palm Bench, Fla.) and a point or points in Costa Rica."<br>Conforming Applications and Answers are due September 10, 1980. |
| | 38599 | Southwest Airlines Co., c/o Paul Y. Seligson, Wilner & Scheiner, 1200 New Hampshire Avenue, N.W., Washington, D.C. 20036.<br>Application of Southwest Airlines Co. pursuant to Section 401 of the Act and Subpart Q of the Board's Regulations requests a certificate of public convenience and necessity authorizing it to perform scheduled air transportation of persons and property between the terminal point St. Louis, Missouri, on the one hand, and the alternate teminal points Harlingen, San Antonio, and Midland/Odessa, Texas, on the other hand. Answers are due by August 29, 1980. |
| | 38604 | American Airlines, Inc., c/o Alfred V. J. Prather, Prather Seeger Doolittle & Farmer, 1101 Sixteenth Street, N.W., Washington, D.C. 20036.<br>Application of American Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Regulations requests that segment 5 of its certificate for Route 137 be amended to read as follows:<br>5. Between the terminal point New York, N.Y.-Newark, N.J., and the coterminal points Santo Domingo and Puerto Plata, Dominican Republic.<br>Conforming Applications and Answers are due by September 12, 1980. |
| | 38605 | Air Europe Limited, c/o Lester M. Bridgeman, 1750 New York Avenue, N.W., 210 United Unions Building, Washington, D.C. 20006.<br>Application of Air Europe Limited pursuant to Section 402 of the Act and Subpart Q of the Board's Regulations requests a foreign air carrier permit authorizing Air Europe to engage in foreign air transportation as follows:<br>A. Between any point or points in the United Kindom of Great Britain and Northern Ireland and any point or points in the United States, either directly or via intermediate or beyond points in other countries, with or without stopovers.<br>B. Between any point or points in the United States and any point or points not in the United Kingdom or the United States.<br>Answers may be filed by Setember 12, 1980. |
| | 38606 | Air Florida, Inc., c/o Robert P. Silverberg, 2020 K Street, N.W., Suite 440, Washington, D.C. 2006.<br>Application of Air Florida, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Regulations requests an amendment of its certificate of public convenience and necessity for Route 197-F, segment one thereof, to add as a U.S. coterminal point New York, New York and to add as a coterminal point Govenor's Harbour in the Bahamas, thereby authorizing it to engage in air transportation with respect to persons, property and mail as follows:<br>Between the conterminal points New York, New York (through any suitable airport), Daytona Beach, Ft. Lauderdale, Gainesville, Jacksonville, Key West, Marathon, Miami, Orlando, Panama City, Pensacola, Tallahassee, Tampa-St. Petersburg-Clearwater and West Palm Beach, Fla., and the coterminal points Freeport, George Town, Great Harbor Cay, Marsh Harbor, Nassau, Rock Sound, Treasure Cay, Governor' Harbour and West End, Bahama Islands.<br>Conforming Applications and Answers are due September 12, 1980. |
| | 38609 | Cascade Airways, Inc., c/o Nathaniel P. Breed, Jr., Shaw, Pittman, Potts & Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036<br>Application of Cascade Airways, Inc. Pursuant to Section 401 of the Act and Subpart Q of the Board's Regulations requests an amendment of its certificate of public convenience and necessity so as to authorize Cascade to engage in scheduled air transportation with respect to persons, property and mail between the following points:<br>Between the terminal point Pocatello, Idaho and the terminal point Idaho Falls, Idaho.<br>Conforming Applications and Answers are due September 12, 1980. |

**Phyllis T. Kaylor,**

*Secretary.*

[FR Doc. 80-25836 Filed 8-22-80; 8:45 am]

**BILLING CODE 6320-01-M**

**[Docket 36767]**

## Miami/New Orleans-San Jose, Costa Rica Case; Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on Friday, September 12, 1980, at 9:30 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C.

Each party which wishes to participate in the oral argument shall so advise The Secretary, in writing, *on or before Thursday, September 4, 1980,* together with the name of the person who will represent it at the argument.

Dated at Washington, D.C., August 20, 1980.

**Phyllis T. Kaylor,**

*Secretary.*

[FR Doc. 80-25835 Filed 8-22-80; 8:45 am]

**BILLING CODE 6320-01-M**

**[Docket 37620]**

## Gladys K. Murphy v. Pan American World Airways, Inc.; Assignment of Enforcement Proceeding

This proceeding is hereby assigned to Administrative Law Judge Henry M. Switkay. Future communications should be addressed to Judge Switkay.

Dated at Washington, D.C., August 20, 1980.

**Joseph J. Saunders,**

*Chief Administrative Law Judge.*

[FR Doc. 80-25834 Filed 8-22-80; 8:45 am]

**BILLING CODE 6320-01-M**

## COMMISSION ON CIVIL RIGHTS

## New Hampshire 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 New Hampshire Advisory Committee (SAC) of the Commission will convene at 7:30 p.m. and will end at 9:30 p.m., on September 16, 1980, at the Federal Building, 275 Chestnut Street, Manchester, New Hampshire.

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 the selection of program priorities for fiscal years 1981 and 1982.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 20, 1980.

**Thomas L. Neumann,**

*Advisory Committee Management Officer.*

[FR Doc. 80-25776 Filed 8-22-80; 8:45 am]

BILLING CODE 6335-01-M

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### New York 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 New York Advisory Committee (SAC) of the Commission will convene at 12 Noon and will end at 10:00 p.m., on September 26, 1980, at the Old Mill Inn, 38–45 Vetrons Highway, New York, New York.

Persons wishing to attent this open meeting should contact the Committee Chairperson, or the Eastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this meeting is to discuss the coming programs.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 20, 1980.

**Thomas L. Neumann,**

*Advisory Committee Management Officer.*

[FR Doc. 80-25774 Filed 8-22-80; 8:45 am]

BILLING CODE 6335-01-M

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### Oregon Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Oregon Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and will end at 12 Noon, on September 19, 1980, at the Imperial Hotel, Queen Elizabeth Room, 400 S.W. Broadway and Stark Street, Portland, Oregon 97205.

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 to discuss program planning.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 20, 1980.

**Thomas L. Neumann,**

*Advisory Committee Management Officer.*

[FR Doc. 80-25777 Filed 8-22-80; 8:45 am]

BILLING CODE 6335-01-M

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### 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 7:00 p.m. and will end at 9:00 p.m., on September 17, 1980, at Hoff, Wilson & Powell, P.C., 192 College Street, Burlington, 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 to discuss report on Teacher Training Project, report on Domestic Abuse Bill and program planning.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 20, 1980.

**Thomas L. Neumann,**

*Advisory Committee Management Officer.*

[FR Doc. 80-25775 Filed 8-22-80; 8:45 am]

BILLING CODE 6335-01-M

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## DEPARTMENT OF COMMERCE

**[Dept. Organization Order 15-10; Transmittal 503]**

### Office of Consumer Affairs; Organization Order

Effective date: August 6, 1980.

This order effective August 6, 1980 supersedes the material appearing at 44 FR 6977 of February 5, 1979.

**Section 1. Purpose**

.01 This Order prescribes the functions of the Office of Consumer Affairs.

.02 This revision changes the line of reporting authority to reflect that the Director, Office of Consumer Affairs now reports to the Secretary. In addition, the number of this Order has been changed to designate the Office as a Departmental Office reporting to the Secretary.

**Section 2. General**

The Office of Consumer Affairs is hereby continued as a Departmental Office in the Office of the Secretary. The Office shall be headed by a Director who shall report and be responsible to the Secretary of Commerce.

**Section 3. Functions**

The Office of Consumer Affairs shall conduct the Department of Commerce's consumer affairs program and serve as a liaison and advisory organization on matters affecting consumer affairs activities of State, county, and municipal governments, and in the private sector. In this capacity, the Office shall:

a. Plan and coordinate the consumer affairs program throughout the Department to assure that consumer views are considered in policy development.

b. Provide ongoing advice and assistance to operating units, Secretarial Representatives, and the field network, in the development and implementation of consumer-related programs. Analyze policies, programs, legislative proposals, etc., and identify consumer issues; help to develop positions responsive to consumer concerns.

c. Maintain contact with consumer organizations and other public groups and develop mechanisms to facilitate consumer involvement in Department activities and decision-making.

d. Serve as the point of contact in the Department for consumer inquiries, complaints, and requests for assistance.

e. Coordinate the Department's consumer affairs activities with other Federal, State, county, and municipal government agencies.

f. Develop information and educational activities for consumers and business. Advise the business community on being more responsive to consumer needs.

g. Perform other functions as assigned by the Secretary.

**Section 4. Administrative Support**

The Associate Deputy Secretary shall provide for and supervise the administrative arrangements for the Office of Consumer Affairs, as prescribed in Department Organization Order 10–11.

**Elsa A. Porter,**

*Assistant Secretary for Administration.*

[FR Doc. 80-25716 Filed 8-22-80; 8:45 am]

BILLING CODE 3510-17-M

## International Trade Administration

### Plastic Animal Identification Tags From New Zealand; Notice of Initiation of Countervailing Duty Investigation

**AGENCY:** United States Department of Commerce.

**ACTION:** Initiation of investigation.

**SUMMARY:** This notice is to advise the public that the Department of Commerce has received a petition in satisfactory form, and as a result is initiating an investigation to determine whether or not the Government of New Zealand is providing to manufacturers, producers or exporters of plastic animal identification tags, benefits which are bounties or grants (subsidies) within the meaning of the countervailing duty law. Unless this investigation is extended, the Department will make a preliminary determination not later than October 27, 1980, and a final determination not later than January 8, 1981.

**EFFECTIVE DATE:** August 25, 1980.

**FOR FURTHER INFORMATION CONTACT:** Vincent P. Kane, Import Administration Specialist, Office of Investigations, International Trade Administration, Department of Commerce, Washington, D.C. 20230 (202) 377–5414.

**SUPPLEMENTARY INFORMATION:** On August 1, 1980, the Department of Commerce (the Department) received a petition in proper form from Y-Tex Corporation, Cody, Wyoming, alleging that the Government of New Zealand provides to manufacturers, producers or exporters of plastic animal identification tags (ear tags) certain benefits which are bounties or grants (subsidies) within the meaning of section 303, Tariff Act of 1930, as amended by the Trade Agreements Act of 1979, (19 U.S.C. 1303) (the Act). Because New Zealand is not a "country under the Agreement," within the meaning of section 701(b) of the Act (19 U.S.C. 1671(b)), section 303 of the Act applies to this investigation.

The merchandise covered by this investigation is plastic animal identification tags provided for in item number 666.00 of the Tariff Schedules of the United States.

The Petitioner alleges that the Government of New Zealand provides subsidies in the form of income tax credits based on the domestic value added to an exported product. These credits are provided under the "Export Performance Taxation Incentive" (EPTI) program, administered by the Department of Trade and Industry and authorized under section 156A of the Income Tax Act of 1976. The EPTI provides a tax credit against income tax payable, and, for credit in excess of tax payable, a cash refund.

Petitioner has also alleged that critical circumstances exist within the meaning of section 703(e) of the Act (19 U.S.C. 1671b(e)) by reason of massive imports over a relatively short period of time. In the year ending March 31, 1980, imports of ear tags from the one producer for which information is available equaled 170 percent of the value of that firm's U.S. sales for the previous 12 month period.

In view of the above, I hereby determine that the Department should initiate an investigation to determine whether or not the Government of New Zealand provides subsidies on the production, manufacture or export of the ear tags.

Since ear tags enter the United States free of normal Customs duties, the International Trade Commission (ITC) must make a determination as to whether or not an industry in the United States is materially injured, or threatened with material injury, by reason of imports of the merchandise. Therefore, in accordance with section 702(d) of the Act (19 U.S.C. 1671a(d)), the Department is providing to the ITC the information upon which the determination to initiate this investigation is based.

The Department will provide the ITC with all non-privileged and non-confidential information relating to this investigation. The Department will also make available to the ITC all privileged and confidential information in its files, provided that the ITC confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Department.

In accordance with section 703(a) of the Act (19 U.S.C. 1671b(a)), the ITC will determine not later than September 15, 1980, whether or not there is a reasonable indication of such injury by reason of imports of plastic animal identification tags from New Zealand. If that determination is negative, the Department will terminate this investigation without further notice.

If the ITC determination is affirmative, pursuant to section 703(b) of the Act (19 U.S.C. 1671b(b)), the Department will issue a preliminary determination as to whether or not there is a reasonable basis to believe or suspect that a subsidy is being paid or bestowed within the meaning of the statute by October 27, 1980. If the case is extended pursuant to section 703(c) of the Act (19 U.S.C. 1671b(c)), the preliminary determination may be postponed until not later than December 29, 1980.

If the preliminary determination is affirmative, and if the Department determines that critical circumstances exist within the meaning of section 703(e) of the Act (19 U.S.C. 1671b(e)), then any suspension of liquidation ordered in accordance with section 703(d) of the Act (19 U.S.C. 1671b(d)) shall apply to all unliquidated entries entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which the suspension of liquidation was first ordered.

Pursuant to section 705(a) of the Act (19 U.S.C. 1671d(a)), the Department will make a final determination no later than January 8, 1981. If the case is extended, the final determination must be made not later than March 16, 1981.

(Sec. 702(c)(2) of the Act (19 U.S.C. 1671a(c)(2)))

**John D. Greenwald,**

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. 80–25798 Filed 8–22–80; 8:45 am]

BILLING CODE 3510–25–M

## Minority Business Development Agency

### Financial Assistance Application Announcement

*Correction*

In FR Doc. 80–24532, published at page 54120, on Thursday, August 14, 1980, the "Highlight" on the cover of the issue should have reflected that Commerce/MBDA is soliciting applications from non-minority as well as minority applicants for one to three awards for up to a total of $600,000 to assist minority buyers in acquiring businesses; apply by September 16, 1980. Call Grants Administration Division at (202) 377–3165 if there are any questions.

BILLING CODE 1505–01–M

## DEPARTMENT OF DEFENSE

## Department of Army

### Performance Review Boards

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given of the names of the members of the Performance Review Board for the Office of the Surgeon General.

**EFFECTIVE DATE:** August 26, 1980.

**FOR FURTHER INFORMATION CONTACT:** Carol D. Smith, Senior Executive Service Office, Directorate of Civilian Personnel,

Headquarters, Department of Army, the Pentagon, Washington, DC 20310, (202) 697-2169.

**SUPPLEMENTARY INFORMATION:** Section 4314(c)(1) through (5) of Title 5 U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards. The boards shall review and evaluate the initial appraisal of senior executives' performance by the supervisor and make recommendations to the appointing authority or rating official relative to the performance of the senior executives. Each board's review and recommendation will include only those senior executives' appraisals from their respective commands or activities. Publication of this notice provides additions to the Performance Review Board for the Office of the Surgeon General previously published in 45 CFR, page 54122, dated August 14, 1980.

The Members of the Performance Review Board for the Office of the Surgeon General are:

1. Major General Enrique Mendez, Jr., M.D., Deputy Surgeon General—Chairman.
2. Brigadier General Robert T. Cutting, M.D., Director, Health Care Operations, Office of the Surgeon General.
3. Brigadier General Bernhard T. Mittemeyer, M.D., Director of Professional Services, Office of the Surgeon General.
4. Brigadier General Garrison Rapmund, M.D., Commander, U.S. Army Medical Research and Development Command.
5. Dr. F. K. Mostofi, M.D., Chairman, Center for Advanced Pathology, Armed Forces Institute of Pathology.
6. Dr. L. C. Johnson, M.D., Chairman, Department of Orthopedic Pathology, Armed Forces Institute of Pathology.
7. Dr. G. F. Bahr, M.D., Chairman, Department of Cellular Pathology, Armed Forces Institute of Pathology.
8. Dr. W. R. Beisel, M.D., Deputy for Science, Walter Reed Army Institute of Research.
9. Dr. T. R. Sweeney, M.D., Ph.D., Scientific Advisor (Biochemistry), Walter Reed Army Institute of Research.
10. Dr. Lorenz E. Zimmerman, M.D., Associate Chairman, Center of Advanced Pathology, Armed Forces Institute of Pathology.
11. Dr. Samuel B. Formal, Ph.D., Chief, Department of Bacterial Diseases, Walter Reed Army Institute of Research.

**Carol D. Smith, Chief,**

*Senior Executive Service Office.*

[FR Doc. 80-25797 Filed 8-22-80; 8:45 am]

BILLING CODE 3710-08-M

## Office of the Secretary

### Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, the Federal Advisory Committee Act, effective January 5, 1973, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, October 7, 1980; Tuesday, October 14, 1980; Tuesday, October 21, 1980; and Tuesday, October 28, 1980 at 10:00 a.m. in Room 3D-325, The Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) concerning all matters involved in the development and authorization of wage schedules for Federal prevailing rate employees pursuant to Public Law 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463, the Federal Advisory Committee Act, meetings may be closed to the public when they are "concerned with matters listed in section 552b. of Title 5, United States Code." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b.(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b.(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b.(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the Chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D-281, The Pentagon, Washington, D.C.

**M. S. Healy,**

*OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.*

August 19, 1980.

[FR Doc. 80-25814 Filed 8-22-80; 8:45 am]

BILLING CODE 3810-70-M

### Defense Science Board Review Panel on ASW; Advisory Committee Meeting

An ASW Review Panel under the Defense Science Board will meet in closed session on 16 September 1980 in Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

The ASW Review Panel will review the technical aspects of ASW programs in the 16 September meeting.

In accordance with 5 U.S.C. App. 1 § 10(d) (1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1976), and that accordingly this meeting will be closed to the public.

**M. S. Healy,**

*OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.*

August 20, 1980.

[FR Doc. 80-25815 Filed 8-22-80; 8:45 am]

BILLING CODE 3810-70-M

## EDUCATION DEPARTMENT

### National Advisory Council on the Education of Disadvantaged Children

**AGENCY:** Education Department.

**ACTION:** Notice of meetings (committee and full council).

**SUMMARY:** This notice sets forth the schedule and proposed agenda of forthcoming committee meetings (Impacts of Inflation on Title I Service Delivery; Educationally Disadvantaged Children with Special Needs & Dual Eligibilty; Federal Administration of Title I; State Administration of Title I) and full Council meeting of the National Advisory Council on the Education of Disadvantaged Children. This notice also describes the functions of the Council. Notice of these meetings is required under the Federal Advisory Committee Act (Public Law 92-463, Section 10(a)(2)).

**DATES:** September 18, 1980, Committee Meetings, 9 a.m.—12 noon September 18, 1980, Full Council Meeting, 1:00 p.m.—4:30 p.m. September 19, 1980, Full Council Meeting, 9:00 a.m.—4:30 p.m.

**ADDRESS:** Hubert H. Humphrey Building, 200 Independence Avenue, S.W. Rooms 407–403A, Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** Ms. Lisa Haywood, (202) 724–0114, National Advisory Council on the Education of Disadvantaged Children, Suite 1012, 425–13th Street, N.W., Washington, D.C.

**SUPPLEMENTARY INFORMATION:** The National Advisory Council on the Education of Disadvantaged Children is established under Section 148 of the Elementary and Secondary Education Act (20 U.S.C. 2852) to advise the President and the Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

The Committee and full Council meetings shall be open to the public.

**AGENDA:** The proposed agenda includes: continued discussion of committee work agendas and Council work agenda; discussion and approval of Council budget; and reports on issues related to Title I and the education of disadvantaged children. Records shall be kept of all Council proceedings, and shall be available for public inspection at the office of the National Advisory Council on the Education of Disadvantaged Children, 425–13th Street, N.W., Suite 1012, Washington, D.C. 20004.

Signed at Washington, D.C. on August 18, 1980.

**Alice S. Baum,**

*Executive Director, National Advisory Council on the Education of Disadvantaged Children.*

[FR Doc. 80-25718 Filed 8-22-80; 8:45 am]

BILLING CODE 4000-01-M

## DEPARTMENT OF ENERGY

### Economic Regulatory Administration

**[Docket No. ERA-FC-80-006; OFC Case No. 56430-4818-01-12]**

### Fuel Burning Installation

**AGENCY:** Economic Regulatory Administration, Department of Energy.

**ACTION:** Notice of availability of tentative staff analysis.

**SUMMARY:** On February 4, 1980, Stone Container Corporation (Stone) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for an order permanently exempting a new major fuel burning installation (MFBI) from the provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) (42 U.S.C. 8301 *et seq.*), which prohibit the use of petroleum or natural gas as a primary energy source in certain new MFBIs. Criteria for petitioning for exemptions from the prohibitions of FUA are published at 10 CFR part 500, *et seq.*

The MFBI for which the petition was filed is a field-erected boiler to be constructed at Stone's Coshocton, Ohio, Pulp and Paper Mill. The boiler, designated by Stone as No. 6 Boiler, will have a design heat input rate of 517 million Btu's per hour, a steam generating capacity of 360,000 pounds per hour and will be able to burn wood waste in a mixture with natural gas. Stone requested a permanent fuels mixture exemption for the MFBI in order to use a fuels mixture of wood waste and not more than 25 percent natural gas.

ERA accepted Stone's petition on March 4, 1980, and published notice of its acceptance, together with a statement of the reasons set forth in the petition for requesting the exemption, in the **Federal Register** on March 11, 1980 (45 FR 15613). Publication of the notice of acceptance commenced a 45 day public comment period pursuant to Section 701 of FUA. During this period interested persons were also afforded an opportunity to request a public hearing. The period expired April 25, 1980. No comments were submitted nor was a hearing requested.

Based upon ERA's review and analysis of the information presently contained in the record of this proceeding, a Tentative Staff Analysis has been completed which recommends that ERA issue an order granting the requested permanent exemption to use a mixture of natural gas and wood waste in which the amount of natural gas used in the unit will not exceed 25 percent of the total annual Btu heat input of the primary energy sources of the unit.

ERA will issue a final order granting or denying the petition for a permanent exemption from the prohibitions of the Act within six months after the public comment period provided for in this notice has expired, unless ERA etends such period. Notice of any extension, together with a statement of reasons for such extension, will be published in the **Federal Register.**

**DATES:** Written comments on the Tentative Staff Analysis and a request for a public hearing are due on or before August 29, 1980.

**ADDRESSES:** Fifteen copies of written comments on the Tentative Staff Analysis shall be submitted to: Economic Regulatory Administration, Case Control Unit (Fuel Use Act), Box 4629, Room 3214, 2000 M Street NW., Washington, D.C. 20461.

Docket Number ERA–FC–80–006 should be printed clearly on the outside of the envelope and on the document contained therein.

**FOR FURTHER INFORMATION CONTACT:**

Constance L. Buckley, Chief, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street NW., Room 3128, Washington, D.C. 20461, Phone (202) 653–3679.

Terri L. Hamrick, Case Manager, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street NW., Room 3119, Washington, D.C. 20461, Phone (202) 653–3675.

Douglas Mitchell, Office of the General Counsel, Department of Energy, Forrestal Building, Room 6G–087, 1000 Independence Avenue SW., Washington, D.C. 20585. Phone (202) 252–2967.

The public file containing a copy of the Tentative Staff Analysis and other documents and supporting materials on this proceeding is available for inspection upon request at: ERA, Room B–110, 2000 M Street, NW., Washington, D.C., Monday through Friday, 8:00 a.m–4:30 p.m.

**SUPPLEMENTARY INFORMATION:** The Economic Regulatory Administration (ERA) published interim rules on May 15 and 17, 1979 (10 CFR, part 500 *et seq.*) (44 FR 28530 and 44 FR 28950), to implement provisions of Title II of FUA. ERA also published a final rule relating to new facilities on June 6, 1980 (45 FR 38276 and 45 FR 38302), which became effective August 5, 1980. Title II of FUA prohibits the use of natural gas or petroleum in certain new MFBI's unless an exemption for such use has been granted.

Stone is constructing at its Coshocton Pulp and Paper Mill, Coschocton, Ohio, a field-erected boiler which will have a design heat input rate of 517 million Btu's per hour, a steam generating capacity of 360,000 pounds per hour and will be capable of burning wood waste in a mixture with natural gas.

On February 4, 1980, in accordance with § 505.28 of the interim rules, Stone filed a petition with ERA requesting a permanent fuel mixture exemption for the boiler (designated as No. 6 Boiler by Stone) in order to burn a fuels mixture of wood waste and natural gas. Stone has certified that the total amount of natural

gas proposed to be used in the No. 6 Boiler will not exceed 25 percent of the total annual Btu heat input of the primary energy sources used by the unit.

Stone states that the wood refuse will contain, on the average, about 50 percent moisture. Stone contends that the use of natural gas in a mixture with the wood waste is necessary to provide adequate stabilization of ignition and combustion, and symmetry of fuel input to the boiler. Because of the large grate area in the boiler, adequate response to load changing cannot be obtained from firing only wood. Stone projects that wood consumption in the unit on an annual Btu heat input basis will be approximately 80 percent and natural gas will be 20 percent.

ERA's staff has reviewed the information contained in the record of this proceeding to date. Based upon that review, a Tentative Staff Analysis has been completed which recommends that an order be issued which would grant a permanent fuel mixture exemption for the No. 6 Boiler to use a wood waste/natural gas fuel mixture in that unit, provided that the amount of natural gas used in the unit does not exceed 25 percent of the total annual Btu heat input of the primary energy sources used in the unit. This Tentative Staff Analysis also takes into account the purposes for which the minimum percentage of natural gas provided by a fuels mixture exemption is to be used, i.e., to maintain reliability of operation, consistent with maintaining a reasonable level of fuel efficiency. Therefore, should this exemption be granted, ERA will not exclude from the definition of primary energy source any fuel used for the purposes of ignition, start-up, testing, flame stabilization, and control of the No. 6 Boiler.

This recommendation is based upon the petitioner's demonstration, pursuant to Sections 212(d)(1) (A) and (B) of the Act, that a mixture of wood waste and natural gas will be used as a primary energy source in the unit, and that the amount of natural gas to be used will not exceed 25 percent of the total annual Btu heat input of the primary energy sources of the unit.

On the basis of the analysis performed by the Office of Fuels Conversion, and reviewed by the Office of Environment, with consultation from the Office of the General Counsel, DOE has concluded that the granting of this exemption will not be a major Federal action significantly affecting the quality of the human environment, within the meaning of the National Environmental Policy Act of 1969 (NEPA). Accordingly, neither an environmental impact statement nor an environmental assessment is required.

**Recommended Terms and Conditions**

ERA's staff also has tentatively determined and recommends that any order granting the requested fuels mixture exemption to Stone should, pursuant to Section 214 of the Act, be subject to the following terms and conditions:

1. No petroleum, as that term is defined in Section 103(a)(4) of the Act, shall be used in the No. 6 Boiler.

2. The amount of natural gas used in the No. 6 Boiler shall not exceed 25 percent of the total annual Btu heat input of the primary energy sources used in the unit.

3. In accordance with the reporting requirement in Section 505.28(d), Stone will submit an annual report to the Economic Regulatory Administration (ERA), Case Control Unit (Fuel Use Act), Box 4629, Room 3214, 2000 M Street, NW., Washington, D.C. 20461, each year after the effective date of the exemption, containing the following:

(a) A certification that the amount of natural gas used in No. 6 Boiler did not exceed 25 percent of the total annual Btu heat input of the primary energy sources of that unit. The certification must be executed by a duly authorized representative of the company.

(b) Identification of the actual quantities of wood waste (in tons) and natural gas (in MCF) used in the No. 6 Boiler during the year, as well as the higher heating value (in Btu's per lb., per MCF) of those fuels. The following report format will be used:

| Fuel type | Amount used (tons) (MCF) | Btu equivalent | Percent of annual fuel consumption |
|---|---|---|---|
| | | | |

The Tentative Staff Analysis does not constitute a decision by ERA to grant the requested exemption. Such a decision shall, in accordance with Section 501.68 of the final rule, be based on the entire record of this proceeding, including any comments received on the Tentative Staff Analysis.

Issued in Washington, D.C., on August 19, 1980.

**Robert L. Davies,**

*Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.*

[FR Doc. 80-25859 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-01-M

**[Docket No. ERA-FC-80-025; ERA Case No. 65016-9152-27-22]**

## Powerplant and Industrial Fuel Use Act of 1978

**AGENCY:** Economic Regulatory Administration, Department of Energy.

**ACTION:** Notice of acceptance of exemption petition.

**SUMMARY:** On April 21, 1980, Owatonna Public Utilities (Owatonna) petitioned the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for a permanent peakload powerplant exemption from the provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) (42 U.S.C. 8301 *et seq.*), which prohibit the use of petroleum or natural gas in new powerplants. Criteria for petitioning for a permanent peakload powerplant exemption from the provisions of FUA are published in the implementing regulations at 10 CFR 501.3 and 503.41.

Owatonna proposes to install a 25,000 kilowatt natural gas/oil-fired gas combustion turbine unit, and certifies that the unit will be operated solely as a peakload powerplant and will be operated only to meet peakload demand for the life of the plant.

FUA imposes statutory prohibitions against the use of petroleum or natural gas by new powerplants. ERA's decision in this matter will determine whether the proposed powerplant qualifies for the requested exemption.

ERA has accepted this petition pursuant to 10 CFR 501.3 and 501.64. In accordance with the provisions of Sections 701 (c) and (d) of FUA, and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this matter, and any interested person may submit a written request that ERA convene a public hearing.

**DATES:** Written comments are due on or before October 9, 1980. A request for a public hearing may be made by any interested person by October 9, 1980.

**ADDRESSES:** Fifteen copies of written comments shall be submitted to: Department of Energy, Case Control Unit, Box 4629, Room 2313, 2000 M Street, NW., Washington, D.C. 20461.

Docket Number ERA-FC-80-025 should be printed clearly on the outside of the envelope and the document contained therein.

**FOR FURTHER INFORMATION CONTACT:**

William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B-110, Washington, D.C. 20461. Phone (202) 653-4055.

James W. Workman, Powerplants Conversion Division, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3128, Washington, D.C. 20461. Phone (202) 653–4268.
Douglas Mitchell, Office of General Counsel, 6G–087 Forrestal Bldg., Washington, D.C. 20461. Phone (202) 252–2967.

**SUPPLEMENTARY INFORMATION:** FUA prohibits the use of natural gas or petroleum in certain new powerplants unless an exemption for such use has been granted by ERA. Owatonna has filed a petition for a permanent peakload powerplant exemption to use natural gas/petroleum as a primary energy source.

As part of its petition, Owatonna submitted a sworn statement by a duly authorized officer, Mr. David W. Martin, General Manager of Owatonna, as required by 10 CFR 503.41(b)(1). In his statement, Mr. Martin certified that the proposed natural gas/oil-fired combustion turbine will be operated solely as a peakload powerplant and will be operated only to meet peakload demand for the life of the plant.

Mr. Martin also certified that the maximum design capacity of the powerplant is 25,000 kilowatts and that the maximum generation that will be allowed during any 12-month period is the design capacity times 1,500 hours or 37,500,000 Kwh.

In support of its petition Owatonna has also furnished information required by 10 CFR 502.11 (Petroleum and natural gas consumption), 502.12 (Conservation measures), and 502.13 (Environmental impact analysis) of the regulations.

Under the requirements of 10 CFR 503.41(b)(2), if a petitioner proposes to use natural gas or to construct a powerplant to use natural gas in lieu of an alternate fuel as a primary energy source, he must obtain a certification from the Administrator of the Environmental Protection Agency or the director of the appropriate state air pollution control agency. This certification must state that the use by the powerplant of any available alternate fuel as a primary energy source will cause or contribute to a concentration, in an air quality control region or any area within the region, of a pollutant for which any national air quality standard is or would be exceeded. However, since ERA has determined that there are no presently available alternate fuels which may be used in the proposed powerplant, no such certification can be made. The certification requirement is therefore waived with respect to this petition.

ERA retains the right to request additional relevant information from Owatonna at any time during the pendency of these proceedings where circumstances or procedural requirements may require.

The public file, containing documents on these proceedings and supporting materials, is available for inspection upon request at: ERA, Room B–110, 2000 M Street, NW., Washington, D.C. 20461, Monday–Friday, 8:00 a.m.–4:30 p.m.

Issued in Washington, D.C. on August 15, 1980.

**Robert L. Davies,**

*Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.*

[FR Doc. 80–25860 Filed 8–22–80; 8:45 am]
BILLING CODE 6450–01–M

## Kansas-Nebraska Natural Gas Co., Inc.; Final Action on Consent Order

**AGENCY:** Economic Regulatory Administration, Department of Energy.

**ACTION:** Notice of final action taken.

**SUMMARY:** The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces final action to accept a Consent Order after consideration of comments received from the public.

**EFFECTIVE DATE:** August 14, 1980.

**FOR FURTHER INFORMATION CONTACT:** Alan L. Wehmeyer, Office of Enforcement, Economic Regulatory Administration, Department of Energy, 324 East 11th Street, Kansas City, Missouri 64106.

**SUPPLEMENTARY INFORMATION:** On July 11, 1980, the Office of Enforcement of the ERA published Notice of a Consent Order which had been executed between Kansas-Nebraska Natural Gas Company, Inc. ("KNNG") and DOE. With that Notice, and in accordance with 10 CFR 205.199J(c), the Office of Enforcement invited interested persons to comment on the Consent Order. A press release was issued simultaneously, in conformity with 10 CFR 205.199J(c). Under the terms of 10 CFR 205.199J(c), no Consent Order involving sums in excess of $500,000 shall become effective until the DOE publishes Notice of its execution and solicits and considers public comments with respect to its terms. Pursuant to 10 CFR 205.199J, the Office of Enforcement of the ERA hereby gives Notice of final action taken on the Consent Order.

### I. Comments Received

The Office of Enforcement received one comment concerning the terms of the proposed Consent Order, which questioned two provisions of the proposed Consent Order. One question concerned the appropriateness of KNNG's making refund payments to the DOE rather than to KNNG's purchasers of butane and natural gasoline. The other concerned a prohibition against KNNG's purchaser's applying any "bank" of increased product costs against their passthrough of any refund by means of a future price reduction in KNNG's sales of propane.

With respect to the refund of alleged overcharges in sales of butane and natural gasoline, the Consent Order provides for KNNG to make payment to the DOE "in order that the monies * * * may be distributed in a just and equitable manner." Since those products are not at this time "covered products," there would be uncertainty whether any portion of a refund by means of a price reduction in KNNG's sales of those products would be passed through by KNNG's purchasers to other levels of distribution in the same manner that any alleged overcharges were passed through at the time alleged violations occurred. Thus the Consent Order provides the opportunity for allegedly overcharged purchasers to make claims against the refund paid to the DOE.

With respect to the price reduction in sales of propane, it should be noted that increased costs of purchased propane have for several years been allocable by resellers as well as refiners to covered products other than propane. Thus any firm's "bank" of increased costs of purchased propane reflects both (1) market forces and (2) the firm's own election not to reallocate such increased costs for recovery in sales of other covered products. Moreover, the existence of a "bank" at the present time is not evidence as to whether the alleged overcharges were passed through by KNNG's purchasers at the time the alleged violations occurred.

Finally, the Consent Order does not by its terms require KNNG's purchasers to take any action at all. Rather, it permits KNNG the opportunity to submit plans which will ensure that a price rollback in sales of propane will be passed through on a dollar-for-dollar basis to propane consumers without any further action by the DOE. To the extent that KNNG's failure to secure the cooperation of its immediate purchasers prevents KNNG from submitting an appropriate plan, the Consent Order requires KNNG to pay the refund to the DOE for ultimate disposition. Therefore, the Office of Enforcement believes that the Consent Order provides adequate flexibility to achieve its purpose and

adequate safeguards to protect the rights of all parties concerned.

**II. Determination**

The Office of Enforcement of the ERA has determined that the refund procedures as provided in the Consent Order are appropriate under the circumstances of this case.

The Office of Enforcement has concluded that the Consent Order as executed between DOE and Kansas-Nebraska Natural Gas Company, Inc. is an appropriate resolution of the compliance proceedings described in the Notice published on July 11, 1980, and hereby gives Notice that the Consent Order is made effective by written notice to Kansas-Nebraska Natural Gas Company, Inc. on August 14, 1980.

Issued in Kansas City, Missouri on this 15th day of August, 1980.

**Alan L. Wehmeyer,**

*Acting District Manager Economic Regulatory Administration.*

Concurrence:

**David H. Jackson,**

*Chief Enforcement Counsel.*

[FR Doc. 80-25858 Filed 8-22-80; 8:45am]

BILLING CODE 6450-01-M

## Federal Energy Regulatory Commission

**[Docket No. GP80-106]**

### Blocker Exploration Co., et al.; Application for Recovery of Production-Related Costs Under Section 110 of the NGPA

Issued: August 18, 1980.

Take notice that on July 1, 1980, Blocker Exploration Company, *et al.* (Applicant), 800 Bering Drive, Houston, Texas 77057, filed with the Federal Energy Regulatory Commission (Commission), an application for the recovery of production-related costs under section 271.1105 of the Commission's regulations (18 CFR 271.1105), and section 110 of the Natural Gas Policy Act of 1978 (NGPA).

Specifically, Applicant states that the gas subject to this application qualifies under section 102 of the NGPA. In addition, Applicant seeks authorization to collect an allowance for gathering and treating costs arising out of its contract for the sale of the gas to Intratex Gas Company (Intratex).

Applicant states it has entered into a transportation agreement with Seagull Pipeline Corporation (Seagull) pursuant to which Seagull will construct a pipeline to transport the gas to Intratex. The application covers the transportation of the gas for a total of 2.56 miles. Applicant states that although 1.24 miles will be within the lease, the minimum in-lease gathering would only be 1000 feet. In addition to the gathering costs, Applicant seeks reimbursement for the treating costs to reduce the water in the gas to pipeline requirements. The specific allowance which Applicant seeks to collect is 10 cents per Mcf. Any such allowance granted by the Commission under section 271.1105 of the Commission's regulations will be in addition to the otherwise applicable maximum lawful price.

Any person desiring to be heard or to protest this proceeding should, by September 24, 1980, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered but will not 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 must file a petition to intervene in accordance with the Commission's Rules.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-25886 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

**[Docket No. ER80-601]**

### Central Illinois Public Service Co.; Notice of Filing

August 18, 1980.

The filing Company submits the following:

Take notice that Central Illinois Public Service Company on August 11, 1980, tendered for filing pursuant to the Interconnection Agreement between Central Illinois Public Service Company and Public Service Company of Indiana, Inc., a Seventh Supplemental Agreement to become effective July 15, 1980.

Said Supplemental Agreement increases the demand charge for Short Term Power from 70¢ per kilowatt per week to 85¢ per kilowatt per week.

A copy of Seventh Supplemental Agreement has been sent to the Public Service Company of Indiana, the Public Service Commission of Indiana, and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 8, 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 this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-25887 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

**[Docket No. ER80-614]**

### Central Telephone & Utilities Corp., Notice of filing

August 18, 1980.

The filing Company submits the following:

Take notice that Central Telephone & Utilities Corporation (CTU) on August 12, 1980, tendered for filing proposed changes in its Federal Power Commission Electric Service tariffs Nos. 59,84,60,57,58,34,41,99,56,86,40 and 35.

CTU states that the filing is Supplement #1 to Service Schedule B, Emergency Service. This Supplement #1 to Service Schedule B, Emergency Service, provides for the deletion of paragraph 1, section 3, containing a 10% adder for transmission loss. Concurrently this Supplement #1 replaces the deleted item with paragraph. 1, section 3, which provides for inclusion of specific line losses associated with the delivery of emergency energy to the purchaser.

CTU states that copies of the filing were served on the Utilities currently served under Service Schedule B, and the Kansas Corporation Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with section 1.8 and 1.10. All such petitions or protests should be filed on or before September 8, 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 this filing are on file with the

Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-25888 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

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**[Project No. 3229]**

## City of Nashua, N.H.; Application for Short-Form License (Minor)

August 15, 1980.

Take notice that the City of Nashua, New Hampshire (Applicant) filed on June 25, 1980, an application for license [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for construction and operation of a water power project to be known as the Jackson Mills Project No. 3229. The project would be located on the Nashua River in Nashua, New Hampshire. Correspondence with the Applicant should be directed to: Mr. Richard Cane, City Hall, Nashua, New Hampshire 03061.

*Project Description*—The proposed project would consist of: (1) an existing 33-foot high, 180-foot long concrete and stone masonry dam; (2) a 4-mile long reservoir with negligible storage capacity; (3) a new powerhouse containing two turbine-generator units with a total rated capacity of 1300 kW; and (4) appurtenant facilities. The proposed project would generate up to 5,450,000 kWh annually saving the equivalent of 8,950 barrels of oil or 2,500 tons of coal.

*Purpose of Project*—Energy produced at the project would be sold to the Public Service Company of New Hampshire for distribution to its customers.

*Agency Comments*—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

*Competing Applications*—Anyone desiring to file a competing application must submit to the Commission, on or before September 26, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than January 24, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (*as amended* 44 F.R. 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33 (a) and (d), (*as amended,* 44 F.R. 61328, October 25, 1979.)

*Comments, Protects or Petitions to Intervene*—Anyone desiring to be heard or to make any protests 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 September 26, 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.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-25889 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

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**[Project No. 3254]**

## Concord Electric Co.; Application for Preliminary Permit

August 15, 1980.

Take notice that the Concord Electric Company (Applicant, CEC) filed on July 14, 1980, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)) for proposed project No. 3254 to be known as the Sewall's Falls Project located on the Merrimack River in Merrimack County, New Hampshire. Correspondence with the Applicant should be directed to: Mr. Douglas K. MacDonald, President, Concord Electric Company, One McGuire Street, P.O. Box 1338, Concord, New Hampshire 03301.

*Purpose of Project*—Project energy developed from Project No. 3254 would be used by the Applicant to reduce its purchased energy requirements from the Public Service Company of New Hampshire.

*Proposed Scope and Cost of Studies under Permit*—The Applicant seeks issuance of a preliminary permit for a period of one year, during which time the Applicant proposes that it would perform surveys and geologic investigations, reach final agreement on sale of project power, secure financing commitments, consult with Federal, State, and local government agencies concerning the potential environmental effects of the project, and prepare an application for FERC license, including an environmental report. CEC estimates the costs of studies under the permit would be approximately $41,500.

*Project Description*—The Applicant would utilize: (1) the existing Sewall's Falls Dam, a timber crib diversion dam, 497 feet long and 23 feet high; (2) the existing power canal 1,280 feet long; and (3) the existing reservoir with a surface area of 350 acres and a storage capacity of 1,630 acre-feet at a normal maximum surface elevation of 240.86 feet m.s.l. CEC intends to either renovate the existing, two section powerhouse or construct a new one, and install two identical 2,000 kW turbine-generator units, construct a new switchyard, and use two existing, six-mile long, 19–kV transmission lines. It is estimated that the annual generation would average 21.0 million kWh.

*Purpose of Preliminary Permit*—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

*Agency Comments*—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be

made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

*Competing Applications*—This application was filed as a competing application to the application filed by East Coast Energy Technology, Inc. Project No. 2965 on August 31, 1979, under 18 CFR 4.33 *as amended*, 44 FR 61328 (October 25, 1979), and, therefore, no further competing applications or notices of intent to file a competing application will be accepted for filing.

*Comments, Protests, or Petitions to Intervene*—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, protests, or petition to intervene must be filed on or before September 25, 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.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-25890 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

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**[Docket No. ER80-600]**

## Consumers Power Co.; Notice of Filing

August 18, 1980.

The filing Company submits the following:

Take notice that Consumers Power Company (Consumers Power) on August 11, 1980, tendered for filing Amendment No. 3 to the Operating Agreement dated March 1, 1966 among Consumers Power Company, The Detroit Edison Company and The Toledo Edison Company. The 1966 Operating Agreement has previously been designated Consumers Power Company Rate Schedule FPC No. 22.

Consumers Power states that Amendment No. 3 modifies Service Schedule A (Emergency Service) of the 1966 Operating Agreement by increasing the maximum demand charge in any day for emergency power from $0.12 times to $0.14 times the greatest number of kilowatts delivered in any single hour of the day and rewrites Service Schedule D (Short Term Power) to increase the demand charge for short-term power from $0.70 to $0.85 per kilowatt per week. Consumers Power states that revised Service Schedule D also establishes a transmission service charge of one mill per kilowatt hour in the event that the short-term power originates with a third party. Consumers Power requests that the effective date of Amendment No. 3 be August 1, 1980.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 8, 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 this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-25891 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

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**[Docket No. ER80-603]**

## Electric Energy, Inc.; Notice of Filing

August 18, 1980.

The filing Company submits the following:

Take notice that on August 11, 1980, Electric Energy, Inc. (EEInc.) tendered for filing a supplement to Rate Schedule FERC No. 8, dated August 11, 1980, and entitled Supplement to the Interim Supplemental and Surplus Power Agreement, Amendment No. 5. This agreement is between EEInc. and its Sponsoring Companies: Central Illinois Public Service Company (CIPS), Illinois Power Company (IP), Kentucky Utilities Company (KU), and Union Electric Company (UE). The Sponsoring Companies concurred in the filing. EEInc. states that the filed supplement provides for compliance with § 35.23 of the Commission's regulations, as promulgated by Order No. 84, issued May 7, 1980.

According to EEInc. copies of this filing have been sent to the Sponsoring Companies, the Illinois Commerce Commission, the Kentucky Energy Regulatory Commission, the Missouri Public Service Commission and the United States Department of Energy.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 8, 1980. Protests will be considered by the Commission in deteriming the appropriate action ot be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-25892 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

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**[Docket No. ER80-623]**

## The Empire District Electric Co.; Proposed Tariff Change

August 18, 1980.

The filing Company submits the following:

The notice that The Empire District Electric Company (EDE), on August 12, 1980, tendered for filing an Amendatory Agreement to its Contract with the Southwestern Power Administration, FERC No. 78.

The amended rate provides for recovery of internal costs associated with pass-through energy in accordance with the requirements of Rule No. 84, Docket No. RM79-29. The proposed effective date for the Amendatory Agreement is August 11, 1980.

Copies of the filing were served upon the Missouri Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rule of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 8, 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 this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 80-25893 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. ER80-622]

## The Empire District Electric Co.; Proposed Tariff Change

August 18, 1980,

The filing Company submits the following:

Take notice that The Empire District Electric Company (EDE), on August 12, 1980, tendered for filing a proposed change in its Service Schedules ES, Emergency Service, and RE, Replacement Energy, supplements to an Electric Interchange Agreement, FERC No. 86, between EDE and Public Service Company of Oklahoma (PSO).

The amendments provide for recovery of costs associated with pass-through energy in accordance with the requirements of Rule No. 84, Docket No. RM79-29. The proposed effective date for the amendments is August 11, 1980.

Copies of the filing were served upon the Missouri Public Service Commission and PSO.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protest should be filed on or before September 8, 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 this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 80-25894 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. TA80-2-4 (PGA80-2a) (IRP80-2a)]

## Granite State Gas Transmission, Inc.; Proposed Change in Rates Pursuant to Purchased Gas Cost Adjustment Provision

August 15, 1980.

Take notice that Granite State Gas Transmission, Inc. (Granite State), 66 Market Street (P.O. Box 508), Portsmouth, New Hampshire 03801, on August 5, 1980, tendered for filing Substitute Twenty-Ninth revised Sheet No. 3A in its FERC gas Tariff, Original Volume No. 1, containing proposed changes in rates for effectiveness of July 1, 1980.

According to Granite State the filing reduces the rates which the Company filed pursuant to the purchase gas cost adjustment provision in its tariff on May 30, 1980 for effectiveness on July 1, 1980. Granite State purchases its entire gas supply from Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Tennessee) and Tennessee filed revised rates on July 18, 1980, reducing the rates, effective July 1, 1980, which Granite State had reflected in its previous purchased gas adjustments filing.

Granite State further states that its rate adjustment is applicable to its sales to Northern Utilities, Inc. (Northern), which is Granite State's sole jurisdictional customer. According to Granite State, the effect of the proposed rates contained on Substitute Twenty-Ninth Revised Sheet No. 3A on Northern's purchases from Granite State is an increase of $788,182 annually, based on purchases from Tennessee and sales to Northern for the twelve months ended April 30, 1980. Granite State further states that the revised rates reflect an estimated reduction of $37,882 annually in the rates previously filed for effectiveness on July 1, 1980.

According to Granite State, copies of the filing were served upon Northern and the regulatory commissions of the States of Maine and New Hampshire.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before Sept. 2, 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 this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 80-25895 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. GP80-105]

## Gulf Oil Corp.; Application for Production-Related Allowance Pursuant to Section 110 of the NGPA and Petition for Interim Relief

Issued: August 18, 1980.

Take notice that on July 2, 1980, Gulf Oil Corporation (Gulf) P.O. Box 3725, Houston, Texas 77001 filed with the Federal Energy Regulatory Commission (Commission) an application for a production-related allowance pursuant to section 110 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301, *et seq.* and the Commission's implementing regulations.[1]

Gulf's application states that on May 13, 1980, Gulf and Texas Gas Transmission Corporation (TGT) entered into a contract for a sale of Gulf's 100% interest in the gas produced from OSC lease numbers OCS-G 3479 and OCS G-3481, High Island Block 517 Field, offshore Texas. Under the terms of the TGT contract, Gulf will gather the gas to a point of interconnection on the High Island Offshore System and TGT will reimburse Gulf for the cost of gathering the gas in accordance with the gathering allowance permitted by the Commission.

In negotiating the sale of the gas, Gulf states that all prospective purchasers, including TGT, initially were willing to assume the cost and responsibility for the construction, operation and maintenance for the gathering line, but because Gulf was obligated to deliver gas to Texas Eastern onshore at Gulf'g Venice, Louisiana plant, it was necessary for Gulf to construct the gathering line and be reimbursed for its cost upon Commission approval of a gathering allowance. Gulf's application further indicates that the maximum lawful price applicable to the first sale of gas is governed by section 102 of the NGPA. Gulf states that to realize a recovery of the initial capital investment of $1,835,544 and the operating and overhead expense incurred over the life of the recoverable reserves, together with a 15 percent rate of return, Gulf is entitled to 5.81 cents per Mcf gathering allowance.

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[1] On July 2, 1980 Gulf also filed an application for a staff adjustment pursuant to section 502(c) of the NGPA. See Docket No. SA80-135.

Gulf also requests that the gathering allowance be made effective immediately subject to refund without suspension pending disposition of their application.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 18, 1980, of this Notice 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). 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 party 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.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-25896 Filed 8-22-80 8:45 am]

BILLING CODE 6450-85-M

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**[Docket No. CI77-412]**

## Phillips Petroleum Co.; Opinion No. 90: Opinion and Order Granting Rehearing in Part and Denying Rehearing in Part

August 19, 1980.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Errata notice to Opinion No. 90.

**SUMMARY:** On July 25, 1980 the Commission issued Opinion No. 90, Phillips Petroleum Company, Docket No. CI77-412; 45 FR 52866 (August 8, 1980). By this Notice, typograpical errors in that Opinion are corrected.

**FOR FURTHER INFORMATION CONTACT:** John Conway, Federal Energy Regulatory Commission, Office of the General Counsel, 825 North Capitol St., NE., Washington, D.C. 20426, (202) 357-8150.

1. The fifth and sixth sentences of the paragraph accompanying note 10 and appearing on pages 8 and 9 of Opinion No. 90 (45 FR 52868-52869 (August 8, 1980)) should be read together as one sentence as follows:

In other cases, particularly cases involving flowing gas subject to the provisions of Opinion No. 749, costs may already have been incurred by the producer or pipeline but the parties seek to modify the contract in order the change the pattern of incurrence of these costs or to specify the party who will be responsible for additional costs for which no provision in the contract has been made.

2. The fifth sentence in the first full paragraph appearing on page 10 of the Opinion No. 90 (that paragraph begins: "The pipelines argue nonetheless * * *") (45 FR 52869 (August 8, 1980)) should read as follows:

Finally, and most importantly, the protection which the pipelines would derive from our regulations, for contractual arrangements which are entered into between pipeline and producer, does not, as we have noted, provide assurances for producers or affect the Commission's responsibilities to ensure proper ceiling rates for sales by producers.

3. The reference in the second sentence of the paragraph accompanying note 12 and appearing on page 13 of Opinion No. 90 (45 FR 52870 (August 8, 1980)) to "a new § 2.10 of the Statements of General Policy and Interpretations under the Natural Gas Act" should read "a new § 2.102 of the Statements of General Policy and Interpretations under the Natural Gas Act".

4. The reference in the last sentence of the paragraph accompanying note 14 and appearing on page 14 of Opinion No. 90 (45 FR 52870-52871 (August 8, 1980)) to "the standards specified in § 2.101(a)" should read "to the standards specified in § 2.102(a)".

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-25772 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

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**[Project No. 3175]**

## Alaska Power Authority; Application for Preliminary Permit

August 15, 1980.

Take notice that on May 9, 1980, the Alaska Power Authority (Applicant) filed an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for proposed Project No. 3175 to be known as the Kisaralik River Project located on the Kisaralik River near Bethel, Alaska. Correspondence with the Applicant should be directed to: Mr. Eric Yould, Executive Director, Alaska Power Authority, 333 West 4th Avenue, Anchorage, Alaska 99501.

*Project Description*— The proposed project would consist of: (1) a rockfill dam topped by a 7-foot high concrete coping wall, for a total height of 308 feet; (2) an ungated side channel spillway; (3) a reservoir with a surface area of 6,700 acres and a storage capacity of 320,750 acre-feet at normal maximum water surface elevation 1,110 feet (msl); (4) a concrete-lined horseshoe shaped power tunnel, 650 feet long, through the right abutment of the dam; (5) an underground powerhouse containing two 15-MW generating units; (6) access facilities consisting of a 69-mile long winter access road from Bethel to the project site, a gravel airstrip, and a 2-mile long permanent road connecting the airstrip and aggregate borrow area to the powerhouse; and (7) a 69-mile long, 138-kV transmission line from the powerhouse to Bethel. The estimated average annual output of the proposed project would be 131,400 MWh.

*Purpose of Project*—Project power would be used to supply the energy needs of Bethel and numerous small villages surrounding Bethel.

*Proposed Scope and Cost of Studies under Permit*—During the 3-year term of the permit Applicant would: (1) conduct geological investigations, including core borings, in the vicinity of the proposed dam, intake structure, power tunnel and powerhouse: (2) perform surveys of the project area by on-the-ground survey crews and by aerial photogrammetry; (3) install a gauge on the Kisaralik River to refine estimates of expected flows to be used in reservoir operation studies; (4) prepare detailed cost estimates of project construction; (5) evaluate the economic and environmental aspects of alternative sources of energy and various development plans for the proposed project; and (6) determine the environmental impacts of the construction of the proposed project and develop mitigation measures. In conducting the above studies, all access would be by air. The work would be performed for the purpose of preparing an application for license.

*Purpose of Preliminary Permit*—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

*Agency Comments*—Federal, State and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit

as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

*Competing Applications*—Anyone desiring to file a competing application must submit to the Commission, on or before October 16, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than December 15, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), (as amended, 44 *Fed. Reg.* 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 433(a) and (d), (as amended, 44 *Fed. Reg.* 61328, October 25, 1979.)

*Comments, Protests, or Petitions to Intervene*—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 October 16, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-25885 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

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**[Docket No. CS80-176]**

## H & H Gas Co.; Application for "Small Producer" Certificate

August 15, 1980.

Take notice that Applicant listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with refernce to said application should on or before August 22, 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). 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 the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on the application in the event no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificate is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission in 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.

**Kenneth F. Plumb,**

*Secretary.*

*Docket No.*, CS80-176; *Date filed*, July 16, 1980; *Applicant*, H & H Gas Co., P.O. Box 967, Rangely, Colo. 81648.

[FR Doc. 80-25902 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

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**[Docket No. ER80-599]**

## Illinois Power Co.; Filing

August 18, 1980.

The filing Company submits the following:

Take notice that on August 11, 1980, Illinois Power Company (Illinois Power) tendered for filing proposed Amendment No. 7 dated August 4, 1980, to the Interchange Agreement, dated March 15, 1973, between Iowa-Illinois Gas and Electric Company (IIGE) and Illinois Power.

Illinois Power indicates that this filing is made in compliance with FERC Order No. 84 in Docket No. RM79-29, which requires that revenue limits be placed on the operation of percentage adders in rate schedules used for the transmission or third party resale of electric power.

Illinois Power states that a copy of the filing was served upon IIGE, the Illinois Commerce Commission and the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rule of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 8, 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. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-25898 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

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**[Docket No. ER80-595]**

## Illinois Power Co.; Filing

August 18, 1980.

The filing Company submits the following:

Take notice that on August 11, 1980, Illinois Power Company (Illinois Power) tendered for filing proposed Amendment No. 12, dated August 8, 1980, to the Interconnection Agreement, dated March 1, 1964 between Commonwealth Edison Company (CE) and Illinois Power.

Illinois Power indicates that this filing is made in compliance with Federal Energy Regulatory Commission Order No. 84 in Docket No. RM79-29, "which requires that revenues limits be placed on the operation of percentage adders in

rate schedules used for the transmission or third party resale of electric power."

Illinois Power states that a copy of the filing was served upon CE and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 8, 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 this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-25899 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

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**[Docket No. ER80-598]**

## Iowa-Illinois Gas & Electric Co.; Filing

August 18, 1980.

The filing Company submits the following:

Take notice that Iowa-Illinois Gas and Electric Company, Davenport, Iowa (Company) on August 11, 1980, tendered for filing a First Amendment dated August 6, 1980 to an Interchange Agreement of November 15, 1971 with the City of Geneseo, Illinois (City).

Company states the purpose of the Amendment, and its attendant original Exhibit A to the Agreement, is to provide for compliance adjustments pursuant to FERC Order No. 84 in respect of percentage adder rate components, and for this reason, the Amendment, and attendant original Exhibit A is proposed to become effective August 11, 1980.

According to the Company, copies of the filing have been mailed to the City and to the Illinois Commerce Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions should be filed on or before September 8, 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 this application are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-25900 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

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**[Docket No. ER80-594]**

## Iowa Power & Light Co.; Filing

August 18, 1980.

The filing Company submits the following:

Take notice that Iowa Power and Light Company (Iowa Power), on August 12, 1980, tendered for filing proposed changes in Iowa Power and Light Company FERC Rate schedule Nos. 39, 54, 46, 45, 53, 33, 35, 34 and 5, which sets forth rates for wholesale electric service to the City of Ames, Iowa, the Atlantic Board of Waterworks and Electric Light and Power Plant Trustees, Harlan Municipal Utilities, the Indianola Waterworks and Electric Light and Power Board of Trustees, Montezuma Municipal Light and Power, the City of Pella, Iowa, Union Electric Company, St. Joseph Light & Power Company and Omaha Public Power District.

These proposed Amendments provide for a common charge in the form of a fixed adder for transmission and /or purchased and resale services under existing Interchange Agreements. These amendments are needed to comply with Order No. 84, Docket No. RM79-29, of the Federal Energy Regulatory Commission, issued May 7, 1980.

Iowa Power requests that the Commission waive its prior notice requirements and accept these Amendments for filing with a retroactive effectve date of August 11, 1980. Iowa Power states that copies of the filing have been served upon each affected party and the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 8, 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 this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-25901 Filed 8-22-80 8:45 am]

BILLING CODE 6450-85-M

## Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: August 15, 1980.

| JD NO | JA DKT | API NO | SEC D WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|
| ***** | ****** | ****** | *** * ********* | ********* | **** | ********* |
| WEST VIRGINIA DEPARTMENT OF MINES | | | | | | |
| *AIGT CORP/RITCHIE MINES P/B | | RECEIVED: 07/22/80 JAI WV | | | | |
| 8047918 | | 4708504839 108 | RITCHIE MINES #62 | RITCHIE MINES LEASE | 11,0 | CONSOLIDATED GAS SUP |
| *ALFRED E KNOBLER | | RECEIVED: 07/22/80 JAI WV | | | | |
| 8047825 | | 4701100552 107 | ALBERT BARTRAM 8-1 | MCCOMA | 0,0 | COLUMBIA GAS TRANSMI |
| 8047824 | | 4701100559 107 | CARVEL CHILDERS K-2 | MCCOMA | 70,2 | COLUMBIA GAS TRANSMI |
| 8047826 | | 4709901879 107 | LONNIE MAYS WELL #1 | STONEWALL | 7,0 | COLUMBIA GAS TRANSMI |
| *ALLEGHENY LAND & MINERAL COMPANY | | RECEIVED: 07/21/80 JAI WV | | | | |
| 8047804 | | 4709701730 108 | A-661 | UNION DISTRICT | 0,0 | CONSOLIDATED GAS SUP |
| 8047802 | | 4701701868 108 | A-679 | SOUTHWEST DISTRICT | 0,0 | CONSOLIDATED GAS SUP |
| 8047801 | | 4700100918 108 | A-707 | UNION DISTRICT | 0,0 | CONSOLIDATED GAS SUP |
| 8047803 | | 4701701880 108 | A-730 | SOUTHWEST DISTRICT | 0,0 | CONSOLIDATED GAS SUP |
| *ALLEGHENY LAND & MINERAL COMPANY | | RECEIVED: 07/22/80 JAI WV | | | | |
| 8047823 | | 4709701961 103 | A-754 | WARREN DISTRICT | 14,1 | CONSOLIDATED GAS SUP |
| 8047906 | | 4709100170 103 | A-777 | KNOTTSVILLE DISTRICT | 0,0 | CONSOLIDATED GAS SUP |
| 8047910 | | 4709101984 103 | A-788 | KNOTTSVILLE DISTRICT | 0,0 | CONSOLIDATED GAS SUP |
| 8047911 | | 4709701902 103 | A-794 | WASHINGTON DISTRICT | 0,0 | CONSOLIDATED GAS SUP |
| 8047909 | | 4703302017 103 | A-797 | BARDIS DISTRICT | 0,0 | CONSOLIDATED GAS SUP |
| *ALPHA DRILLING FUND 1979 LTD | | RECEIVED: 07/21/80 JAI WV | | | | |
| 8047799 | | 4708524505 103 | J F DEEM H-911 | GRANT DISTRICT | 18,0 | CONSOLIDATED GAS SUP |
| 8047800 | | 4708524507 103 | J F DEEM H-913 | GRANT DISTRICT | 18,0 | CONSOLIDATED GAS SUP |
| *APEX DRILLING FUND 1979 LTD | | RECEIVED: 07/21/80 JAI WV | | | | |
| 8047809 | | 4708524366 103 | KENNETH MAYES H-565 | MURPHY DISTRICT | 20,0 | CONSOLIDATED GAS SUP |
| 8047796 | | 4708524303 103 | R TAYLOR H-851 | UNION DISTRICT | 30,0 | CONSOLIDATED GAS SUP |
| *ATLAS ENERGY CORP | | RECEIVED: 07/21/80 JAI WV | | | | |
| 8047813 | | 4704700822 108 | RUTHCARDELL #11 MCD-522 | SANDY RIVER DISTRICT | 17,0 | CONSOLIDATED GAS SUP |
| *BOMBER GAS & OIL CO | | RECEIVED: 07/22/80 JAI WV | | | | |
| 8047905 | | 4701303177 108 | L G PLUMARTY #3 | CENTER | 1,1 | CONSOLIDATED GAS SUP |
| *CABOT CORPORATION | | RECEIVED: 07/22/80 JAI WV | | | | |
| 8047923 | | 4703902917 108 | B D BAILEY 1-376 | CABIN CREEK | 0,5 | SOUTHERN PUBLIC SERV |
| 8047936 | | 4703900208 108 | BLUE FLAME 10-859 | MALDEN | 11,2 | |
| 8047937 | | 4703902867 108 | BLUE FLAME 5-872 | MALDEN | 12,1 | |
| 8047944 | | 4710900855 108 | JOHN GILBERT TR 26-1553 | HUFF CREEK | 20,9 | |
| 8047934 | | 4701900005 108 | KANAWHA-GAULEY 1-846 | FALLS | 17,2 | |
| 8047925 | | 4704700037 108 | POCAHONTAS LAND 23-1279 | BROWNS CREEK | 7,3 | |
| 8047936 | | 4703900069 108 | QUINCY COAL 17-884 | CABIN CREEK | 1,1 | |
| 8047942 | | 4703900086 108 | QUINCY COAL 20-727 | CABIN CREEK | 1,4 | |
| 8047944 | | 4703900010 108 | QUINCY COAL 4-858 | CABIN CREEK | 9,8 | |
| 8047946 | | 4703902929 108 | QUINCY COAL 5-861 | CABIN CREEK | 1,4 | |
| 8047943 | | 4703900026 108 | QUINCY COAL 6-862 | CABIN CREEK | 10,1 | |
| 8047945 | | 4701900336 108 | ROBSON-PHILMAR-LAFOLLETTE 2-550 | KANAWHA | 7,4 | |
| 8047926 | | 4703902921 108 | B M STONE 1-360 | CABIN CREEK | 11,0 | SOUTHERN PUBLIC SERV |

| JD NO | JA DKT | API NO | SEC | D | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|---|
| *COLUMBIA GAS TRANSMISSION CORP | | | | | RECEIVED: 07/21/80 JAI WV | | | |
| 8047788 | | 4703902162 | 108 | | AGA COFFMAN 820216 | ROCKY FORK | 3,5 | COLUMBIA GAS TRANSMI |
| 8047774 | | 4709901689 | 108 | | COLUMBIA COAL FEE 809814 | FIELD AREA W | 0,4 | COLUMBIA GAS TRANSMI |
| 8047787 | | 4704500918 | 108 | | DINGESS RUM COAL CO 809717 | FIELD AREA B | 0,5 | COLUMBIA GAS TRANSMI |
| 8047776 | | 4701900835 | 108 | | KANAWHA GAULEY COAL & COKE 820022 | FIELD AREA A | 8,8 | COLUMBIA GAS TRANSMI |
| 8047777 | | 4701900237 | 108 | | KANAWHA GAULEY COAL & COKE 820024 | FIELD AREA A | 8,7 | COLUMBIA GAS TRANSMI |
| 8047778 | | 4701900238 | 108 | | KANAWHA GAULEY COAL & COKE 820025 | FIELD AREA A | 3,2 | COLUMBIA GAS TRANSMI |
| 8047786 | | 4704500929 | 108 | | MONCO INCORPORATED 809833 | FIELD AREA B | 1,6 | COLUMBIA GAS TRANSMI |
| 8047785 | | 4704700586 | 108 | | NEW RIVER & POCAHONTAS CONSOL COAL | FIELD AREA C | 6,9 | COLUMBIA GAS TRANSMI |
| *CONSOLIDATED GAS SUPPLY CORPORATION | | | | | RECEIVED: 07/22/80 JAI WV | | | |
| 8047859 | | 4703301932 | 103 | | A M MCCARTY 12568 | WEST VIRGINIA OTHER A837 | 65,0 | GENERAL SYSTEM PURCH |
| 8047886 | | 4700100956 | 103 | | ALFRED REED 12181 | W VA OTHER A83772 | 24,0 | GENERAL SYSTEM PURCH |
| 8047849 | | 4707700194 | 103 | | ALLEN COX 12555 | WVA OTHER A83772 | 23,0 | GENERAL SYSTEM PURCH |
| 8047891 | | 4704102179 | 103 | | BENNETT-HALL 12447 | W VA OTHER A83772 | 23,0 | GENERAL SYSTEM PURCH |
| 8047842 | | 4703301076 | 108 | | BUENA W BRUHN 12387 | WEST VIRGINIA OTHER A837 | 16,0 | GENERAL SYSTEM PURCH |
| 8047856 | | 4704102534 | 103 | | C BURKE MURRIS 12554 | W VA OTHER A83772 | 24,0 | GENERAL SYSTEM PURCH |
| 8047851 | | 4709100169 | 103 | | CARL E MANEAR 12551 | W-VA OTHER A-83772 | 23,0 | GENERAL SYSTEM PURCH |
| 8047836 | | 4704900326 | 108 | | CHARLES M MIBBS 12276 | WEST VIRGINIA OTHER A837 | 2,0 | GENERAL SYSTEM PURCH |
| 8047835 | | 4710900773 | 108 | | CHARLESTON NATIONAL BANK 12411 | PINEVILLE A59442 | 15,0 | GENERAL SYSTEM PURCH |
| 8047853 | | 4700101077 | 103 | | CLINTON ADVIL 12564 | W VA OTHER A83772 | 25,0 | GENERAL SYSTEM PURCH |
| 8047890 | | 4703301912 | 103 | | COMMERCIAL COAL & COKE 12513 | W VA OTHER A83772 | 23,0 | GENERAL SYSTEM PURCH |
| 8047838 | | 4704700788 | 108 | | CONSOLIDATED COAL CO 12161 | PINEVILLE FIELD AREA A59 | 13,0 | GENERAL SYSTEM PURCH |
| 8047839 | | 4704700710 | 108 | | CONSOLIDATED COAL 12327 | PINEVILLE FIELD AREA A59 | 19,0 | GENERAL SYSTEM PURCH |
| 8047857 | | 4704700706 | 103 | | CONSOLIDATION COAL CO 12377 | PINEVILLE FIELD AREA A59 | 24,0 | GENERAL SYSTEM PURCH |
| 8047874 | | 4702103029 | 108 | | D & E STALNAKER 12496 | W VA OTHER A83772 | 7,0 | GENERAL SYSTEM PURCH |
| 8047873 | | 4701701896 | 108 | | D C STOUT 12477 | WEST VIRGINIA OTHER A837 | 20,0 | GENERAL SYSTEM PURCH |
| 8047855 | | 4701702296 | 103 | | D C STOUT 12558 | W VA OTHER A83772 | 23,0 | GENERAL SYSTEM PURCH |
| 8047885 | | 4700100946 | 103 | | D T PROUDFOOT 12182 | W VA OTHER A83772 | 25,0 | GENERAL SYSTEM PURCH |
| 8047848 | | 4700100657 | 108 | | DENZIL MAYLE 11694 | WEST VIRGINIA OTHER A837 | 16,0 | GENERAL SYSTEM PURCH |
| 8047867 | | 4707700186 | 103 | | DONALD HOLMES 12432 | GREEN-GLADESVILLE 290235 | 67,0 | GENERAL SYSTEM PURCH |
| 8047840 | | 4704102175 | 108 | | EDWIN GASTON 12490 | WEST VIRGINIA OTHER A837 | 11,0 | GENERAL SYSTEM PURCH |
| 8047850 | | 4707700195 | 103 | | EDWIN WOLFE 12579 | GREEN-GLADESVILLE 290235 | 25,0 | GENERAL SYSTEM PURCH |
| 8047837 | | 4704900324 | 108 | | EDYTHE WEBB 12380 | WEST VIRGINIA OTHER A837 | 13,0 | GENERAL SYSTEM PURCH |
| 8047889 | | 4702103402 | 103 | | ELTON BUSH 12520 | W VA OTHER | 23,0 | GENERAL SYSTEM PURCH |
| 8047835 | | 4706700323 | 108 | | FITZWATER-BARKUS 11846 | W VA OTHER A83772 | 18,0 | GENERAL SYSTEM PURCH |
| 8047868 | | 4707700188 | 103 | | FRANK M BYPOLT 12460 | GREEN-GLADESVILLE 290235 | 583,0 | GENERAL SYSTEM PURCH |
| 8047866 | | 4707700191 | 103 | | GAY B LANHAM 12521 | W VA OTHER A83772 | 25,0 | GENERAL SYSTEM PURCH |
| 8047871 | | 4700100902 | 108 | | GUY D YOUNG 12304 | WEST VIRGINIA OTHER A837 | 5,0 | GENERAL SYSTEM PURCH |
| 8047841 | | 4704102147 | 108 | | J B LOVETT 12310 | WEST VIRGINIA OTHER A837 | 13,0 | GENERAL SYSTEM PURCH |
| 8047886 | | 4702102944 | 103 | | J E ARBUCKLE 12433 | W VA OTHER A83772 | 31,0 | GENERAL SYSTEM PURCH |
| 8047854 | | 4700101137 | 103 | | J J SHRUVER 12570 | W VA OTHER A83772 | 25,0 | GENERAL SYSTEM PURCH |
| 8047875 | | 4703300871 | 108 | | J M THRASH 11864 | W VA OTHER A83772 | 18,0 | GENERAL SYSTEM PURCH |
| 8047869 | | 4707700196 | 103 | | JOHN A DILL 12583 | GREEN-GLADESVILLE 290235 | 45,0 | GENERAL SYSTEM PURCH |
| 8047843 | | 4703301062 | 108 | | JOHN T WILLIAMS 12497 | WEST VIRGINIA OTHER A837 | 19,0 | GENERAL SYSTEM PURCH |
| 8047844 | | 4703301028 | 108 | | L J ALLEN 12060 | WEST VIRGINIA OTHER A837 | 15,0 | GENERAL SYSTEM PURCH |
| 8047832 | | 4710900748 | 108 | | LASH LITZ BEASLEY 12005 | PINEVILLE FIELD AREA A59 | 18,0 | GENERAL SYSTEM PURCH |
| 8047852 | | 4700100667 | 108 | | LEAN M BUTEN 11780 | WEST VIRGINIA OTHER A837 | 4,0 | GENERAL SYSTEM PURCH |
| 8047833 | | 4709500485 | 108 | | LILLIE M MAPLE 12306 | W VA OTHER A83772 | 7,0 | GENERAL SYSTEM PURCH |
| 8047834 | | 4706700424 | 108 | | LUCILLE B SCHAMPER 12344 | WEST VIRGINIA OTHER A837 | 7,0 | GENERAL SYSTEM PURCH |
| 8047876 | | 4701701867 | 108 | | M T WILLIAMS 12307 | W VA OTHER A83772 | 13,0 | GENERAL SYSTEM PURCH |
| 8047892 | - | 4704102532 | 103 | | MADGE PULTINEAM 16525 | W VA OTHER A83772 | 40,0 | GENERAL SYSTEM PURCH |
| 8047860 | | 4706100568 | 103 | | N B THOMPSON 11710 | GREEN-GLADESVILLE 290235 | 75,0 | GENERAL SYSTEM PURCH |

| JD NO | JA DAT | API NO | SEC | D | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|---|
| 8047803 | | 4704700797 | 103 | | OLGA COAL CO 12441 | PINEVILLE FIELD AREA A59 | 23,0 | GENERAL SYSTEM PURCH |
| 8047847 | | 4707700187 | 103 | | ORPHA REED 12485 | GREEN-GLADESVILLE 290235 | 610,0 | GENERAL SYSTEM PURCH |
| 8047858 | | 4704700782 | 103 | | POCA LAND CORP 12367 | PINEVILLE FIELD AREA A59 | 28,0 | GENERAL SYSTEM PURCH |
| 8047947 | | 4703301602 | 108 | | R M SOMMERVILLE 8174 | WEST VIRGINIA UNION A-85 | 10,0 | GENERAL SYSTEM PURCH |
| 8047952 | | 4700100948 | 103 | | RUBY A GALL 12360 | WEST VIRGINIA OTHER A837 | 107,0 | GENERAL SYSTEM PURCH |
| 8047960 | | 4703301938 | 103 | | RUTH SMITH MILEY 12553 | W VA OTHER A83772 | 32,0 | GENERAL SYSTEM PURCH |
| 8047887 | | 4701701848 | 103 | | S F & F E JOSEPHS 12139 | W VA OTHER A83772 | 23,0 | GENERAL SYSTEM PURCH |
| 8047894 | | 4706100368 | 103 | | SARAH HART 11730 | GREER-GLADESVILLE 290235 | 211,0 | GENERAL SYSTEM PURCH |
| 8047948 | | 4703301427 | 108 | | VIRGINIA B KYLE 4969 | WEST VIRGINIA OTHER A-85 | 7,0 | GENERAL SYSTEM PURCH |
| 8047870 | | 4700100686 | 108 | | W C STALNAKER 11856 | W VA OTHER A83772 | 81,0 | GENERAL SYSTEM PURCH |
| 8047831 | | 4704102174 | 108 | | WILLIAM MINANS 12487 | WEST VIRGINIA OTHER A837 | 16,0 | GENERAL SYSTEM PURCH |
| *COOPERATIVE OIL INVESTMENTS INC | | | | | RECEIVED: 07/22/80 JAI WV | | | |
| 8047912 | | 4708703219 | 103 | | A J WAGGONER #11 | CLOVER (SPENCER DISTRICT | 7,0 | PENNZOIL |
| *DORAN & ASSOCIATES INC | | | | | RECEIVED: 07/21/80 JAI WV | | | |
| 8047783 | | 4703322130 | 103 | | A B LOWTHER #1 K-L-159 | TENMILE | 30,0 | CONSOLIDATED GAS SUP |
| 8047784 | | 4704920693 | 103 | | B LAUGHLIN K-L-125 | LINCOLN DISTRICT | 30,0 | CONSOLIDATED GAS SUP |
| 8047782 | | 4703322079 | 103 | | LEON WILSON K-L-201 | BARDIS | 30,0 | CONSOLIDATED GAS SUP |
| 8047775 | | 4701722357 | 103 | | OKEY CLARK #1 K-L-169 | GREENBRIER | 30,0 | CONSOLIDATED GAS SUP |
| 8047779 | | 4703322002 | 103 | | WADE BRAMER #1 K-L-178 | TENMILE | 30,0 | EQUITABLE GAS CO |
| 8047780 | | 4703322007 | 103 | | WADE BRAMER #2 K-L-179 | TEN MILE | 30,0 | EQUITABLE GAS CO |
| 8047781 | | 4703322008 | 103 | | WADE BRAMER #3 K-L-180 | TENMILE | 0,0 | EQUITABLE GAS CO |
| *EAGLE GAS CO | | | | | RECEIVED: 07/21/80 JAI WV | | | |
| 8047814 | | 4703302349 | 108 | | CONSOL M12 WELL NO 73 | CLAY DISTRICT | 0,0 | LUMBERPORT-SHINNSTON |
| *EASTERN AMERICAN ENERGY CORPORATION | | | | | RECEIVED: 07/21/80 JAI WV | | | |
| 8047808 | | 4702103570 | 103 | | HARDEN #1 | GLENVILLE | 0,0 | CONSOLIDATED GAS SUP |
| *EASTERN AMERICAN ENERGY CORPORATION | | | | | RECEIVED: 07/22/80 JAI WV | | | |
| 8047854 | | 4702103541 | 107 | | C P SNIDER #3 | GLENVILLE | 25,0 | EQUITABLE GAS CO |
| 8047857 | | 4702103535 | 107 | | G R LYNCH #2 | GLENVILLE | 0,0 | EQUITABLE GAS CO |
| 8047856 | | 4702103527 | 107 | | J DAVIS #3 | GLENVILLE | 0,0 | EQUITABLE GAS CO |
| 8047849 | | 4702103540 | 107 | | J M KEITH #4 | GLENVILLE | 0,0 | EQUITABLE GAS CO |
| 8047853 | | 4702103536 | 107 | | L DAVIS #5 | GLENVILLE | 0,0 | EQUITABLE GAS CO |
| 8047855 | | 4702103526 | 107 | | S C SIMMONS #4 | GLENVILLE | 0,0 | EQUITABLE GAS CO |
| *ENERGY DEVELOPMENT CORP | | | | | RECEIVED: 07/22/80 JAI WV | | | |
| 8047829 | | 4704700793 | 108 | | EDC NO 6 - MCO-753 | BIG SANDY | 7,0 | CONSOLIDATED GAS SUP |
| *FUEL RESOURCES DEVELOPMENT CO | | | | | RECEIVED: 07/22/80 JAI WV | | | |
| *8047942 | | 4700120842 | 102 | | G BLACKWELL #1 | VALLEY DISTRICT | 60,0 | CONSOLIDATED GAS SUP |
| *8047940 | | 4700120024 | 103 | | R VOHLB #1 | VALLEY DISTRICT | 84,0 | CONSOLIDATED GAS SUP |
| *8047941 | | 4700120863 | 102 | | V ZIRCLE #1 | VALLEY DISTRICT | 16,0 | CONSOLIDATED GAS SUP |
| *GARNER & GANTHROP INC | | | | | RECEIVED: 07/22/80 JAI WV | | | |
| 8047921 | | 4703302381 | 108 | | FLANAGAN #1 | A P FLANAGAN | 4,8 | PENNZOIL CO |
| *GEORGE JACKSON | | | | | RECEIVED: 07/22/80 JAI WV | | | |
| 8047915 | | 4701702546 | 108 | | LEEMAN MAXWELL 524 | SOUTHWEST DISTRICT | 2,5 | CARNEGIE NATURAL GAS |
| *GLENN L MAUGHT & SONS | | | | | RECEIVED: 07/21/80 JAI WV | | | |
| 8047796 | | 4708524499 | 103 | | EDNA FOSTER #-874 | GRANT DISTRICT | 25,0 | CONSOLIDATED GAS SUP |
| *J & J ENTERPRISES INC | | | | | RECEIVED: 07/21/80 JAI WV | | | |
| 8047815 | | 4700101272 | 103 | | H R #1-#1 | VALLEY | 50,0 | CONSOLIDATED GAS SUP |
| *J M STONE | | | | | RECEIVED: 07/21/80 JAI WV | | | |
| 8047812 | | 4708700932 | 108 | | ANDREW PARKS WELL #1 | LOONEYVILLE GAS FIELD | 4,5 | COLUMBIA GAS TRANSMI |
| *JACKSON GAS CO | | | | | RECEIVED: 07/22/80 JAI WV | | | |
| 8047919 | | 4704320054 | 108 | | WILLARD MILLER #2 | JEFFERSON | 0,2 | PENNZOIL CO |
| *JOHNSON PRODUCING CO | | | | | RECEIVED: 07/21/80 JAI WV | | | |
| 8047810 | | 4702102179 | 108 | | D M LINGER #4 | DEKALB | 1,8 | EQUITABLE GAS CO. |

| JD NO | JA DAT | API NO | SEC | D | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|---|
| 8047791 | | 4709702039 | 108 | | E U WILSON #1 | BANKS | | 3,1 EQUITABLE GAS CO |
| 8047806 | | 4704102639 | 108 | | P B GOULD #1 | SKIN CREEK | | 0,8 EQUITABLE GAS CO |
| *KEITH CRIMFIELD | | | | | RECEIVED: 07/22/80 JAI MV | | | |
| 8047920 | | 4701302805 | 108 | | S B SHIMER #1 | ANAMORIAM | | 2,0 CONSOLIDATED GAS SUP |
| *NORMAN SLAUGHTER | | | | | RECEIVED: 07/22/80 JAI MV | | | |
| 8047910 | | 4700700763 | 108 | | S B HOWELL #9 | | | 2,5 EQUITABLE GAS CO |
| *NRM PETROLEUM CORPORATION | | | | | RECEIVED: 07/22/80 JAI MV | | | |
| 8047917 | | 4709702021 | 103 | | NEELEY #1 | MIDDLE FORK RIVER | | 0,0 COLUMBIA GAS TRANSMI |
| *P & B OIL AND GAS CORPORATION | | | | | RECEIVED: 07/21/80 JAI MV | | | |
| 8047805 | | 4706500510 | 108 | | CLARICE LILLY #1 | CHAPMANVILLE | | 4,8 CONSOLIDATED GAS SUP |
| 8047811 | | 4704500503 | 108 | | VIRGIL SANDERS #1 | CHAPMANVILLE | | 4,8 CONSOLIDATED GAS SUP |
| *PENNZOIL COMPANY | | | | | RECEIVED: 07/21/80 JAI MV | | | |
| 8047795 | | 4703301753 | 108 | | NATHAN GOFF #14 | WOLF SUMMIT | | 0,0 CONSOLIDATED GAS SUP |
| 8047792 | | 4703301748 | 108 | | NATHAN GOFF #3 | WOLF SUMMIT | | 0,0 CONSOLIDATED GAS SUP |
| 8047793 | | 4703301749 | 108 | | NATHAN GOFF #5 | WOLF SUMMIT | | 0,0 CONSOLIDATED GAS SUP |
| 8047794 | | 4703301751 | 108 | | NATHAN GOFF #8 | WOLF SUMMIT | | 0,0 CONSOLIDATED GAS SUP |
| *PENNZOIL COMPANY | | | | | RECEIVED: 07/22/80 JAI MV | | | |
| 8047933 | | 4703301773 | 108 | | A D LAMBON #3 | WOLF SUMMIT | | 0,0 CONSOLIDATED GAS SUP |
| 8047870 | | 4703301841 | 108 | | B T STROTHER #1 | WOLF SUMMIT | | 0,0 CONSOLIDATED GAS SUP |
| 8047878 | | 4703301830 | 108 | | C W SMITH #1 | WOLF SUMMIT | | 0,0 CONSOLIDATED GAS SUP |
| 8047877 | | 4703301832 | 108 | | C W SMITH #5 | WOLF SUMMIT | | 0,0 CONSOLIDATED GAS SUP |
| 8047882 | | 4703301799 | 108 | | ELI MAXWELL #3 | WOLF SUMMIT | | 0,0 CONSOLIDATED GAS SUP |
| 8047881 | | 4703301900 | 108 | | ELIZABETH FLETCHER #1 | WOLF SUMMIT | | 0,0 CONSOLIDATED GAS SUP |
| 8047879 | | 4703301804 | 108 | | GENIUS PAYNE #15 | WOLF SUMMIT | | 0,0 CONSOLIDATED GAS SUP |
| 8047864 | | 4703301895 | 108 | | H FLANAGAN #1 | WOLF SUMMIT | | 0,0 CONSOLIDATED GAS SUP |
| 8047863 | | 4703301898 | 108 | | H FLANAGAN #4 | WOLF SUMMIT | | 0,0 CONSOLIDATED GAS SUP |
| 8047862 | | 4703301899 | 108 | | H FLANAGAN #5 | WOLF SUMMIT | | 0,0 CONSOLIDATED GAS SUP |
| 8047861 | | 4703301800 | 108 | | H G HOFFETT #1 | WOLF SUMMIT | | 0,0 CONSOLIDATED GAS SUP |
| 8047860 | | 4703301801 | 108 | | H G HOFFETT #2 | WOLF SUMMIT | | 0,0 CONSOLIDATED GAS SUP |
| 8047931 | | 4703301781 | 108 | | HIRAM LYNCH #11 | WOLF SUMMIT | | 0,0 CONSOLIDATED GAS SUP |
| 8047930 | | 4703301782 | 108 | | HIRAM LYNCH #12 | WOLF SUMMIT | | 0,0 CONSOLIDATED GAS SUP |
| 8047929 | | 4703301786 | 108 | | HIRAM LYNCH #24 | WOLF SUMMIT | | 0,0 CONSOLIDATED GAS SUP |
| 8047928 | | 4703301787 | 108 | | HIRAM LYNCH #27 | WOLF SUMMIT | | 0,0 CONSOLIDATED GAS SUP |
| 8047927 | | 4703301789 | 108 | | HIRAM LYNCH #29 | WOLF SUMMIT | | 0,0 CONSOLIDATED GAS SUP |
| 8047932 | | 4703301778 | 108 | | HIRAM LYNCH #3 | WOLF SUMMIT | | 0,0 CONSOLIDATED GAS SUP |
| 8047858 | | 4703301790 | 108 | | HIRAM LYNCH #30 | WOLF SUMMIT | | 0,0 CONSOLIDATED GAS SUP |
| 8047884 | | 4703301791 | 108 | | HIRAM LYNCH #31 | WOLF SUMMIT | | 0,0 CONSOLIDATED GAS SUP |
| 8047883 | | 4703301797 | 108 | | HIRAM LYNCH #44 | WOLF SUMMIT | | 0,0 CONSOLIDATED GAS SUP |
| 8047934 | | 4703301770 | 108 | | J D HITT #2 | WOLF SUMMIT | | 0,0 CONSOLIDATED GAS SUP |
| 8047866 | | 4703301909 | 108 | | JOHN FLAHERTY #1 | WOLF SUMMIT | | 0,0 CONSOLIDATED GAS SUP |
| 8047965 | | 4703301884 | 108 | | P C WILLIAMS #10 | WOLF SUMMIT | | 0,0 CONSOLIDATED GAS SUP |
| 8047964 | | 4703301886 | 108 | | P C WILLIAMS #12 | WOLF SUMMIT | | 0,0 CONSOLIDATED GAS SUP |
| 8047963 | | 4703301887 | 108 | | P C WILLIAMS #13 | WOLF SUMMIT | | 0,0 CONSOLIDATED GAS SUP |
| 8047962 | | 4703301888 | 108 | | P C WILLIAMS #17 | WOLF SUMMIT | | 0,0 CONSOLIDATED GAS SUP |
| 8047961 | | 4703301890 | 108 | | T H WILLIAMS #2 | WOLF SUMMIT | | 0,0 CONSOLIDATED GAS SUP |
| 8047865 | | 4703301892 | 108 | | T H WILLIAMS #4 | WOLF SUMMIT | | 0,0 CONSOLIDATED GAS SUP |
| *RHOADES MINING CORP | | | | | RECEIVED: 07/22/80 JAI MV | | | |
| 8047919 | | 4704100000 | 108 | | J M BURNHAMMER #2 | COURT HOUSE | | 7,0 EQUITABLE GAS CO |
| *ROGERS & SCOTT | | | | | RECEIVED: 07/21/80 JAI MV | | | |
| 8047817 | | 4704102187 | 108 | | C STEPHEN FINSTER NO 1 WELL | COURT HOUSE DISTRICT | | 14,7 EQUITABLE GAS CO |
| 8047784 | | 4701302988 | 103 | | JAMES B LAUGHLIN NO 1 | LEE DISTRICT | | 0,0 CABOT CORP |
| *SENECA-UPSHUR PETROLEUM CO | | | | | RECEIVED: 07/22/80 JAI MV | | | |

| JD NO | JA DAT | API NO | SEC | D | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|---|
| 8047914 | | 4708320296 | 102 | | J M HUBER #58 | MIDDLE FORK | 35,0 | EQUITABLE GAS CO |
| *SOUTHEASTERN GAS COMPANY | | | | | RECEIVED: 07/22/80 JA: MV | | | |
| 8047830 | | 4701520660 | 108 | | OSMAN E SHARTZ #T-114 | UNION | 10,2 | CONSOLIDATED GAS SUP |
| *STERLING DRILLING AND PROD CO INC | | | | | RECEIVED: 07/22/80 JA: MV | | | |
| 8047966 | | 4701501687 | 103 | | ALDI #27 BDP #187 | BUFFALO DISTRICT | 86,4 | EQUITABLE GAS CO |
| *SHEETLAND LAND AND MINERAL CO | | | | | RECEIVED: 07/22/80 JA: MV | | | |
| 8047859 | | 4704302456 | 108 | | HOLLEY #3 METER 23660GPC1061 | CARROLL | 6,2 | PENNZOIL CO |
| *TEXAS INTERNATIONAL PET CORP | | | | | RECEIVED: 07/22/80 JA: MV | | | |
| 8047968 | | 4706700510 | 102 | | ANNA BRYAN #2 | JEFFERSON | 65,0 | EQUITABLE GAS CO |
| 8047821 | | 4701900378 | 102 | | C O WHITE #1 | MOUNTAIN COVE | 65,0 | EQUITABLE GAS CO |
| 8047904 | | 4701900395 | 102 | | C O WHITE #4 | MOUNTAIN COVE | 65,0 | EQUITABLE GAS CO |
| 8047819 | | 4701900291 | 102 | | CALVIN KENNEY #1 | MOUNTAIN COVE | 40,0 | EQUITABLE GAS CO |
| 8047827 | | 4701900383 | 102 | | DARRELL E NUTTER #1 | MOUNTAIN COVE | 65,0 | EQUITABLE GAS CO |
| 8047897 | | 4706700483 | 102 | | DONNA E MANN #1 | GRANT | 65,0 | EQUITABLE GAS CO |
| 8047967 | | 4706700505 | 102 | | EDWIN BELL #C-3 | JEFFERSON | 65,0 | EQUITABLE GAS CO |
| 8047969 | | 4706700509 | 102 | | EDWIN BELL ET AL #B-2 | JEFFERSON | 65,0 | EQUITABLE GAS CO |
| 8047895 | | 4706700496 | 102 | | EDWIN BELL ET AL #1 | GRANT | 65,0 | EQUITABLE GAS CO |
| 8047899 | | 4706700493 | 102 | | GEORGE A JARRELL #1 | GRANT | 65,0 | EQUITABLE GAS CO |
| 8047971 | | 4706700503 | 102 | | GORDON LEGG ETAL #1 | JEFFERSON | 65,0 | EQUITABLE GAS CO |
| 8047900 | | 4701900397 | 102 | | HAMPDEN COMP ET AL #B-1 | MOUNTAIN COVE | 65,0 | EQUITABLE GAS CO |
| 8047950 | | 4706700508 | 102 | | HOWARD MASON ET AL #B-1 | JEFFERSON | 65,0 | EQUITABLE GAS CO |
| 8047972 | | 4706700506 | 102 | | HOWARD MASON ET AL #1 | JEFFERSON | 50,0 | EQUITABLE GAS CO |
| 8047951 | | 4706700498 | 102 | | J M TULLY ETAL #1 | GRANT | 65,0 | EQUITABLE GAS CO |
| 8047970 | | 4706700499 | 102 | | KEENAN BURGESS UNIT #1 | GRANT | 50,0 | EQUITABLE GAS CO |
| 8047902 | | 4701900389 | 102 | | MARY SPARKS #2 | MOUNTAIN COVE | 65,0 | EQUITABLE GAS CO |
| 8047973 | | 4706700511 | 102 | | MOHER LUMBER CO #B-1 | JEFFERSON | 65,0 | EQUITABLE GAS CO |
| 8047896 | | 4706700418 | 102 | | MOHER LUMBER COMPANY #1 | JEFFERSON | 65,0 | EQUITABLE GAS CO |
| 8047820 | | 4701900380 | 102 | | PENN CENTRAL TRANSPORTATION CO #1 | MOUNTAIN COVE | 40,0 | EQUITABLE GAS CO |
| 8047903 | | 4701900391 | 102 | | R M PENNINGTON ET AL #1 | MOUNTAIN COVE | 65,0 | EQUITABLE GAS CO |
| 8047898 | | 4706700484 | 102 | | RACHEL J PECK UNIT #1 | GRANT | 65,0 | EQUITABLE GAS CO |
| 8047824 | | 4701900360 | 102 | | SIGNAL KNOB LODGE G/U2 WELL #2 | MT COVE | 40,0 | EQUITABLE GAS CO |
| 8047818 | | 4701900359 | 102 | | SIGNAL KNOB LODGE G/U1 WELL #1 | MOUNTAIN COVE | 65,0 | EQUITABLE GAS CO |
| 8047901 | | 4706700392 | 102 | | TERRY EAGLE COAL CO #1 | JEFFERSON | 0,0 | EQUITABLE GAS CO |
| *UNION DRILLING INC | | | | | RECEIVED: 07/21/80 JA: MV | | | |
| 8047816 | | 4709720166 | 108 | | G M SAMPLES 1001 | BANKS DISTRICT | 3,5 | COLUMBIA GAS TRANSMI |
| *UNION DRILLING INC | | | | | RECEIVED: 07/22/80 JA: MV | | | |
| 8047906 | | 4709702028 | 103 | | J C & KYLE O BRADY #2 1539 | BANKS DISTRICT | 0,0 | COLUMBIA GAS TRANSMI |
| 8047907 | | 4709701958 | 103 | | R B & MARGARET SMALLRIDGE #1 1504 | MEADE DISTRICT | 0,0 | COLUMBIA GAS TRANSMI |
| *W M HOBBOR | | | | | RECEIVED: 07/21/80 JA: MV | | | |
| 8047790 | | 4701302853 | 108 | | FREED #3 | FREED 3 OIL & GAS CO | 1,5 | CONSOLIDATED GAS SUP |
| 8047807 | | 4708522623 | 108 | | SNUDGRASS #1 | OTHA COX | 1,3 | SOUTHWESTERN DEVELOP |
| *WARREN R MAUGHT AGENT | | | | | RECEIVED: 07/21/80 JA: MV | | | |
| 8047797 | | 4708524400 | 103 | | A B SIMMONS H-789 | GRANT DISTRICT | 18,0 | CONSOLIDATED GAS SUP |
| *WEVA OIL CORP | | | | | RECEIVED: 07/22/80 JA: MV | | | |
| 8047922 | | 4710500859 | 108 | | R B & R C NEWMAN #2 | R B & R C NEWMAN #2 | 3,6 | CONSOLIDATED GAS SUP |
| *XTRA GAS CO | | | | | RECEIVED: 07/22/80 JA: MV | | | |
| 8047828 | | 4701120569 | 108 | | PETER Z WILSON #1 | MCCOMAS DISTRICT | 12,8 | PENNZOIL CO |

[illegible]

[illegible]

BILLING CODE 6450-85-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf).

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to any of three final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before September 9, 1980.

Please reference the FERC Control Number (JD NO) in all correspondence related to these determinations.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-25879 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

## Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued; August 15, 1978.

| JD NO | JA DAT | API NO | SEC D WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|
| ALABAMA OIL & GAS BOARD | | | | | | |
| *EXXON CORPORATION | | | RECEIVED: 07/23/80 JA: AL | | | |
| 8048214 | 7-11-802PD | 0105320140 107 | SCOTT PAPER CO GU 1 #1 | PLUMATON | 58,0 | FLORIDA GAS TRANS CO |
| *GRACE PETROLEUM CORP | | | RECEIVED: 07/23/80 JA: AL | | | |
| 8048213 | 7-11-803 PD | 0105720217 103 | ALDRIDGE NU 8-3 | DAVIS CHAPEL | 100,0 | CORONADO TRANSMISSIO |
| *TEXACO INC | | | RECEIVED: 07/23/80 JA: AL | | | |
| 8048215 | 7-11-801PD | 0109920030 103 | M J BYRD ET UX (26-13) 1 | VOCATION (EXTENSION) | 90,0 | |
| COLORADO OIL & GAS COMMISSION | | | | | | |
| *AMOCO PRODUCTION CO | | | RECEIVED: 07/23/80 JA: CO | | | |
| 8048234 | 80-175 | 0506706297 103 | BRIGGS GAS UNIT A WELL #1A | IGNACIO BLANCO | 100,0 | WESTERN SLOPE GAS CO |
| 8048239 | 80-185 | 0500106772 108 | CHAMPLIN 117 AMOCO F #1 | BANNER | 4,7 | COLORADO INTERSTATE |
| 8048230 | 80-168 | 0512309345 108 | ELMER WEBBER A #1 | WATTENBERG | 10,9 | PANHANDLE EASTERN PI |
| 8048253 | 80-111 | 0502308099 108 | HAROLD NELSON UNIT B #1 | WATTENBERG | 18,0 | PANHANDLE EASTERN PI |
| 8048232 | 80-99 | 0512309705 103 | J M CUYKENDALL B WELL #1 | WATTENBERG | 0,0 | PANHANDLE EASTERN PI |
| 8048251 | 80-166 | 0512309580 108 | JACK C NOEL UNIT #2 | HAMBERT | 10,8 | PANHANDLE EASTERN PI |
| 8048240 | 80-179 | 0506706293 103 | SNOOK GAS UNIT A WELL #1A | IGNACIO BLANCO | 180,0 | WESTERN SLOPE GAS CO |
| 8048249 | 80-188 | 0512309874 103 | UPRR 62 PAN AM G U K WELL #2 | WATTENBERG | 93,6 | PANHANDLE EASTERN PI |
| 8048252 | 80-178 | 0506706296 103 | WILDE GAS UNIT B WELL #1A | IGNACIO BLANCO | 145,0 | WESTERN SLOPE GAS CO |
| 8048235 | 80-172 | 0506706329 103 | WIRT GAS UNIT A WELL #1A | IGNACIO BLANCO | 220,0 | WESTERN SLOPE GAS CO |
| 8048236 | 80-173 | 0506763280 103 | WIRT GAS UNIT B WELL #1A | IGNACIO BLANCO | 140,0 | WESTERN SLOPE GAS CO |
| 8048233 | 80-174 | 0506706298 103 | WIRT GAS UNIT C WELL #1A | IGNACIO BLANCO | 100,0 | WESTERN SLOPE GAS CO |
| *CONTINENTAL GAS TRANSMISSION | | | RECEIVED: 07/23/80 JA: CO | | | |
| 8048241 | 80-193 | 0500107220 103 | #3-30 STATE | MARLOCK | 20,0 | PANHANDLE EASTERN PI |
| 8048248 | 80-194 | 0500107283 103 | #4-30 STATE | MARLOCK | 32,0 | PANHANDLE EASTERN PI |
| 8048231 | 80-195 | 0500107356 103 | CHAMPLIN #1-35 | QUAIL (AT TIME OF DRILLI | 120,0 | PANHANDLE EASTERN PI |
| 8048243 | 80-192 | 0500107385 103 | 1-28 MEYER | CHIEFTAIN | 25,0 | PANHANDLE EASTERN PI |
| 8048244 | 80-196 | 0500107384 103 | 1-32 BECKEM | HAWKEYE | 16,0 | PANHANDLE EASTERN PI |
| *ENERGY MINERALS CORPORATION | | | RECEIVED: 07/23/80 JA: CO | | | |
| 8048245 | 80-191 | 0512306311 108 | CARLSON #1 | WATTENBERG | 22,0 | COLORADO INTERSTATE |
| 8048242 | 80-181 | 0512309830 103 | JUNE #1 | ROGGEN | 25,0 | CRYSTAL GAS RESOURCE |
| *KANSAS-NEBRASKA NATURAL GAS CO INC | | | RECEIVED: 07/23/80 JA: CO | | | |
| 8048254 | 80-165 | 0512506256 102 | STULP 1-2 (FORMERLY VONDERHAMI) | SCHRAMM | 120,0 | |
| *MACEY & MERSHON OIL INC | | | RECEIVED: 07/23/80 JA: CO | | | |
| 8048247 | 80-182 | 0512309710 103 | STARKS #1 | WATTENBERG | 90,0 | PANHANDLE EASTERN PI |
| *NORTHWEST EXPLORATION COMPANY | | | RECEIVED: 07/23/80 JA: CO | | | |
| 8048250 | 80-155 | 0510307693 102 | M D LAKE #1 | WILDCAT | 72,0 | WESTERN SLOPE GAS CO |
| *NORTHWEST PIPELINE CORPORATION | | | RECEIVED: 07/23/80 JA: CO | | | |
| *8048246 | 80-154 | 0506700000 108 | IGNACIO 33-6 #6 (SECOND FILING) | IGNACIO BLANCO | 17,0 | NORTHWEST PIPELINE C |
| *RINCON OPERATING CO | | | RECEIVED: 07/23/80 JA: CO | | | |
| 8048237 | 80-186 | 0500706247 103 | HUNT #1 | GREENWOOD | 453,0 | COLORADO INTERSTATE |

| JD NO | JA DAT | API NO | SEC D WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|
| •TEXAS OIL & GAS CORP | | | RECEIVED: 07/23/80 JA: CO | | | |
| 8048250 | 80-163 | 0500906855 103 | PRAIRE A #1 | WALSH | 120,0 | NUECES COMPANY |
| •VESSELS OIL & GAS CO | | | RECEIVED: 07/23/80 JA: CO | | | |
| 8048255 | 80-197 | 0512309768 103 | BEARDEN #1 | WATTENBERG | 0,0 | PANHANDLE EASTERN PI |
| •VESSELS OIL & GAS COMPANY | | | RECEIVED: 07/23/80 JA: CO | | | |
| 8048238 | 80-187 | 0500107978 108 | BROSCH-MEDOW NO 1 | ZENITH | 55,0 | VESSELS GAS PROCESSI |
| LOUISIANA OFFICE OF CONSERVATION | | | | | | |
| •WILLIAMS EXPLORATION COMPANY | | | RECEIVED: 07/23/80 JA: LA | | | |
| 8048211 | 80-2321 | 1700120840 102 | SCHULTZ NO 1 | MAXIE FIELD | 3066,0 | LOUISIANA RESOURCES |
| 8048210 | 80-2320 | 1700120840 102 | SCHULTZ NO 1-D | MAXIE FIELD | 1097,0 | LOUISIANA RESOURCES |
| MICHIGAN DEPARTMENT OF NATURAL RESOURCES | | | | | | |
| •DART OIL & GAS CORPORATION | | | RECEIVED: 07/22/80 JA: MI | | | |
| 8048103 | | 2111300000 102 | GILDE #14-25 (35046) | AETNA | 20,0 | CONSUMERS POWER CO |
| •PETROTECH INC | | | RECEIVED: 07/23/80 JA: MI | | | |
| 8048209 | | 2106500000 102 | FRANKLIN E LYON UNIT #1-24 | WILDCAT T2N-R2W SECTION | 0,0 | CONSUMERS POWER CO |
| MONTANA BOARD OF OIL & GAS CONSERVATION | | | | | | |
| •MIDLANDS GAS CORPORATION | | | RECEIVED: 07/22/80 JA: MT | | | |
| 8048109 | 6-80-127 | 2507121492 108 | 2770 1-27 RUBE | BONDOIN | 21,0 | KANSAS-NEBRASKA NATU |
| •PATRICK PETROLEUM CORP OF MICHIGAN | | | RECEIVED: 07/22/80 JA: MT | | | |
| 8048108 | 6-80-126 | 2509121275 102 | GROSKURTH-PETERSEN #1-21 | FISH-HOOK | 61,0 | TRUE OIL CO |
| •SHELL OIL CO | | | RECEIVED: 07/22/80 JA: MT | | | |
| 8048111 | 6-80-129 | 2508321339 102 | JENSEN 33-22 | WILDCAT (MONDAK WEST AME | 28,0 | MONTANA DAKOTA UTILI |
| 8048106 | 5-80-123 | 2508321316 102 | SCHEETZ 44-18 | MONDAK WEST | 22,5 | MONTANA DAKOTA UTILI |
| 8048107 | 5-80-124 | 2508321317 102 | SCHEETZ 44-19 | MONDAK WEST | 28,0 | MONTANA DAKOTA UTILI |
| •SUN OIL COMPANY (DELAWARE) | | | RECEIVED: 07/22/80 JA: MT | | | |
| 8048110 | 6-80-128 | 2509121280 102 | L TRONSON NO 1 | MEDICINE LAKE | 20,0 | TRUE OIL CO |
| •WESTERN NATURAL GAS COMPANY | | | RECEIVED: 07/22/80 JA: MT | | | |
| 8048104 | 5-80-121 | 2504121300 108 | GOGGINS 1-30 T-33N R-1WE | FRESNO | 10,0 | NORTHERN NATURAL GAS |
| 8048105 | 5-80-122 | 2504121288 108 | BOMERS 1-29 T-33N R-1WE | FRESNO | 0,0 | NORTHERN NATURAL GAS |
| OHIO DEPARTMENT OF NATURAL RESOURCES | | | | | | |
| •ADOBE OIL & GAS CORPORATION | | | RECEIVED: 07/22/80 JA: OH | | | |
| 8048192 | | 3415123128 103 | S MIHALIK #1 | LAKE | 37,0 | EAST OHIO GAS CO |
| •APPALACHIAN ENERGY INC | | | RECEIVED: 07/22/80 JA: OH | | | |
| 8048129 | | 3401320310 103 | A PRAMIK #1 A-E-150 | PULTNEY | 30,0 | COLUMBIA GAS TRANSMI |
| 8048128 | | 3401320307 103 | J GIFFIN #2 A-E-143 | PULTNEY | 30,0 | COLUMBIA GAS TRANSMI |
| •APPALACHIAN PETROLEUM CORP | | | RECEIVED: 07/22/80 JA: OH | | | |
| 8048206 | | 3416725353 103 | JOHN BAKER #1 | ADAMS | 3,5 | COLUMBIA GAS TRANSMI |
| 8048206 | | 3416725250 103 | ROGERS ET AL #3 | ADAMS | 3,5 | COLUMBIA GAS TRANSMI |
| 8048205 | | 3416725135 103 | VELMA PETERS #3 (OHIO POWER) | ADAMS | 3,5 | COLUMBIA GAS TRANSMI |
| •ARTEX OIL CO | | | RECEIVED: 07/22/80 JA: OH | | | |
| 8048175 | | 3411925282 103 | M JOHNSON 1-80 | MEIGS | 55,0 | |
| •BELDEN & BLAKE & CO 74 | | | RECEIVED: 07/22/80 JA: OH | | | |
| 8048193 | | 3415123195 103 | J & S DAVIS #3-956 | OSNABURG | 30,5 | |
| 8048191 | | 3415123118 103 | M & C MOYER #5-959 | MARLBORO | 36,5 | |

| JD NO | JA ORT | API NO | SEC | D WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|
| ***** | ****** | ****** | *** | * ********* | ********** | **** | ********* |
| *BEREA OIL AND GAS CORPORATION | | | | RECEIVED: 07/22/80 JA: OH | | | |
| 8048200 | | 3415521397 | 103 | GRAIN UNIT #1 | VIENNA | 12,0 | EAST OHIO GAS CO |
| 8048201 | | 3415521398 | 103 | KEIR UNIT #1 | VIENNA | 24,0 | EAST OHIO GAS |
| *CARL M POSTON | | | | RECEIVED: 07/22/80 JA: OH | | | |
| 8048141 | | 3407328389 | 103 | WILLARD KIEFFER NO 3 | BRENNOLTS | 4,0 | COLUMBIA GAS TRANSMI |
| *CHANSE PETROLEUM CORPORATION | | | | RECEIVED: 07/22/80 JA: OH | | | |
| 8048122 | | 3400721137 | 103 | LINEK-ROBINSON #2 | LENOX | 2,0 | |
| 8048123 | | 3400721181 | 103 | ROBINSON - CLARK #2 | LENOX | 2,0 | |
| *CLARENCE K TUBBEL JR | | | | RECEIVED: 07/22/80 JA: OH | | | |
| 8048127 | | 3400721337 | 103 | M SIMMONS #1 | MONROE | 35,0 | |
| 8048126 | | 3400721330 | 103 | P NOVAK #1 | KINGSVILLE | 30,0 | |
| 8048125 | | 3400721328 | 103 | T SHELENBERGER #1 | MONROE | 30,0 | |
| *CLAY COUNTY PRODUCTION CO INC | | | | RECEIVED: 07/22/80 JA: OH | | | |
| 8048182 | | 3412724627 | 103 | A ARKOUBE #1 | READING | 12,0 | NATIONAL GAS & OIL C |
| *CLEARFORK OIL CO | | | | RECEIVED: 07/22/80 JA: OH | | | |
| 8048157 | | 3411121974 | 103 | BEN LARGENT #1 | WASHINGTON | 30,0 | COLUMBIA GAS TRANSMI |
| *EDCO DRILLING & PRODUCING INC | | | | RECEIVED: 07/22/80 JA: OH | | | |
| 8048172 | | 3411925123 | 103 | 1A BAKER | JACKSON | 18,0 | |
| 8048135 | | 3403123784 | 103 | 1A DUNCAN | BETHLEHEM | 18,0 | |
| 8048173 | | 3411925185 | 103 | 2B ARNOLD | JACKSON | 18,0 | |
| *ENTERPRISE GAS & OIL INC | | | | RECEIVED: 07/22/80 JA: OH | | | |
| 8048177 | | 3412723849 | 103 | STATE PEN #6 | JACKSON | 27,4 | COLUMBIA GAS TRANSMI |
| *HOPEWELL OIL AND GAS DEVELOPMENT CO | | | | RECEIVED: 07/22/80 JA: OH | | | |
| 8048181 | | 3412724576 | 103 | FISHER #1 | HARRISON | 10,0 | |
| *IRVIN PRODUCING COMPANY | | | | RECEIVED: 07/22/80 JA: OH | | | |
| 8048169 | | 3411925028 | 103 | HENRY JAMES #1 | SPRINGFIELD | 12,0 | NATIONAL GAS & OIL C |
| 8048167 | | 3411925022 | 103 | HERMAN BULLER #1 | WAYNE | 12,0 | NATIONAL GAS & OIL C |
| 8048180 | | 3412724524 | 103 | KERMIT HOPE #1 | SALT LICK | 12,0 | COLUMBIA GAS TRANSMI |
| 8048168 | | 3411925027 | 103 | TIMOTHY KIMPEL #3 | NEWTON | 12,0 | COLUMBIA GAS TRANSMI |
| *JUD NOBLE AND ASSOCIATES INC | | | | RECEIVED: 07/22/80 JA: OH | | | |
| 8048183 | | 3413320514 | 103 | BALLAS #2 | EDINBURG | 20,0 | GENERAL ELECTRIC CO |
| 8048190 | | 3413322168 | 103 | BALLAS #3 | EDINBURG | 20,0 | GENERAL ELECTRIC CO |
| 8048187 | | 3413322124 | 103 | COY UNIT #2 | EDINBURG | 20,0 | GENERAL ELECTRIC CO |
| 8048188 | | 3413322138 | 103 | DRIA #2 | EDINBURG | 20,0 | GENERAL ELECTRIC CO |
| 8048189 | | 3413322139 | 103 | DRIA #4 | EDINBURG | 20,0 | GENERAL ELECTRIC CO |
| *L & M OPERATING INC | | | | RECEIVED: 07/22/80 JA: OH | | | |
| 8048178 | | 3412723881 | 103 | VAN ATTA #2 | PIKE | 5,5 | FORAKER GAS LINE |
| 8048130 | | 3401921266 | 103 | WENDELL PRICE #2 | ORANGE | 10,5 | BONANZA GAS LINE |
| *LEADER EQUITIES INC | | | | RECEIVED: 07/22/80 JA: OH | | | |
| 8048160 | | 3411923773 | 103 | MARGARET R KNICELY #2 | JEFFERSON | 15,0 | |
| *LESLIE OIL & GAS CO INC | | | | RECEIVED: 07/22/80 JA: OH | | | |
| 8048153 | | 3410328197 | 103 | T RICE WELL #3 | SPENCER | 10,0 | COLUMBIA GAS TRANSMI |
| *MARTIN EXCAVATING INC | | | | RECEIVED: 07/22/80 JA: OH | | | |
| 8048147 | | 3407522421 | 103 | WAGERS #1 | MECHANIC | 9,2 | COLUMBIA GAS TRANSMI |
| *NATIONAL PETROLEUM CORP | | | | RECEIVED: 07/22/80 JA: OH | | | |
| 8048150 | | 3411121940 | 107 | F CHRISTMAN #1 | SUMMIT | 15,0 | TEXAS EASTERN |
| 8048124 | | 3400721273 | 103 | H SMITH #1 | LENOX | 15,0 | EAST OHIO GAS CO |
| 8048121 | | 3400720989 | 103 | OHIO LAND & TIMBER #1 | LENOX | 15,0 | EAST OHIO GAS CO |
| *NEW FRONTIER EXPLORATION INC | | | | RECEIVED: 07/22/80 JA: OH | | | |
| 8048194 | | 3415123185 | 103 | FREMONT RODOCKER #1 | PIKE | 34,0 | |
| *OHIO NATURAL FUEL CO | | | | RECEIVED: 07/22/80 JA: OH | | | |
| 8048143 | | 3407522240 | 103 | CARROLL #1 | KNOX | 5,0 | COLUMBIA GAS |

| JO NO | JA DAT | API NO | SEC | D WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|
| 8048142 | | 3407522238 | 103 | CHARVAT #1 | KNOX | 5,0 | COLUMBIA GAS |
| 8048134 | | 3403122926 | 103 | CRIDER #1 | CLARK | 9,0 | COLUMBIA GAS |
| *PARTNERS OIL COMPANY | | | | RECEIVED: 07/22/80 JA: OH | | | |
| 8048145 | | 3407522376 | 103 | EICHER #4-79C | KILLBUCK | 100,0 | COLUMBIA GAS TRANSMI |
| *PEDGECO INC | | | | RECEIVED: 07/22/80 JA: OH | | | |
| 8048152 | | 3408923831 | 103 | OHIO AGRICULTURAL EXT CAMP INC #1 | EDEN | 20,0 | |
| *POI ENERGY INC | | | | RECEIVED: 07/22/80 JA: OH | | | |
| 8048186 | | 3413322123 | 103 | BECK-DAVIS #1 | STREETSBORO | 20,0 | |
| 8048185 | | 3413322119 | 103 | BECK-GRIFFITH-WILSON #5 | STREETSBORO | 55,0 | |
| 8048198 | | 3415320755 | 103 | HOPKINS #1 | HUDSON | 10,0 | |
| 8048197 | | 3415320749 | 103 | HOPKINS #2 | HUDSON | 10,0 | |
| 8048184 | | 3413322073 | 103 | PIERCE #3 | FRANKLIN | 35,0 | |
| 8048196 | | 3415320699 | 103 | REINTHAL #1 | RICHFIELD | 7,0 | |
| *PYRAMID OIL & GAS COMPANY | | | | RECEIVED: 07/22/80 JA: OH | | | |
| 8048199 | | 3415521336 | 103 | HATEI UNIT #2 | SOUTHINGTON | 20,0 | |
| *RMR PETROLEUM CO INC | | | | RECEIVED: 07/22/80 JA: OH | | | |
| 8048203 | | 3416725089 | 103 | DALE & ELIZABETH PITSINGER #2 | LAWRENCE | 200,0 | |
| 8048207 | | 3416725283 | 103 | DALE & ELIZABETH PITSINGER #4 | LAWRENCE | 200,0 | |
| *ROBERT D CARSON & MARY V CARSON | | | | RECEIVED: 07/22/80 JA: OH | | | |
| 8048119 | 04966 | 3410521780 | 108 | ELLIS-REED #1 | | 6,6 | COLUMBIA GAS TRANSMI |
| 8048120 | 04978 | 3410521781 | 108 | M V CARSON #1 | | 6,6 | COLUMBIA GAS TRANSMI |
| *RODGER V BOWERS | | | | RECEIVED: 07/22/80 JA: OH | | | |
| 8048179 | | 3412724294 | 103 | BOWERS-MCCLELLAN WELL #1 | PIKE | 3,0 | COLUMBIA GAS TRANSMI |
| *ROMLEY & BROWN PETROLEUM CORP | | | | RECEIVED: 07/22/80 JA: OH | | | |
| 8048140 | | 3407522409 | 103 | BRUMME #3 | KILLBUCK | 67,0 | COLUMBIA GAS TRANSMI |
| *ROYAL PETROLEUM 80 - II | | | | RECEIVED: 07/22/80 JA: OH | | | |
| 8048139 | | 3405320530 | 103 | TARA DEVELOPMENT CORP WELL #4 | ADDISON | 5,0 | COLUMBIA GAS TRANSMI |
| 8048140 | | 3405320534 | 103 | TARA DEVELOPMENT CORP WELL #5 | ADDISON | 0,0 | COLUMBIA GAS TRANS C |
| *RUBICON CORP | | | | RECEIVED: 07/22/80 JA: OH | | | |
| 8048144 | | 3407522275 | 103 | HARRY SCHLEGEL #1 | MECHANIC | 28,0 | |
| *STRATA EXPLORATION INC LTD 80-3 | | | | RECEIVED: 07/22/80 JA: OH | | | |
| 8048148 | | 3407522427 | 103 | #2 ALFRED FARR | MECHANIC | 350,0 | COLUMBIA GAS TRANS |
| *STULL INVESTMENT GROUP | | | | RECEIVED: 07/22/80 JA: OH | | | |
| 8048151 | | 3406322707 | 103 | DWIGHT GURBUCH #1 | HARRISON POOL | 25,0 | COLUMBIA GAS TRANSMI |
| *SUPERIOR PETROLEUM SERVICES INC | | | | RECEIVED: 07/22/80 JA: OH | | | |
| 8048133 | | 3401921315 | 103 | STEARNS #A-2 | ORANGE | 26,0 | M & B OPERATING INC |
| 8048132 | | 3401921314 | 103 | STEARNS #A-3 | ORANGE | 26,0 | M & B OPERATING INC |
| 8048131 | | 3401921313 | 103 | STEARNS A-1 | ORANGE | 26,0 | M & B OPERATING INC |
| *TALBOTT OIL & GAS CO | | | | RECEIVED: 07/22/80 JA: OH | | | |
| 8048155 | | 3410521886 | 103 | EMMETT MCCARKEY #2 | RUTLAND | 5,0 | COLUMBIA GAS TRANSMI |
| 8048154 | | 3410521668 | 108 | THOMAS AUTHENSUN #1 | | 5,6 | COLUMBIA GAS TRANSMI |
| *TEMPLE OIL & GAS CO | | | | RECEIVED: 07/22/80 JA: OH | | | |
| 8048156 | | 3411522063 | 103 | HARRY FISHER #2 | YORK | 10,0 | |
| *THE BENATTY CORPORATION | | | | RECEIVED: 07/22/80 JA: OH | | | |
| 8048166 | | 3411925019 | 103 | C BILEK #1 | BLUE RUCK | 25,0 | EAST OHIO GAS CO |
| 8048174 | | 3411925127 | 103 | R BENNETT #1 | HARRISON | 85,0 | NATIONAL GAS CORP |
| 8048161 | | 3411924280 | 103 | R HUNTER #1 | BLUE RUCK | 25,0 | EAST OHIO GAS CO |
| 8048165 | | 3411925018 | 103 | B COX #1 | BLUE RUCK | 25,0 | EAST OHIO GAS CO |
| *THE OXFORD OIL CO | | | | RECEIVED: 07/22/80 JA: OH | | | |
| 8048162 | | 3411924901 | 103 | FLOYD ANDERSON #1 | CLAY | 10,0 | |
| 8048159 | | 3411522076 | 103 | HAROLD JADWIN #1 | DEERFIELD | 10,0 | |
| 8048193 | | 3415123167 | 103 | THOMAS HALL #2 | MARLBORO | 10,0 | |

| JD # | JA DAT | API NO | SEC | D WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|
| *TIGER OIL INC | | | | RECEIVED: 07/22/80 JA: OH | | | |
| 8048178 | | 3412122249 | 103 | RUFUS E MEMRY #1 | CENTER | 15,0 | EAST OHIO GAS CO |
| *TOWER ENERGY CORP | | | | RECEIVED: 07/22/80 JA: OH | | | |
| *8048202 | | 3415921370 | 103 | J E ZELENAK #2 | NEWTON | 80,0 | |
| *WILLIAM F MILL | | | | RECEIVED: 07/22/80 JA: OH | | | |
| 8048149 | | 3407922553 | 103 | BOYD #8 (FORMERLY BERT SHAFFER) | KILLBUCK | 9,0 | COLUMBIA GAS TRANSMI |
| 8048150 | | 3407922554 | 103 | BOYD #6 (FORMERLY BERT SHAFFER) | KILLBUCK | 7,0 | COLUMBIA GAS TRANSMI |
| *WILLISTON OIL & DEVELOPMENT CORP | | | | RECEIVED: 07/22/80 JA: OH | | | |
| 8048170 | | 3411928034 | 103 | ALLISON #4 | MEIGS | 0,0 | |
| 8048183 | | 3411924919 | 103 | ALLISON #5 | MEIGS | 14,6 | |
| 8048184 | | 3411924720 | 103 | ALLISON #6 | MEIGS | 14,6 | |
| 8048171 | | 3411928108 | 103 | WION #3 | MEIGS | 14,6 | |
| *WRAY PETROLEUM CORP OF OHIO | | | | RECEIVED: 07/22/80 JA: OH | | | |
| 8048136 | | 3405320166 | 102 | ANISE E WOOD #1 | PERRY | 0,0 | |
| 8048138 | | 3405320403 | 102 | CLARENCE CAMPBELL #1 (NEW) | PERRY | 0,0 | |
| 8048137 | | 3405320397 | 102 | STANLEY HENDERSON #1 | PERRY | 0,0 | |
| *WYNN OIL CO | | | | RECEIVED: 07/22/80 JA: OH | | | |
| 8048204 | | 3416725099 | 103 | C WHITING #1 | MUSKINGUM | 8,0 | RIVER GAS CO |

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UTAH DIVISION OF OIL,GAS, & MINING

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|---|---|---|---|---|---|---|---|
| *AMERICAN QUASAR PETROLEUM CO | | | | RECEIVED: 07/22/80 JA: UT | | | |
| 8048112 | K-107-9 | 4304330104 | 103 | UPRR 9-1 | SEC 9 T2N-R7E | 63,0 | MOUNTAIN FUEL SUPPLY |
| *AMOCO PRODUCTION CO | | | | RECEIVED: 07/22/80 JA: UT | | | |
| 8048115 | K-121-2 | 4304330108 | 102 | CHAMPLIN 372 AMOCO B WELL #1 | ANSCHUTZ RANCH | 2433,0 | MOUNTAIN FUEL SUPPLY |
| *GAS PRODUCING ENTERPRISES INC | | | | RECEIVED: 07/22/80 JA: UT | | | |
| 8048113 | K-110-9(B) | 4304730425 | 103 | NATURAL BUTTES 10-2-10-22 | BITTER CREEK | 459,0 | COLORADO INTERSTATE |
| *GULF OIL CORPORATION | | | | RECEIVED: 07/22/80 JA: UT | | | |
| 8048117 | K-125-2 | 4304730609 | 102 | KAYE STATE 1-16 | EAST NATURAL BUTTES | 109,0 | |
| 8048116 | K-125-1 | 4304730600 | 103 | MORGAN STATE 1-36 | NATURAL BUTTES | 190,0 | |
| *MAPCO PRODUCTION COMPANY | | | | RECEIVED: 07/22/80 JA: UT | | | |
| 8048114 | K-120-1(A) | 4304730583 | 102 | RBU 11-36B | ISLAND | 365,0 | PACIFIC GAS & ELECTR |
| *THE ANSCHUTZ CORPORATION | | | | RECEIVED: 07/22/80 JA: UT | | | |
| 8048110 | K-126-1 | 4304330112 | 102 | ANSCHUTZ RANCH 27-1 | ANSCHUTZ RANCH | 3280,0 | MOUNTAIN FUEL SUPPLY |

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WEST VIRGINIA DEPARTMENT OF MINES

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|---|---|---|---|---|---|---|---|
| *ALLEGHENY LAND & MINERAL COMPANY | | | | RECEIVED: 07/21/80 JA: WV | | | |
| 8048026 | | 4709100174 | 103 | A-798 | KNUTTSVILLE DISTRICT | 0,0 | CONSOLIDATED GAS SUP |
| 8048024 | | 4704102688 | 103 | A-820 | COURT HOUSE DISTRICT | 0,0 | CONSOLIDATED GAS SUP |
| 8048027 | | 4709701960 | 103 | A-828 | UNION DISTRICT | 0,0 | CONSOLIDATED GAS SUP |
| 8048028 | | 4709701963 | 103 | A-831 | WASHINGTON DISTRICT | 0,0 | CONSOLIDATED GAS SUP |
| 8048029 | | 4709702018 | 103 | A-849 | WASHINGTON DISTRICT | 0,0 | CONSOLIDATED GAS SUP |
| 8048022 | | 4701702493 | 103 | A-851 | SOUTHWEST DISTRICT | 0,0 | CONSOLIDATED GAS SUP |
| 8048033 | | 4708300291 | 103 | A-859 | MIDDLE FORK DISTRICT | 0,0 | COLUMBIA GAS TRANSMI |
| 8048023 | | 4701702509 | 103 | A-861 | SOUTHWEST DISTRICT | 0,0 | CONSOLIDATED GAS SUP |
| 8048025 | | 4708504476 | 103 | A-862 | UNION DISTRICT | 0,0 | CONSOLIDATED GAS SUP |
| 8048030 | | 4709702029 | 103 | A-865 | WASHINGTON DISTRICT | 0,0 | CONSOLIDATED GAS SUP |
| 8048031 | | 4709702039 | 103 | A-882 | WASHINGTON DISTRICT | 0,0 | CONSOLIDATED GAS SUP |
| 8048032 | | 4709702050 | 103 | A-886 | UNION DISTRICT | 0,0 | CONSOLIDATED GAS SUP |
| *BOWSER GAS & OIL CO | | | | RECEIVED: 07/21/80 JA: WV | | | |
| *8048040 | | 4701302944 | 108 | L G FLUHARTY #2 | CENTER | 2,2 | CONSOLIDATED GAS SUP |
| *COLUMBIA GAS TRANSMISSION CORP | | | | RECEIVED: 07/21/80 JA: WV | | | |

| JD NO | JA DAT | API NO | SEC | D | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|---|
| 8048093 | | 4703902341 | 108 | | A B PETERS NO 2 809839 | ROCKY FORK | 1,5 | COLUMBIA GAS TRANSMI |
| 8048084 | | 4703901224 | 108 | | CABOT CORPORATION 809572 | FIELD AREA A | 0,5 | COLUMBIA GAS TRANSMI |
| 8048086 | | 4709901689 | 108 | | COLUMBIA COAL GASIF 809810 | FIELD AREA B | 2,6 | COLUMBIA GAS TRANSMI |
| 8048094 | | 4703501247 | 108 | | G L CABOT ET AL 809653 | FIELD AREA A | 2,0 | COLUMBIA GAS TRANSMI |
| 8048092 | | 4703902488 | 108 | | J T YOUNG ET AL 809733 | ROCKY FORK | 6,0 | COLUMBIA GAS TRANSMI |
| 8048085 | | 4701900218 | 108 | | KANAWHA GAULEY COAL AND COKE 809795 | FIELD AREA A | 11,5 | COLUMBIA GAS TRANSMI |
| 8048091 | | 4703902474 | 108 | | LILLIE BIGMAN ET AL 809841 | ROCKY FORK | 1,0 | COLUMBIA GAS TRANSMI |
| 8048089 | | 4705900811 | 108 | | MINGO WYOMING COAL LAND CO 809676 | FIELD AREA B | 1,0 | COLUMBIA GAS TRANSMI |
| 8048090 | | 4704301748 | 108 | | ZEB HILL-ONA HALE 820351 | FIELD AREA B | 5,5 | COLUMBIA GAS TRANSMI |
| *CONSOLIDATED GAS SUPPLY CORPORATION | | RECEIVED: 07/21/80 JA: MV | | | | | | |
| 8047993 | | 4704102487 | 103 | | ARTA R LOUDIN 12536 | W VA OTHER A83772 | 23,0 | GENERAL SYSTEM PURCH |
| 8048010 | | 4706100375 | 103 | | BRUCE BLANEY 12465 | W VA OTHER A83772 | 23,0 | GENERAL SYSTEM PURCH |
| 8048014 | | 4705500077 | 103 | | BRUCE C RILEY 12532 | PINEVILLE FIELD AREA A59 | 0,0 | GENERAL SYSTEM PURCH |
| 8048003 | | 4704102725 | 103 | | C R MORRIS 12531 | W VA OTHER A83772 | 100,0 | GENERAL SYSTEM PURCH |
| 8048007 | | 4706100570 | 103 | | ELEANOR T DONLEY 12578 | GREER-GLADESVILLE 290235 | 35,0 | GENERAL SYSTEM PURCH |
| 8048016 | | 4704900325 | 103 | | ERNEST E MOORE 12409-A | W VA OTHER A83772 | 25,0 | GENERAL SYSTEM PURCH |
| 8048012 | | 4706100371 | 103 | | J RUSSELL SMITH 12408 | GREER-GLADESVILLE 290235 | 50,0 | GENERAL SYSTEM PURCH |
| 8047995 | | 4704102181 | 103 | | JOHN A BUTTON 12469 | W VA OTHER A83772 | 25,0 | GENERAL SYSTEM PURCH |
| 8047997 | | 4704101987 | 108 | | JOSEPH GUM 11884 | W VA OTHER A83772 | 18,0 | GENERAL SYSTEM PURCH |
| 8047996 | | 4704102176 | 103 | | JOSEPH S HALL 12465 | W VA OTHER A83772 | 23,0 | GENERAL SYSTEM PURCH |
| 8048004 | | 4704102530 | 103 | | L M DAVIS 12540 | W VA OTHER A83772 | 23,0 | GENERAL SYSTEM PURCH |
| 8048013 | | 4706100367 | 103 | | M MIDLER 12478 | GREER-GLADESVILLE 290235 | 100,0 | GENERAL SYSTEM PURCH |
| 8047998 | | 4703302137 | 103 | | MILTON S DAVIS 12598 | W VA OTHER A83772 | 23,0 | GENERAL SYSTEM PURCH |
| 8048000 | | 4703301937 | 103 | | PAUL S MORNOR 12528 | W VA OTHER A83772 | 110,0 | GENERAL SYSTEM PURCH |
| 8048002 | | 4704700771 | 103 | | POCA LAND CORP 12505 | PINEVILLE FIELD AREA A59 | 50,0 | GENERAL SYSTEM PURCH |
| 8048001 | | 4704700772 | 103 | | POCA LAND CORP 12506 | PINEVILLE FIELD AREA A59 | 40,0 | GENERAL SYSTEM PURCH |
| 8048006 | | 4704700775 | 103 | | POCA LAND CORP 12509 | PINEVILLE FIELD AREA | 23,0 | GENERAL SYSTEM PURCH |
| 8048005 | | 4704700783 | 103 | | POCA LAND CORP 12510 | PINEVILLE FIELD AREA A59 | 63,0 | GENERAL SYSTEM PURCH |
| 8048015 | | 4705500073 | 103 | | POCA LAND CORP 12534 | PINEVILLE FIELD AREA A59 | 23,0 | GENERAL SYSTEM PURCH |
| 8048008 | | 4706100440 | 103 | | RALPH D NEAL 12537 | GREER-GLADESVILLE 290235 | 50,0 | GENERAL SYSTEM PURCH |
| 8047994 | | 4704102182 | 103 | | S S GOODWIN 12450 | W VA OTHER A83772 | 72,0 | GENERAL SYSTEM PURCH |
| 8048009 | | 4706100376 | 103 | | SADIE M DALTON 12484 | GREER-GLADESVILLE 290235 | 45,0 | GENERAL SYSTEM PURCH |
| 8048011 | | 4706100372 | 103 | | WAYNE DALTON 12482 | GREER-GLADESVILLE 290235 | 35,0 | GENERAL SYSTEM PURCH |
| 8047999 | | 4703302075 | 103 | | WILLIAM L MURNER 12576 | W VA OTHER A83772 | 83,0 | GENERAL SYSTEM PURCH |
| *DENNIS D BLAUBER | | RECEIVED: 07/21/80 JA: MV | | | | | | |
| 8048066 | | 4702122467 | 108 | | M E GAINER #1 | DEKALB | 21,0 | EQUITABLE GAS CO |
| *DORAN & ASSOCIATES INC | | RECEIVED: 07/21/80 JA: MV | | | | | | |
| 8048083 | | 4703322235 | 103 | | E ADAMS #1 K-L-119 | UNION DIST | 30,0 | CONSOLIDATED GAS SUP |
| 8048082 | | 4703302062 | 103 | | JOHN MCDONALD #1 394 K-L-142 | CLAY | 30,0 | CONSOLIDATED GAS SUP |
| 8048081 | | 4701702484 | 103 | | R NICHOLSON #1 K-L-165 | GREENBRIER | 30,0 | CONSOLIDATED GAS SUP |
| 8048080 | | 4701702443 | 103 | | R PECK #1 K-L-166 | GREENBRIER | 30,0 | CONSOLIDATED GAS SUP |
| 8048088 | | 4704122864 | 103 | | U REXROAD #1 K-L-172 | FREEMANS CREEK | 30,0 | CONSOLIDATED GAS SUP |
| 8048087 | | 4704122865 | 103 | | U REXROAD #2 K-L-173 | FREEMANS CREEK | 30,0 | CONSOLIDATED GAS SUP |
| *E A BALLENGEE CO | | RECEIVED: 07/21/80 JA: MV | | | | | | |
| 8048047 | | 4708502705 | 108 | | HESTER DEEM #1 | HESTER A DEEM | 0,8 | CONSOLIDATED GAS SUP |
| 8048046 | | 4708502059 | 108 | | STANLEY #1 | GEORGE STANLEY FARM | 1,6 | CONSOLIDATED GAS SUP |
| *FOX DRILLING CO INC | | RECEIVED: 07/21/80 JA: MV | | | | | | |
| 8047991 | | 4700101114 | 107 | D | AUVIL #1 (47-001-1114) | BELINGTON FIELD | 12,0 | COLUMBIA GAS TRANSMI |
| 8047990 | | 4700101109 | 107 | | CONNER #1 (47-001-1109) | BELINGTON FIELD | 11,5 | COLUMBIA GAS TRANSMI |
| 8048017 | | 4700101104 | 107 | | MCCAULEY #1 (47-001-1104) | BELINGTON | 100,0 | COLUMBIA GAS TRANSMI |
| 8047992 | | 4700101115 | 107 | | R K TALBUTT #1 (47-001-1115) | BELINGTON FIELD | 11,0 | COLUMBIA GAS TRANSMI |
| 8047989 | | 4700101107 | 107 | | STEMPLE #1 (47-001-1107) | BELINGTON | 10,0 | COLUMBIA GAS TRANSMI |

| JD NO | JA DAT | API NO | SEC | D | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|---|
| 8048018 | | 4700101088 | 107 | | STEWART #1 (47-001-1088) | BELINGTON | 120,0 | COLUMBIA GAS TRANSMI |
| 8047984 | | 4700101082 | 107 | | T POE #1 (47-001-1082) | BELINGTON FIELD | 12,0 | COLUMBIA GAS TRANSMI |
| *FRANCIS E CAIN | | | | | RECEIVED: 07/21/80 JAI MV | | | |
| 8048020 | | 4708504609 | 108 | | RACHEL LEMON HEIRS #4 | MURPHY | 1,0 | CONSOLIDATED GAS SUP |
| 8048021 | | 4708504610 | 108 | | RACHEL LEMON HEIRS #6 | MURPHY | 1,0 | CONSOLIDATED GAS SUP |
| *INDUSTRIAL GAS CORPORATION | | | | | RECEIVED: 07/21/80 JAI MV | | | |
| *8048056 | | 4700501116 | 108 | | CASSINGHAM #-174 | SCOTT | 0,5 | MOUDAILLE INDUSTRIES |
| *8048054 | | 4700501118 | 108 | | CASSINGHAM 6-189 | SCOTT | 0,7 | MOUDAILLE INDUSTRIES |
| *8048049 | | 4709901079 | 108 | | ETHEL GOODE A 1-1030 | BUTLER | 0,9 | MOUDAILLE INDUSTRIES |
| *8048050 | | 4709901039 | 108 | | HOARD BALDWIN 52-1019 | STONEWALL | 1,9 | MOUDAILLE INDUSTRIES |
| *8048078 | | 4709901229 | 108 | | HOARD BALDWIN 54-1085 | STONEWALL | 2,2 | MOUDAILLE INDUSTRIES |
| *8048079 | | 4709901147 | 108 | | LEACH-LYCANS 1-1055 | BUTLER | 0,8 | MOUDAILLE INDUSTRIES |
| *8048053 | | 4709900285 | 108 | | LOUISA COLLINS 1-662 | GRANT | 2,0 | MOUDAILLE INDUSTRIES |
| *8048077 | | 4709901233 | 108 | | M MATHENS 2-1076 | BUTLER | 1,0 | MOUDAILLE INDUSTRIES |
| *8048076 | | 4709901369 | 108 | | MARIAN BURGESS C 6-1148 | LINCOLN | 2,2 | MOUDAILLE INDUSTRIES |
| *8048055 | | 4709901355 | 108 | | MARION BURGESS C 5-1130 | LINCOLN | 1,1 | MOUDAILLE INDUSTRIES |
| *8048064 | | 4703901626 | 108 | | OLLIE ARNOLD 1-904 | WASHINGTON | 19,2 | MOUDAILLE INDUSTRIES |
| *8048052 | | 4709900347 | 108 | | WILSON COAL LAND CO 39-700 | LINCOLN | 1,8 | MOUDAILLE INDUSTRIES |
| *8048051 | | 4709900633 | 108 | | WILSON COAL LAND CO 51-789 | GRANT | 1,1 | MOUDAILLE INDUSTRIES |
| *8048063 | | 4709900761 | 108 | | WILSON COAL LAND CO 55-800 | LINCOLN | 1,1 | MOUDAILLE INDUSTRIES |
| *8048062 | | 4709900790 | 108 | | WILSON COAL LAND CO 56-827 | LINCOLN | 1,0 | MOUDAILLE INDUSTRIES |
| *8048061 | | 4709900819 | 108 | | WILSON COAL LAND CO 59-839 | LINCOLN | 2,0 | MOUDAILLE INDUSTRIES |
| *8048060 | | 4709900820 | 108 | | WILSON COAL LAND CO 60-840 | LINCOLN | 4,2 | MOUDAILLE INDUSTRIES |
| *8048059 | | 4709900877 | 108 | | WILSON COAL LAND CO 69-883 | LINCOLN | 1,9 | MOUDAILLE INDUSTRIES |
| *8048058 | | 4709901274 | 108 | | WILSON COAL LAND CO 76-936 | LINCOLN | 4,6 | MOUDAILLE INDUSTRIES |
| *8048057 | | 4709901464 | 108 | | WILSON COAL LAND CO 78-938 | LINCOLN | 9,4 | MOUDAILLE INDUSTRIES |
| *J & J ENTERPRISES INC | | | | | RECEIVED: 07/21/80 JAI MV | | | |
| 8048035 | | 4700100924 | 103 | | B-134 | PHILIPPI | 40,0 | CONSOLIDATED GAS SUP |
| 8048038 | | 4704102564 | 103 | | B-252 | HACKERS CREEK | 40,0 | CONSOLIDATED GAS SUP |
| 8048036 | | 4703302162 | 103 | | B-283 | EAGLE | 40,0 | CONSOLIDATED GAS SUP |
| 8048037 | | 4703302171 | 103 | | B-291 | EAGLE | 40,0 | CONSOLIDATED GAS SUP |
| 8048039 | | 4700101277 | 103 | | JJ-10-#1 | BARKER | 40,0 | COLUMBIA GAS TRANSMI |
| 8048041 | | 4701702542 | 103 | | K-305-#1 | NEW MILTON | 40,0 | COLUMBIA GAS TRANSMI |
| 8048040 | | 4701702470 | 103 | | K-811-#1 | WEST UNION | 40,0 | COLUMBIA GAS TRANSMI |
| *J C BAKER AND SON INC | | | | | RECEIVED: 07/21/80 JAI MV | | | |
| 8047983 | | 4700700177 | 108 | | CALVIN WILLIAMS #2 | SALT LICK | 1,2 | CONSOLIDATED GAS SUP |
| 8047978 | | 4700701245 | 108 | | GLEN BUBLEY #1 | SALT LICK | 15,0 | CONSOLIDATED GAS SUP |
| 8047979 | | 4700701132 | 108 | | J C BAKER & SON INC #2 | SALT LICK | 9,0 | CONSOLIDATED GAS SUP |
| 8047980 | | 4700701053 | 108 | | LENA HARDMAN #1 | SALT LICK | 15,0 | CONSOLIDATED GAS SUP |
| 8047981 | | 4700701038 | 108 | | MRS GEORGE D HARDMAN #1 | SALT LICK | 1,2 | CONSOLIDATED GAS SUP |
| 8047982 | | 4700701020 | 108 | | OCIE PRICE #1 | SALT LICK | 1,5 | CONSOLIDATED GAS SUP |
| *KEY OIL COMPANY | | | | | RECEIVED: 07/21/80 JAI MV | | | |
| 8048044 | | 4708504412 | 103 | | DELMAR MCKINNEY #1 | CLAY | 15,0 | |
| 8048045 | | 4710700942 | 103 | | EDNA B PERKINS #4 | UNION | 10,0 | |
| 8048042 | | 4707300815 | 103 | | MILDRED UNCAPHER #1 | LAFAYETTE | 9,0 | |
| 8048043 | | 4707300816 | 103 | | B K MCCULLOUGH #3 | LAFAYETTE | 18,0 | |
| *LURAY LAND INC | | | | | RECEIVED: 07/21/80 JAI MV | | | |
| 8047986 | | 4704700579 | 108 | | HARMON NO 1 | BIG CREEK DISTRICT | 18,0 | COLUMBIA GAS TRANSMI |
| *SOUTHWESTERN DEVELOPMENT COMPANY | | | | | RECEIVED: 07/21/80 JAI MV | | | |
| 8047974 | | 4708502718 | 108 | | J M PRUNTY HRS #2 | SMITHVILLE - BIG INJUN | 0,0 | CONSOLIDATED GAS SUP |
| 8047975 | | 4710500559 | 108 | | LUTHER WOLVERTON WELL | CAIRO-MUNDAY | 0,0 | CONSOLIDATED GAS SUP |
| 8047977 | | 4710500308 | 108 | | WILLIAM DAWSON WELL #6 | CAIRO-MUNDAY | 0,0 | CONSOLIDATED GAS SUP |

| JD NO | JA DAT | API NO | SEC | D WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|
| 8047978 | | 4710500314 | 108 | WILLIAM DAWSON WELL #7 | CAIRO-MUNDAY | 0,0 | CONSOLIDATED GAS SUP |
| •STERLING DRILLING & PROD CO INC | | | | RECEIVED: 07/21/80 JA: WV | | | |
| 8048034 | | 4700701487 | 103 | ARGABRITE #173 | BIRCH DISTRICT | 21,0 | EQUITABLE GAS CO |
| •STERLING DRILLING AND PROD CO INC | | | | RECEIVED: 07/21/80 JA: WV | | | |
| 8048069 | | 4701501203 | 108 | BETTY MCKENNEY #1 | BUFFALO DISTRICT | 13,6 | EQUITABLE GAS CO |
| 8048068 | | 4701501301 | 108 | BOBBY LEE ROGERS #3 | BUFFALO DISTRICT | 13,6 | EQUITABLE GAS CO |
| 8048072 | | 4701501203 | 108 | ELK RIVER COAL & LUMBER #41 | HENRY DISTRICT | 7,3 | EQUITABLE GAS CO |
| 8048071 | | 4701501204 | 108 | ELK RIVER COAL & LUMBER #42 | HENRY DISTRICT | 3,8 | EQUITABLE GAS CO |
| 8048070 | | 4701501208 | 108 | ELK RIVER COAL & LUMBER #43 | HENRY DISTRICT | 17,7 | EQUITABLE GAS CO |
| 8048067 | | 4701501204 | 108 | JOHN GILL #1 | BUFFALO DISTRICT | 13,6 | EQUITABLE GAS CO |
| 8048075 | | 4701501163 | 108 | PITTSTON #34 | HENRY DISTRICT | 8,6 | EQUITABLE GAS CO |
| 8048074 | | 4701501164 | 108 | PITTSTON #35 | HENRY DISTRICT | 8,6 | EQUITABLE GAS CO |
| 8048073 | | 4701501156 | 108 | PITTSTON #39 | HENRY DISTRICT | 3,8 | EQUITABLE GAS CO |
| •TRIO PETROLEUM CORP | | | | RECEIVED: 07/21/80 JA: WV | | | |
| 8047985 | | 4702102744 | 108 | BAILEY NO 1 | GLENVILLE SOUTH | 18,4 | CONSOLIDATED GAS SUP |
| 8047988 | | 4702102741 | 108 | DESPARD A NO 1 | GLENVILLE SOUTH | 18,4 | CONSOLIDATED GAS SUP |
| 8048019 | | 4702102820 | 107 | GRIFFITH F NO 1 | GLENVILLE NORTH | 30,4 | EQUITABLE GAS CO |
| 8047987 | | 4700701209 | 108 | HUMPHREYS NO 3 | HEATERS | 20,5 | CONSOLIDATED GAS SUP |
| 8048065 | | 4702102768 | 108 | YANCEY NO 1 | GLENVILLE NORTH | 15,0 | COLUMBIA GAS TRANSMI |

** U.S. GEOLOGICAL SURVEY - METAIRIE,LA

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| •AMOCO PRODUCTION CO | | | | RECEIVED: 07/22/80 JA: LA 3 | | | |
| 8048096 | GO-1207 | 1771540263 | 102 | OCS-G-2928 #A-3 | SOUTH TIMBALIER | 1825,0 | TRUNKLINE GAS CO |
| 8048097 | GO-1208 | 1771540263 | 102 | OCS-G-2928 #A-3D | SOUTH TIMBALIER | 1815,0 | TRUNKLINE GAS CO |
| •AMOCO PRODUCTION CO | | | | RECEIVED: 07/23/80 JA: LA 3 | | | |
| 8048223 | GO-1300 | 1771140325 | 102 | OCS-G-3160 WELL NO A-1 | SHIP SHOAL | 3650,0 | |
| •ARCO OIL AND GAS COMPANY | | | | RECEIVED: 07/22/80 JA: LA 3 | | | |
| 8048095 | GO-1008 | 1772140053 | 102 | OCS-G 1611 #C-36 | SOUTH PASS BLOCK 61 | 58,4 | SOUTHERN NATURAL GAS |
| 8048099 | GO-1233 | 1770040300 | 102 | OCS-G-2834 #A-4 | WEST CAMERON BLOCK | 5,0 | NORTHERN NATURAL GAS |
| •ARCO OIL AND GAS COMPANY | | | | RECEIVED: 07/23/80 JA: LA 3 | | | |
| 8048219 | GO-1231 | 1770040322 | 102 | A-6 | WEST CAMERON | 0,0 | NORTHERN NATURAL GAS |
| 8048221 | GO-1235 | 1770040315 | 102 | OCS-G-2834 #A-5 | WEST CAMERON BLOCK | 3600,0 | NORTHERN NATURAL GAS |
| 8048218 | GO-1230 | 1770040339 | 102 | OCS-G-2834 #A-7 | WEST CAMERON BLOCK | 3600,0 | NORTHERN NATURAL GAS |
| 8048220 | GO-1232 | 1770040370 | 102 | OCS-G-2834 #A-8 | WEST CAMERON BLOCK | 3600,0 | NORTHERN NATURAL GAS |
| 8048217 | GO-1229 | 1770040278 | 102 | OCS-G-2834 #A-9 | WEST CAMERON BLOCK | 5000,0 | NORTHERN NATURAL GAS |
| •CHEVRON U S A INC | | | | RECEIVED: 07/22/80 JA: LA 3 | | | |
| 8048100 | GO-1264 | 1770240536 | 102 | OCS-G-2555 #4 | WEST CAMERON | 930,0 | NATURAL GAS PIPELINE |
| •CHEVRON U S A INC | | | | RECEIVED: 07/23/80 JA: LA 3 | | | |
| 8048224 | GO-1311 | 1771540280 | 102 | OCS-G-1241 #18-D | SOUTH TIMBALIER | 910,0 | TRUNKLINE GAS CO |
| •CNG PRODUCING COMPANY | | | | RECEIVED: 07/23/80 JA: LA 3 | | | |
| 8048228 | GO-1393 | 1771240211 | 102 | D-1631 | SHIP SHOAL | 438,0 | |
| •GULF OIL CORPORATION | | | | RECEIVED: 07/22/80 JA: LA 3 | | | |
| 8048098 | GO-1226 | 1771540304 | 102 | OCS G-3356 WELL #D-9 | SOUTH TIMBALIER | 100,0 | TEXAS EASTERN TRANS |
| •GULF OIL CORPORATION | | | | RECEIVED: 07/23/80 JA: LA 3 | | | |
| 8048218 | GO-1214 | 1771540289 | 102 | OCS G-2624 WELL #D-9 | SOUTH TIMBALIER BLK 36 | 1000,0 | TEXAS EASTERN TRANSM |
| •MCMORAN OFFSHORE EXPLONATION CO | | | | RECEIVED: 07/23/80 JA: 3 | | | |
| 8048225 | GO-1379 | 1770540386 | 102 | OCS-G 3390 #11 | VERMILION | 4300,0 | TRANSCONTINENTAL GAS |
| •MESA PETROLEUM | | | | RECEIVED: 07/23/80 JA: LA 3 | | | |
| 8048226 | GO-1367 | 1771940188 | 102 | WEST DELTA BLK 61 WELL A-10 | WEST DELTA | 1277,5 | TENNESSEE GAS PIPELI |
| •TENNECO OIL COMPANY | | | | RECEIVED: 07/23/80 JA: LA 3 | | | |
| 8048227 | GO-1366 | 1770740220 | 102 | SOUTH MARSH ISLAND 252 NO 2 | SOUTH MARSH ISLAND | 300,0 | TENNESSEE GAS PIPELI |

| JD NO | JA DKT | API NO | SEC | D | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|---|
| *THE SUPERIOR OIL COMPANY | | | | | RECEIVED: 07/23/80 JA: LA 3 | | | |
| 8048229 | G0-1411 | 1770040207 | 102 | | OCS-0244 NO 13 | WEST CAMERON | 900,0 | MICHIGAN WISCONSIN P |
| *AMOCO PRODUCTION CO | | | | | RECEIVED: 07/23/80 JA: TX 3 | | | |
| 8048222 | G0-1243 | 4270940368 | 102 | | OCS-G-2698 #B-3D | HIGH ISLAND AREA - SOUTH | 1825,0 | NORTHERN NATURAL GAS |
| ** BUREAU OF INDIAN AFFAIRS, USAGE AGENCY, PAWHUSKA,OK | | | | | | | | |
| *V N OIL CO | | | | | RECEIVED: 07/22/80 JA: OK 8 | | | |
| 8048101 | | 3511300000 | 103 | | BURRIS 2-B | QUAPAW | 109,0 | CITIES SERVICE GAS C |
| 8048102 | | 3511300000 | 103 | | PHARDAH 1-A | QUAPAW | 109,0 | CITIES SERVICE GAS C |

OTHER PURCHASERS

| | |
|---|---|
| 8048048 | CABOT CORP |
| 8048049 | HUNTINGTON ALLOYS INC |
| 8048050 | HUNTINGTON ALLOYS INC |
| 8048051 | HUNTINGTON ALLOYS INC |
| 8048052 | HUNTINGTON ALLOYS INC |
| 8048053 | HUNTINGTON ALLOYS INC |
| 8048054 | HUNTINGTON ALLOYS INC |
| 8048055 | HUNTINGTON ALLOYS INC |
| 8048056 | HUNTINGTON ALLOYS INC |
| 8048057 | HUNTINGTON ALLOYS INC |
| 8048058 | HUNTINGTON ALLOYS INC |
| 8048059 | HUNTINGTON ALLOYS INC |
| 8048060 | HUNTINGTON ALLOYS INC |
| 8048061 | HUNTINGTON ALLOYS INC |
| 8048062 | HUNTINGTON ALLOYS INC |
| 8048063 | HUNTINGTON ALLOYS INC |
| 8048064 | HUNTINGTON ALLOYS INC |
| 8048076 | HUNTINGTON ALLOYS INC |
| 8048077 | HUNTINGTON ALLOYS INC |
| 8048078 | HUNTINGTON ALLOYS INC |
| 8048079 | HUNTINGTON ALLOYS INC |
| 8048202 | COLUMBIA GAS TRANS CORP |
| 8048246 | EL PASO EXPLORATION |

BILLING CODE 6450-85-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf).

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extend such material is treated as condifential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before September 9, 1980.

Please reference the FERC Control Number (JD NO) in all correspondence related to these determinations.

**Kenneth F. Plumb,**

*Secretary,*

[FR Doc. 80-25882 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

## Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: August 18, 1980.

| JD NO | JA DKT | API NO | SEC | D | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|---|
| TEXAS RAILROAD COMMISSION | | | | | | | | |
| *A E RICHMOND | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048441 | 15161 | 4204900000 | 103 | | R C GUTHRIE NO 1 | BROWN COUNTY REGULAR (MA | 30,0 | BRADY TEXAS MUNICIPA |
| *ADOBE OIL & GAS CORPORATION | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048477 | 15891 | 4247531893 | 103 | | BARSTOW #19 (NEW) | SCOTT (CHERRY CANYON) | 400,0 | TRANSWESTERN PIPELIN |
| 8048574 | 16659 | 4210500000 | 108 | | STATE IU NO 1 42661 | FARMER (SAN ANDRES) | 16,0 | BIG LAKE GASOLINE PL |
| *ALEXANDER G KASPAR | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048512 | 16252 | 4246131440 | 103 | | J H SHIRK ESTATE ET AL NO 3 | FRADEAN (DEVONIAN) | 55,0 | PHILLIPS PETROLEUM C |
| *AMOCO PRODUCTION CO | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048597 | 19474 | 4220330591 | 102 | | BRUNE-BURNETT GAS UNIT NO 1 | L C G (PAGE) | 109,0 | UNITED GAS PIPELINE |
| 8048468 | 15864 | 4239330694 | 103 | | G A MAHLER WELL #2 | MENDOTA NW | 821,0 | MICHIGAN WISCONSIN P |
| 8048469 | 15865 | 4239330665 | 103 | | J B WATERFIELD B WELL #2 | NW MENDOTA (GRANITE WASH | 18,0 | MICHIGAN WISCONSIN P |
| 8048389 | 14419 | 4223300000 | 108 | | R C WARE B #5 | PANHANDLE | 9,8 | SKELLY OIL CO |
| 8048390 | 14421 | 4223300000 | 108 | | R C WARE B #8 | PANHANDLE | 9,8 | SKELLY OIL CO |
| *ARCO OIL AND GAS COMPANY | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048490 | 16110 | 4200331928 | 108 | | EMMA CUNDEN #64 | EMMA | 11,1 | EL PASO NATURAL GAS |
| 8048263 | 06223 | 4200331687 | 103 | | EMMA SAN ANDRES UNIT #10-54 | EMMA | 4,5 | EL PASO NATURAL GAS |
| 8048383 | 13447 | 4200310967 | 108 | | GOLDSMITH NSA CONSOLIDATED UNIT #1 | NORTH GOLDSMITH CONSOLID | 7,0 | PHILLIPS PETROLEUM C |
| 8048385 | 13449 | 4200300318 | 108 | | GOLDSMITH NSA CONSOLIDATED UNIT #15 | NORTH GOLDSMITH CONSOLID | 1,2 | PHILLIPS PETROLEUM C |
| 8048384 | 13448 | 4200310926 | 108 | | GOLDSMITH NSA CONSOLIDATED UNIT #4 | NORTH GOLDSMITH CONSOLID | 0,9 | PHILLIPS PETROLEUM C |
| *B J GIERHART INC | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048382 | 12556 | 4246931414 | 102 | | J E MCCORD NO 1 | IDA WEITZ (2800) | 182,0 | ESPERANZA OIL & GAS |
| *BASS ENTERPRISES PRODUCTION CO | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048591 | 17128 | 4210130258 | 103 | | C MAVINS NO 2 | STESCOTT | 450,0 | PALO DURO PIPELINE C |
| 8048496 | 16132 | 4249531054 | 103 | | J B WALTON NO 104 | KEYSTONE (COLBY) | 73,0 | TRANSWESTERN PIPELIN |
| 8048497 | 16133 | 4249531024 | 103 | | J B WALTON NO 105 | KEYSTONE (COLBY) | 91,0 | TRANSWESTERN PIPELIN |
| 8048546 | 16540 | 4249531076 | 103 | | M A MCCUTHCHEN NO 13 (KO) | KEYSTONE (COLBY) | 0,0 | TRANSWESTERN PIPELIN |
| *BILL FORNEY INC | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048386 | 13452 | 4229731874 | 103 | | A M STEINMEYER 2-U | CHARLINE (FORNEY 6) FIEL | 110,0 | TRANSCONTINENTAL GAS |
| *C L GAGE JR | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048257 | 06373 | 4249700000 | 103 | | FORTENBERRY FEE #1 | BOUNSVILLE (BEND CONGL G | 11,0 | NATURAL GAS PIPELINE |
| *CHASE PRODUCTION CO | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048321 | 08255 | 4217900000 | 108 | | A COMBS 139 NO 1 | PANHANDLE | 1,0 | PHILLIPS PETROLEUM C |
| 8048320 | 08254 | 4217900000 | 108 | | A COMBS 139 NO 2 | PANHANDLE | 0,5 | PHILLIPS PETROLEUM C |
| 8048319 | 08253 | 4217900000 | 108 | | A COMBS 139 NO 4 | PANHANDLE | 1,0 | PHILLIPS PETROLEUM C |
| 8048355 | 08273 | 4223300000 | 108 | | COBLE-KINGSTON NO 1 | PANHANDLE | 2,0 | GETTY OIL CO |
| 8048356 | 08274 | 4223300000 | 108 | | COBLE-KINGSTON NO 2 | PANHANDLE | 1,0 | GETTY OIL CO |
| 8048357 | 08275 | 4223300000 | 108 | | COBLE-KINGSTON NO 3 | PANHANDLE | 1,0 | GETTY OIL CO |
| 8048358 | 08276 | 4223300000 | 108 | | COBLE-KINGSTON NO 4 | PANHANDLE | 1,0 | GETTY OIL CO |
| 8048359 | 08277 | 4217900000 | 108 | | COMBS-MORLEY D NO 1 | PANHANDLE | 0,5 | PHILLIPS PETROLEUM C |
| 8048317 | 08251 | 4217900000 | 108 | | COMBS-MORLEY D NO 2 | PANHANDLE | 0,5 | PHILLIPS PETROLEUM C |

| JD NO | JA DKT | API NO | SEC | D | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|---|
| 8048318 | 08252 | 4217900000 | 108 | | COMBS-WORLEY D NO 3 | PANHANDLE | 0,5 | PHILLIPS PETROLEUM C |
| 8048348 | 08266 | 4206500000 | 108 | | MOORE-LANGDON #1 | PANHANDLE | 2,0 | GETTY OIL CO |
| 8048349 | 08267 | 4206500000 | 108 | | MOORE-LANGDON #3 | PANHANDLE | 2,0 | GETTY OIL CO |
| 8048350 | 08268 | 4206500000 | 108 | | MOORE-LANGDON #4 | PANHANDLE | 2,0 | GETTY OIL CO |
| 8048351 | 08269 | 4206500000 | 108 | | MOORE-LANGDON #5 | PANHANDLE | 3,0 | GETTY OIL CO |
| 8048352 | 08270 | 4206500000 | 108 | | MOORE-LANGDON #6 | PANHANDLE | 3,0 | GETTY OIL CO |
| 8048353 | 08271 | 4206500000 | 108 | | MOORE-LANGDON #7 | PANHANDLE | 2,0 | GETTY OIL CO |
| 8048354 | 08272 | 4206500000 | 108 | | MOORE-LANGDON #8 | PANHANDLE | 3,0 | GETTY OIL CO |
| 8048360 | 08278 | 4217900000 | 108 | | P A COOMLY #1 | PANHANDLE | 0,5 | PHILLIPS PETROLEUM C |
| 8048344 | 08262 | 4217900000 | 108 | | P A COOMLY #11 | PANHANDLE | 1,0 | PHILLIPS PETROLEUM C |
| 8048345 | 08263 | 4217900000 | 108 | | P A COOMLY #12 | PANHANDLE | 0,5 | PHILLIPS PETROLEUM C |
| 8048346 | 08264 | 4217900000 | 108 | | P A COOMLY #14 | PANHANDLE | 2,0 | PHILLIPS PETROLEUM C |
| 8048347 | 08265 | 4217900000 | 108 | | P A COOMLY #15 | PANHANDLE | 0,5 | PHILLIPS PETROLEUM C |
| 8048322 | 08256 | 4217900000 | 108 | | P A COOMLY #3 | PANHANDLE | 0,5 | PHILLIPS PET CO |
| 8048340 | 08257 | 4217900000 | 108 | | P A COOMLY #4 | PANHANDLE | 1,0 | PHILLIPS PETROLEUM C |
| 8048341 | 08258 | 4217900000 | 108 | | P A COOMLY #5 | PANHANDLE | 0,5 | PHILLIPS PETROLEUM C |
| 8048342 | 08259 | 4217900000 | 108 | | P A COOMLY #6 | PANHANDLE | 0,5 | PHILLIPS PETROLEUM C |
| 8048343 | 08260 | 4217900000 | 108 | | P A COOMLY #8 | PANHANDLE | 1,0 | PHILLIPS PETROLEUM C |
| •CITIES SERVICE COMPANY | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048470 | 15872 | 4249731396 | 103 | | ASHE BCDE D#6 | CAP YATES (CONSOLIDATED | 60,0 | CITIES SERVICE CO |
| •CLAUDE ROBINSON | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048288 | 06472 | 4223300000 | 108 | | C L DIAL #8 LEASE 00911 | PANHANDLE HUTCHINSON | 0,0 | PHILLIPS PETROLEUM C |
| 8048289 | 06471 | 4223300000 | 108 | | J A WHITTENBURG #18 LEASE 00908 | PANHANDLE HUTCHINSON | 0,0 | PHILLIPS PETROLEUM C |
| 8048290 | 06470 | 4223300000 | 108 | | J A WHITTENBURG D #3 LEASE 03801 | PANHANDLE HUTCHINSON | 0,0 | PHILLIPS PETROLEUM C |
| 8048291 | 06469 | 4223300000 | 108 | | W B CHRISTIAN ETAL #4 LEASE #00789 | PANHANDLE HUTCHINSON | 0,0 | PHILLIPS PETROLEUM C |
| •CLAYTON W WILLIAMS JR | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048365 | 10852 | 4236500000 | 103 | | PARKER ESTATE GAS UNIT NO 1 | CARTHAGE S E (COTTON VAL | 35,0 | |
| •CLOVER ENERGY CORP | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048592 | 17240 | 4220130963 | 102 | | WHELESS NO 2-T | GUM GULLY W (COOK MTN) F | 90,0 | UNITED TEXAS TRANSMI |
| •COLORADO INTERSTATE GAS CO | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048461 | 15839 | 4234130056 | 108 | | BIVINS 47R | WEST PANHANDLE (RED CAVE | 19,0 | (1) COLORADO INTERST |
| 8048471 | 15873 | 4234100000 | 108 | | FEE 3R | WEST PANHANDLE (RED CAVE | 18,0 | (1) COLORADO INTERST |
| 8048464 | 15842 | 4237500000 | 108 | | MASTERSON B-53 | WEST PANHANDLE | 19,0 | (1) COLORADO INTERST |
| 8048465 | 15843 | 4237500000 | 108 | | MASTERSON B58R | WEST PANHANDLE (RED CAVE | 18,0 | (1) COLORADO INTERST |
| 8048462 | 15840 | 4237500000 | 108 | | MASTERSON 20R | WEST PANHANDLE (RED CAVE | 17,0 | COLORADO INTERSTATE |
| 8048463 | 15841 | 4233900000 | 108 | | MASTERSON 51R | WEST PANHANDLE (RED CAVE | 18,0 | (1) COLORADO INTERST |
| 8048466 | 15844 | 4237530084 | 108 | | MASTERSON 62R | WEST PANHANDLE (RED CAVE | 19,0 | (1) COLORADO INTERST |
| 8048427 | 14847 | 4234130561 | 103 | | SNEED 11R | WEST PANHANDLE (RED CAVE | 31,0 | COLORADO INTERSTATE |
| 8048472 | 15875 | 4234100000 | 108 | | THOMPSON B-2 | WEST PANHANDLE | 18,0 | (1) COLORADO INTERST |
| •CONSOLIDATED OIL & GAS INC | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048467 | 15845 | 4234100000 | 108 | | J B GULEKE #1 | PANHANDLE WEST | 6,0 | PHILLIPS PETROLEUM C |
| •CONOCO INC | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048310 | 07094 | 4213532944 | 103 | | GIST UNIT (19373) #112 | FOSTER | 1,5 | ODESSA NATURAL GASO |
| 8048481 | 16090 | 4215130922 | 103 | | ROUND TOP PALO PINTO UNIT #16 | ROUND TOP/PALO PINTO REE | 62,0 | LONE STAR GAS CO |
| 8048364 | 10170 | 4213500000 | 108 | | WIGHT UNIT NO 7 20661 | CONDEN NORTH | 0,4 | AMOCO PRODUCTION CO |
| •CORPENING ENTERPRISES | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048311 | 07101 | 4223700000 | 103 | | BRYANT #1 RRC 19011 | HOEFLE (POOL) | 9,0 | SOUTHWEST GAS PIPELI |
| 8048312 | 07107 | 4229700000 | 103 | | WALLACE #3 RRC 74389 | EAST DINERO (FRIO) | 30,0 | LU VACA GATHERING CO |
| •CRYSTAL OIL & LAND CO | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048429 | 14879 | 4236530855 | 103 | | JERNIGAN NO 6 | PANOLA | 19,0 | UNITED GAS PIPELINE |
| 8048430 | 14880 | 4236530852 | 103 | | JERNIGAN NO 8 | PANOLA | 13,0 | UNITED GAS PIPELINE |
| 8048428 | 14878 | 4236530855 | 103 | | BOL JERNIGAN C NO 3 | PANOLA | 3,0 | UNITED GAS PIPELINE |

| JD NO | JA DKT | API NO | SEC | D | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|---|
| *CURTIS MANKAMER | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| *8048547 | 16542 | 4223500000 | 108 | | LETA D CRAWFORD #1 | SIXTY-SEVEN (CANYON) | 16,0 | CRA INC |
| *8048548 | 16544 | 4223500000 | 108 | | LETA D CRAWFURD #2 | SIXTY-SEVEN (CANYON) | 16,0 | CRA INC |
| *8048531 | 16494 | 4223500000 | 108 | | LETA D CRAWFURD #4 | SIXTY-SEVEN (CANYON) | 16,0 | CRA INC |
| *DAVIS OIL COMPANY | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048549 | 16548 | 4203931377 | 102 | | DOYLE PRATER #2 | PRATER | 180,0 | FLORIDA GAS TRANSMIS |
| 8048270 | 03626 | 4228531263 | 102 | | PAT HERMES | LAVACA RIVER | 0,0 | TEXAS EASTERN TRANSM |
| 8048532 | 16495 | 4205730898 | 102 | | TRAYLOR D SELLS #1 | NOLTY (FRIO 8400) | 40,0 | CHANNEL INDUSTRIES G |
| *DELRAY OIL INC | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048482 | 16092 | 4208331573 | 103 | | JIMMIE G GRESSETT WELL NO 1 | GRESSETT | 55,0 | LONE STAR GAS CO |
| *DIAMOND SHAMROCK CORPORATION | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048498 | 16142 | 4242130229 | 103 | | ATHA NO 2 | TEXAS HUGOTON | 100,0 | NORTHERN NATURAL GAS |
| *DONALD C SLAWSON OIL PRODUCER | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048503 | 16165 | 4221131095 | 103 | | JARVIS #2-217 | CANADIAN SE (MORROW UPPE | 1400,0 | NORTHERN NATURAL GAS |
| *EDWIN L COX | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048432 | 15045 | 4247531033 | 103 | | EDWARDS NO 5 | CRAHAR (TUBB) | 36,0 | WARREN PETROLEUM CO |
| *EL PASO NATURAL GAS COMPANY | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048575 | 16664 | 4208726028 | 108 | | BETENBOUGH A #3 | PANHANDLE EAST BROWN DOL | 4,0 | EL PASO NATURAL GAS |
| 8048578 | 16667 | 4208726068 | 108 | | EMMERT #1 | PANHANDLE EAST BROWN DOL | 53,7 | EL PASO NATURAL GAS |
| 8048576 | 16665 | 4248326074 | 108 | | FOSTER #2 | PANHANDLE EAST | 16,6 | EL PASO NATURAL GAS |
| 8048580 | 16669 | 4243531003 | 108 | | HALBERT #3 | SONORA CANYON UPPER | 24,0 | EL PASO NATURAL GAS |
| 8048577 | 16666 | 4217923720 | 108 | | HOWARD #1 | PANHANDLE WEST BROWN DOL | 25,1 | EL PASO NATURAL GAS |
| 8048581 | 16670 | 4248326141 | 108 | | LAYCOCK B #1 | PANHANDLE EAST-BROWN DOL | 10,5 | EL PASO NATURAL GAS |
| 8048582 | 16671 | 4248326142 | 108 | | LAYCOCK B #2 | PANHANDLE EAST BROWN DOL | 22,1 | EL PASO NATURAL GAS |
| 8048579 | 16668 | 4248320071 | 108 | | LAYCOCK 3-B | PANHANDLE EAST BROWN DOL | 24,7 | EL PASO NATURAL GAS |
| 8048583 | 16673 | 4208726158 | 108 | | MAGNOLIA #1 | PANHANDLE EAST BROWN DOL | 23,0 | EL PASO NATURAL GAS |
| 8048584 | 16674 | 4208726215 | 108 | | NICHOLSON F #1 | PANHANDLE EAST BROWN DOL | 8,6 | EL PASO NATURAL GAS |
| *ENSERCH EXPLORATION INC | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048315 | 07445 | 4218330389 | 103 | | HORTON-DICKSON NO 14 | WILLOW SPRINGS (COTTON V | 123,0 | WESTERN GAS CORP |
| *EXXON CORPORATION | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048559 | 16580 | 4226130429 | 103 | | MRS S K EAST 94-D (83025) | RITA (9-8 II) | 800,0 | NAT GAS P L CO OF AM |
| *FISHER-WEBB INC | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048380 | 12216 | 4244100000 | 103 | | D STOCKTON NO 1 | LAKE ABILENE (4000) | 250,0 | MATRIX LAND CO |
| 8048381 | 12218 | 4236332015 | 103 | | TURNER NO 1 | LONE CAMP (STRAWN) | 150,0 | BRAZOS FUEL CO |
| *FORTUNE DRILLING COMPANY INC | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048514 | 16378 | 4223531355 | 103 | | MURPHY 1149 #1 | CAL (CANYON) | 18,2 | NORTHERN NATURAL GAS |
| *GETTY OIL COMPANY | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048455 | 15720 | 4243330933 | 103 | | FLOWERS CANYON SAND UNIT #167 | FLOWERS (CANYON SAND) | 2,0 | CITIES SERVICE CO |
| 8048456 | 15721 | 4210300000 | 103 | | NORTH MCELROY UNIT WELL NO 3238 | MCELROY | 20,0 | PHILLIPS PETROLEUM C |
| *GOLDSTON OIL CORPORATION | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048516 | 16391 | 4223931410 | 103 | | BERTHA DELL MCDOWELL UNIT NO 4 | GABRYSCH (6300) | 73,0 | UNITED GAS PIPE LINE |
| *GRACE PETROLEUM CORPORATION | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048316 | 07593 | 4224903763 | 103 | | STELZIG-ZWERNEMAN #7 | AMARGOSA | 50,0 | NATURAL GAS PIPELINE |
| *GULF OIL CORPORATION | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048431 | 14906 | 4250530597 | 103 | | FERNANDO CUELLAR ESTATE WELL NO 3 | UREBENO (LUBO) | 20,0 | TENNESSEE GAS PIPELI |
| 8048448 | 15476 | 4213500000 | 108 | | GOLDSMITH SAN ANDRES UNIT NO 8012 | GOLDSMITH | 2,8 | PHILLIPS PETROLEUM C |
| 8048447 | 15475 | 4213500000 | 108 | | GOLDSMITH SAN ANDRES UNIT NO 1333 | GOLDSMITH | 12,1 | PHILLIPS PETROLEUM C |
| 8048491 | 10146 | 4249531062 | 103 | | KEYSTONE CATTLE COMPANY WELL #347 | KEYSTONE (COLBY) | 278,0 | CABOT CORP |
| 8048459 | | 4237132828 | 103 | | L BOWMAN ET AL NO 1 | U S M (QUEEN) | 35,0 | NORTHERN NATURAL GAS |
| *M V RISIEN | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048314 | 07423 | 4220130899 | 108 | | C G HOOKS ET AL NO 17 | HOOKS (SHALLOW) | 3,0 | TRUNKLINE GAS CO |
| *HENRY PETROLEUM CORP | | | | | RECEIVED: 07/22/80 JA: TX | | | |

| JD NO | JA DKT | API NO | SEC | D | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|---|
| 8048517 | 16393 | 4207930954 | 103 | | HICKMAN #1 | LEVELLAND | 21,0 | AMOCO PRODUCTION CO |
| *HNG OIL COMPANY | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048518 | 16394 | 4243530164 | 108 | | ALICE JONES 3 #1 55522 | SAWYER (CANYON) | 11,0 | INTRATEX GAS CO |
| 8048550 | 16550 | 4243531463 | 108 | | ASKEW 46 #1 72878 | SAWYER (CANYON) | 16,0 | INTRATEX GAS CO |
| 8048433 | 15070 | 4243531455 | 103 | | BROWN 78 #1 72536 | SAWYER (CANYON) | 132,0 | INTRATEX GAS CO |
| 8048434 | 15072 | 4243531962 | 103 | | BROWN 78 #3 74616 | SAWYER (CANYON) | 7,0 | INTRATEX GAS CO |
| 8048519 | 16395 | 4243530148 | 108 | | BYRD 7 #1 52980 | SAWYER (CANYON) | 5,0 | INTRATEX GAS CO |
| 8048435 | 15074 | 4243531994 | 103 | | FAWCETT 130 #3 75055 | SAWYER (CANYON) | 336,0 | INTRATEX GAS CO |
| 8048473 | 15878 | 4243532153 | 103 | | FIELDS 20 #4 83639 | SAWYER (CANYON) | 403,0 | INTRATEX GAS CO |
| 8048551 | 16551 | 4243530975 | 108 | | FIELDS 23 #2 73870 | SAWYER (CANYON) | 5,0 | INTRATEX GAS CO |
| 8048552 | 16552 | 4243531372 | 108 | | FIELDS 49 #2 72537 | SAWYER (CANYON) | 19,0 | INTRATEX GAS CO |
| 8048554 | 16554 | 4243130139 | 108 | | FOSTER 4 #1 61164 | CREDO E (CISCO UPPER) | 14,0 | INTRATEX GAS CO |
| 8048436 | 15078 | 4243532105 | 103 | | GALBREATH 67 #2 80965 | SAWYER (CANYON) | 39,0 | INTRATEX GAS CO |
| 8048437 | 15079 | 4243532091 | 103 | | GALBREATH 67 #3 80336 | SAWYER (CANYON) | 68,0 | INTRATEX GAS CO |
| 8048438 | 15080 | 4243532093 | 103 | | GALBREATH 91 #2 80318 | SAWYER (CANYON) | 896,0 | INTRATEX GAS CO |
| 8048555 | 16555 | 4243531387 | 108 | | JOHNSON 62 #3 70566 | SAWYER (CANYON) | 4,0 | INTRATEX GAS CO |
| 8048520 | 16399 | 4243531226 | 108 | | JONES 187 #1 66401 | SAWYER (CANYON) | 3,0 | INTRATEX GAS CO |
| 8048556 | 16556 | 4243130576 | 108 | | MCENTIRE 5 #2 72566 | CREDO E (CISCO UPPER) | 7,0 | INTRATEX GAS CO |
| 8048521 | 16400 | 4241330326 | 108 | | MEADOR A #1 66582 | SAWYER (CANYON) | 11,0 | INTRATEX GAS CO |
| 8048557 | 16557 | 4241330328 | 108 | | MEADOR E #1 66751 | SAWYER (CANYON) | 19,0 | INTRATEX GAS CO |
| 8048474 | 15885 | 4243531971 | 103 | | SHANNON 52 #4 83439 | SAWYER (CANYON) | 424,0 | INTRATEX GAS CO |
| 8048449 | 15568 | 4243532087 | 108 | | SHURLEY 110 #3 80372 | SAWYER (CANYON) | 19,0 | INTRATEX GAS CO |
| 8048475 | 15886 | 4243532182 | 103 | | SIMMONS 73 #1 83529 | SAWYER (CANYON) | 617,0 | INTRATEX GAS CO |
| 8048476 | 15887 | 4243532179 | 103 | | VANDERSTUCKEN 34 #5 83029 | SAWYER (CANYON) | 293,0 | INTRATEX GAS CO |
| 8048558 | 16558 | 4243130605 | 108 | | WILKINSON 10 #2 74551 | CREDO E (CISCO UPPER) | 80,0 | INTRATEX GAS CO |
| 8048553 | 16553 | 4243130206 | 108 | | WILKINSON 13 #1 65158 | CREDO E (CISCO UPPER) | 14,0 | INTRATEX GAS CO |
| *INTEGRAL ENERGY CORP | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048424 | 14716 | 4232130912 | 102 | | STATE TRACT 303 WELL #3-L | OYSTER LAKE W (2900) | 91,2 | DOW CHEMICAL CO |
| *JOHN H HENDRIX CORP | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048445 | 15262 | 4216531493 | 103 | | NORTHEAST LOOP GAS UNIT NO 4 #1 | NORTHEAST LOOP (YATES) | 36,0 | NORTHERN NATURAL GAS |
| *JOHN L COX | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048391 | 14590 | 4246131382 | 103 | | AMACKER B WELL NO 1 RRC #07760 | SPRABERRY (TREND AREA) | 10,0 | PHILLIPS PETROLEUM C |
| 8048392 | 14591 | 4246131400 | 103 | | AMACKER C WELL NO 1 RRC #07884 | SPRABERRY (TREND AREA) | 10,0 | PHILLIPS PETROLEUM C |
| 8048393 | 14592 | 4246131409 | 103 | | AMACKER 7 WELL NO 1 RRC #07867 | SPRABERRY (TREND AREA) | 12,0 | PHILLIPS PETROLEUM C |
| 8048394 | 14593 | 4246131410 | 103 | | ANDOVER WELL NO 1 RRC #07822 | SPRABERRY (TREND AREA) | 12,0 | PHILLIPS PETROLEUM C |
| 8048395 | 14595 | 4246131405 | 103 | | CARLETON B WELL NO 1 RRC #07812 | SPRABERRY (TREND AREA) | 10,0 | EL PASO NATURAL GAS |
| 8048396 | 14596 | 4246131421 | 103 | | CAROLYN WELL NO 1 RRC #07890 | SPRABERRY (TREND AREA) | 10,0 | PHILLIPS PETROLEUM C |
| 8048397 | 14598 | 4246131419 | 103 | | CLARA WELL NO 1 RRC #07848 | SPRABERRY (TREND AREA) | 10,0 | PHILLIPS PETROLEUM C |
| 8048398 | 14600 | 4246131394 | 103 | | COWDEN WELL NO 1 RRC #07869 | SPRABERRY (TREND AREA) | 10,0 | PHILLIPS PETROLEUM C |
| 8048399 | 14602 | 4246131416 | 103 | | FELMONT-MORGAN B NO 1 RRC 07871 | SPRABERRY (TREND AREA) | 12,0 | PHILLIPS PETROLEUM C |
| 8048406 | 14609 | 4246131364 | 103 | | FELMONT-OWENS B #3 RRC #07774 | SPRABERRY (TREND AREA) | 10,0 | PHILLIPS PETROLEUM C |
| 8048404 | 14607 | 4246131362 | 103 | | FELMONT-OWENS B WELL NO 1 RRC 07774 | SPRABERRY (TREND AREA) | 12,0 | PHILLIPS PETROLEUM C |
| 8048405 | 14608 | 4246131363 | 103 | | FELMONT-OWENS B NO 2 RRC #0774 | SPRABERRY (TREND AREA) | 12,0 | PHILLIPS PETROLEUM C |
| 8048407 | 14610 | 4246131365 | 103 | | FELMONT-OWENS B NO 4 RRC 0774 | SPRABERRY (TREND AREA) | 12,0 | PHILLIPS PETROLEUM C |
| 8048400 | 14603 | 4246131358 | 103 | | FELMONT-OWENS WELL NO 1 RRC #07803 | SPRABERRY (TREND AREA) | 10,0 | PHILLIPS PETROLEUM C |
| 8048401 | 14604 | 4246132359 | 103 | | FELMONT-OWENS WELL NO 2 RRC #07803 | SPRABERRY (TREND AREA) | 12,0 | PHILLIPS PETROLEUM C |
| 8048402 | 14605 | 4246131360 | 103 | | FELMONT-OWENS WELL NO 3 RRC #07803 | SPRABERRY (TREND AREA) | 12,0 | PHILLIPS PETROLEUM C |
| 8048403 | 14606 | 4246131361 | 103 | | FELMONT-OWENS WELL NO 4 RRC #07803 | SPRABERRY (TREND AREA) | 8,0 | PHILLIPS PETROLEUM C |
| 8048409 | 14612 | 4246131407 | 103 | | H F NEAL ESTATE NO 2 RRC #07736 | SPRABERRY | 10,0 | PHILLIPS PETROLEUM C |
| 8048408 | 14611 | 4246131368 | 103 | | H F NEAL ESTATE NO 1 RRC 07736 | SPRABERRY (TREND AREA) | 8,0 | PHILLIPS PETROLEUM C |
| 8048410 | 14613 | 4217330936 | 103 | | IRMA WRAGE WELL NO 1 RRC #25441 | SPRABERRY (TREND AREA) | 10,0 | EL PASO NATURAL GAS |
| 8048411 | 14614 | 4217330939 | 103 | | IRMA WRAGE WELL NO 2 RRC #25441 | SPRABERRY (TREND AREA) | 12,0 | EL PASO NATURAL GAS |
| 8048412 | 14616 | 4246131401 | 103 | | JTL WELL NO 1 RRC #07789 | SPRABERRY (TREND AREA) | 12,0 | PHILLIPS PETROLEUM C |

| JD NO | JA DKT | API NO | SEC | D | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|---|
| 8048413 | 14618 | 4246131391 | 103 | | LANGFORD 13 WELL NO 2 RRC #07575 | SPRABERRY (TREND AREA) | 10,0 | PHILLIPS PETROLEUM C |
| 8048414 | 14619 | 4246131402 | 103 | | LYNCH B WELL NO 1 RRC #07851 | SPRABERRY (TREND AREA) | 10,0 | PHILLIPS PETROLEUM C |
| 8048415 | 14620 | 4246131404 | 103 | | LYNCH C WELL NO 1 RRC #07854 | SPRABERRY (TREND AREA) | 10,0 | PHILLIPS PETROLEUM C |
| 8048416 | 14621 | 4246131355 | 103 | | MANN WELL NO 1 RRC #07819 | SPRABERRY (TREND AREA) | 10,0 | PHILLIPS PETROLEUM C |
| 8048417 | 14623 | 4246131354 | 103 | | NEAL HEIRS WELL NO 1 RRC #07773 | SPRABERRY (TREND AREA) | 10,0 | PHILLIPS PETROLEUM C |
| 8048418 | 14624 | 4246131418 | 103 | | NEAL 12 WELL NO 1 RRC #07916 | SPRABERRY (TREND AREA) | 10,0 | EL PASO NATURAL GAS |
| 8048419 | 14625 | 4246131392 | 103 | | NEAL 34 #1 RRC #07802 | SPRABERRY (TREND AREA) | 8,0 | EL PASO NATURAL GAS |
| 8048420 | 14626 | 4246131393 | 103 | | NEAL 35 WELL NO 1 RRC #07792 | SPRABERRY (TREND AREA) | 10,0 | EL PASO NATURAL GAS |
| 8048421 | 14627 | 4246131436 | 103 | | SABINE WELL NO 1 RRC #07921 | SPRABERRY (TREND AREA) | 8,0 | PHILLIPS PETROLEUM C |
| 8048422 | 14628 | 4246131434 | 103 | | TAYLOR 31 WELL NO 1 RRC #07908 | SPRABERRY (TREND AREA) | 8,0 | PHILLIPS PETROLEUM C |
| *JOHN Q MCCABE | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048565 | 16628 | 4241300000 | 108 | | DELONG #1 | VELREX SW (CANYON) | 5,5 | CRA INC |
| *JONES-O'BRIEN INCORPORATED | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048595 | 19002 | 4207330366 | 102 | | O STOCKTON #1 | PERCY WHEELER (TRAVIS PE | 9000,0 | UNITED GAS PIPE LINE |
| *KARL WEMMEYER & ASSOCIATES,LTD | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048366 | 10952 | 4229700000 | 102 | | NO 3 JOSEPHINE MCCLELLAND | SUNRISE (QUEEN CITY) | 180,0 | |
| *KELLY BELL | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048371 | 11594 | 4221530895 | 102 | | NO 1 CANO UNIT | CANO - MEXICO (7630) | 0,0 | INTRASTATE GATHERING |
| *KEY PRODUCTION CO INC | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048444 | 15206 | 4220330609 | 103 | | W H SMELLEY SR ID #83237 | ALPINE (TRAVIS PEAK) | 0,0 | ARKANSAS LOUISIANA G |
| *KILROY COMPANY OF TEXAS INC | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048388 | 14354 | 4220130884 | 102 | | MARIE WISE NO 1-L | SOUTH BATSUMA (7300) | 73,0 | UNITED TEXAS TRANSMI |
| 8048387 | 14353 | 4220130884 | 102 | | MARIE WISE NO 1-U | S SOUTH BATSUMA (7150) | 365,0 | UNITED TEXAS TRANSMI |
| *KIMBALL PRODUCTION COMPANY | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048483 | 16095 | 4223300000 | 108 | | J A WHITTENBURG NO 1 | PANHANDLE | 1,5 | GETTY OIL CO |
| 8048484 | 16096 | 4223300000 | 108 | | J A WHITTENBURG NO 2 | PANHANDLE | 1,5 | GETTY OIL CO |
| 8048485 | 16097 | 4223300000 | 108 | | J A WHITTENBURG NO 4 | PANHANDLE | 1,5 | GETTY OIL CO |
| 8048486 | 16098 | 4223300000 | 108 | | J A WHITTENBURG NO 5 | PANHANDLE | 1,5 | GETTY OIL CO |
| 8048487 | 16099 | 4223300000 | 108 | | J A WHITTENBURG NO 6 | PANHANDLE | 1,5 | GETTY OIL CO |
| 8048488 | 16100 | 4223300000 | 108 | | J A WHITTENBURG NO 7 | PANHANDLE | 1,5 | GETTY OIL CO |
| 8048489 | 16101 | 4223300000 | 108 | | J A WHITTENBURG NO 8 | PANHANDLE | 1,5 | GETTY OIL CO |
| 8048533 | 16512 | 4223300000 | 108 | | SMITH SEC 10 NO 2 | PANHANDLE | 3,5 | PHILLIPS PETROLEUM C |
| 8048534 | 16513 | 4223300000 | 108 | | SMITH SEC 10 NO 3 | PANHANDLE | 3,5 | PHILLIPS PETROLEUM C |
| 8048535 | 16515 | 4223300000 | 108 | | SMITH SEC 10 NO 6 | PANHANDLE | 3,5 | PHILLIPS PETROLEUM C |
| *L JACK GROSS PRODUCTION | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048439 | 15095 | 4206900000 | 108 | | BURNETT G-3 | PANHANDLE (CARSON) | 11,0 | PHILLIPS PETROLEUM C |
| *MALLARD EXPLORATION INC | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048458 | 15782 | 4210332055 | 103 | | J B TUBB STATE NO 9 | SAND HILLS (MCKNIGHT) | 370,0 | WARREN PETROLEUM CO |
| *MCMORAN EXPLORATION CO | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048367 | 10988 | 4235531297 | 102 | | STATE TRACT 349 WELL NO 2-L | RED FISH BAY (ZONE 23) ( | 125,0 | UNITED GAS PIPELINE |
| *NEWBOURNE OIL COMPANY | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048536 | 16521 | 4229530663 | 103 | | FRASS 68 ID #84470 | FRASS (TONKAWA) | 0,0 | TRANSWESTERN PIPELIN |
| 8048480 | 16052 | 4229530671 | 103 | | GENEVIEVE NOWLIN UNIT WELL #1 | S W LIPSCOMB (CLEVELAND) | 19,0 | NORTHERN NATURAL GAS |
| 8048457 | 15753 | 4235730891 | 103 | | POPE #1 ID #83071 | HANSFORD (UPPER MORROW) | 180,0 | TRANSWESTERN PIPE LI |
| *NGP OIL CORP | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048501 | 16162 | 4222731904 | 103 | | COLEMAN NO 1 | ACKERLY (DEAN SAND) | 13,1 | |
| 8048502 | 016163 | 4231732077 | 103 | | COX WELL NO 1 | SULPHUR DRAW (DEAN 8790) | 16,2 | PHILLIPS PETROLEUM C |
| *MICHAELSON PRODUCING CO | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048525 | 16477 | 4210532256 | 103 | | UNIVERSITY 9 #4 | FARMER (SAN ANDRES) | 6,0 | BIG LAKE GAS CORP |
| 8048526 | 16478 | 4210532297 | 103 | | UNIVERSITY 9 #5 | FARMER (SAN ANDRES) | 6,0 | BIG LAKE GAS CORP |
| *MITCHELL ENERGY CORPORATION | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048268 | 05067 | 4249730174 | 108 | | C L GAGE #3 | BOONSVILLE BEND CONGLOME | 5,6 | NATURAL GAS PIPELINE |

| JD NO | JA DKT | API NO | SEC | D | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|---|
| 8048425 | 14841 | 4249731450 | 103 | | DEAVER (CADDO CONGL) #2-2 19402 | ALVORD (CADDO CONGL) | 21,0 | NATURAL GAS PIPELINE |
| 8048426 | 14842 | 4249731471 | 103 | | DEAVER (CADDO CONGL) #5-9 19402 | ALVORD (CADDO CONGL) | 19,0 | NATURAL GAS PIPELINE |
| 8048249 | 04062 | 4223731272 | 108 | | L A WORTHINGTON #22 18306 | KEN-RICH (CONG) | 11,1 | NATURAL GAS PIPELINE |
| 8048478 | 15939 | 4237330210 | 103 | | PARISH ETAL #1 72459 | WORTENSE (WOODBINE) | 35,0 | HOUSTON PIPELINE CO |
| 8048460 | 15928 | 4223732632 | 103 | | Z H BORDEN #3 | GILLEY WEST (ATOKA CONGL | 80,0 | CITIES SERVICE GAS C |
| *MOBIL OIL CORP | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048513 | 16308 | 4232700000 | 108 | | ROY PARKS NO 10 | PARKS PENNSYLVANIAN | 4,3 | MOBIL OIL CORP ET AL |
| *MONSANTO COMPANY | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048273 | 02791 | 4207930968 | 103 | | CALVIN #34-1 #62291 | LEVELLAND | 8,4 | CITIES SERVICE CO |
| 8048272 | 02792 | 4207930955 | 103 | | CALVIN #40-1 #62291 | LEVELLAND | 10,0 | CITIES SERVICE CO |
| 8048275 | 02789 | 4207930962 | 103 | | CALVIN #40-2 #62291 | LEVELLAND | 9,1 | CITIES SERVICE CO |
| 8048274 | 02790 | 4207930967 | 103 | | CALVIN #40-3 #62291 | LEVELLAND | 4,6 | CITIES SERVICE GAS C |
| 8048276 | 02788 | 4207931011 | 103 | | CALVIN #40-5 #62291 | LEVELLAND | 6,3 | CITIES SERVICE GAS C |
| 8048539 | 16524 | 4207931088 | 103 | | CALVIN NO 39-11 | LEVELLAND | 4,9 | CITIES SERVICE GAS C |
| 8048542 | 16527 | 4207931081 | 103 | | CALVIN NO 39-12 | LEVELLAND | 10,8 | CITIES SERVICE GAS C |
| 8048543 | 16528 | 4207931064 | 103 | | CALVIN NO 39-2 | LEVELLAND | 9,4 | CITIES SERVICE GAS C |
| 8048541 | 16526 | 4207931065 | 103 | | CALVIN NO 39-6 | LEVELLAND | 2,9 | CITIES SERVICE GAS C |
| 8048540 | 16525 | 4207931045 | 103 | | CALVIN NO 39-7 | LEVELLAND | 5,1 | CITIES SERVICE GAS C |
| 8048537 | 16522 | 4207931062 | 103 | | CALVIN NO 40-15 | LEVELLAND FIELD | 8,7 | CITIES SERVICE GAS C |
| 8048538 | 16523 | 4207931082 | 103 | | CALVIN NO 40-16 | LEVELLAND FIELD | 5,5 | CITIES SERVICE CO |
| *MOORE MCCORMACK OIL & GAS CORP | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048593 | 16776 | 4221530821 | 102 | | SAL DEL REY 1-B-T | CONNIE (8300) | 838,0 | NATURAL GAS PIPELINE |
| *MORMAC OIL & GAS CO | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048368 | 10999 | 4240931290 | 102 | | J J WELDER NO 1-T | PAPALOTE WEST (8100) | 300,0 | TRANSCONTINENTAL GAS |
| *NEIL K SHAW | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048566 | 16630 | 4204900000 | 108 | | H E WILSON #1 | BROWN COUNTY REGULAR | 8,2 | LONE STAR GAS COMPAN |
| 8048567 | 16631 | 4204900000 | 108 | | H E WILSON B #1 | BROWN COUNTY REGULAR | 6,6 | LONE STAR GAS CO |
| *PANTHER OIL CO | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048523 | 16418 | 4221932687 | 103 | | PANTHER C NO 10 | LEVELLAND (SAN ANDRES) | 9,7 | AMOCO PRODUCTION CO |
| 8048524 | 16419 | 4221932688 | 103 | | PANTHER C NO 11 | LEVELLAND (SAN ANDRES) | 9,7 | AMOCO PRODUCTION CO |
| 8048507 | 16235 | 4221931944 | 103 | | PANTHER C NO 3 | LEVELLAND (SAN ANDRES) | 9,7 | AMOCO PRODUCTION CO |
| 8048508 | 16236 | 4221931964 | 103 | | PANTHER C NO 4 | LEVELLAND (SAN ANDRES) | 9,7 | AMOCO PRODUCTION CO |
| 8048509 | 16237 | 4221931963 | 103 | | PANTHER C NO 5 | LEVELLAND (SAN ANDRES) | 9,7 | AMOCO PRODUCTION CO |
| 8048510 | 16238 | 4221932490 | 103 | | PANTHER C NO 7 | LEVELLAND (SAN ANDRES) | 9,7 | AMOCO PRODUCTION CO |
| 8048511 | 16239 | 4221932491 | 103 | | PANTHER C NO 8 | LEVELLAND (SAN ANDRES) | 9,7 | AMOCO PRODUCTION CO |
| 8048522 | 16417 | 4221932676 | 103 | | PANTHER C NO 9 | LEVELLAND (SAN ANDRES) | 9,7 | AMOCO PRODUCTION CO |
| *PAUL E CAMERON JR INC | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048378 | 12168 | 4220100000 | 102 | | GUY L JEANES #1 ID #75516 | MGM (COOK MOUNTAIN) | 36,0 | TEXAS UTILITIES FUEL |
| 8048379 | 12169 | 4220100000 | 102 | | ROY SEABURG #1 ID NO 75274 | MGM (COOK MOUNTAIN) | 38,0 | TEXAS UTILITIES FUEL |
| *PENNZOIL PRODUCING COMPANY | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048362 | 09326 | 4236530711 | 103 | | COLLINS UNIT NO 2 | CARTHAGE/COTTON VALLEY | 70,0 | UNITED GAS PIPE LINE |
| 8048266 | 05174 | 4236530576 | 102 | | HUDSON-JOHNSON UNIT NO 2-C | CARTHAGE/TRAVIS PEAK-MUD | 700,0 | UNITED GAS PIPE LINE |
| 8048267 | 05173 | 4236530589 | 102 | | TROSPER NO 1 C | BETHANY/TRAVIS PEAK/TROS | 700,0 | UNITED GAS PIPE LINE |
| *PHILLIPS PETROLEUM COMPANY | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048586 | 16713 | 4213520100 | 108 | | (21556) N PENNELL UNIT #183 | PENNELL | 0,8 | EL PASO NATURAL GAS |
| *8048560 | 16598 | 4223300000 | 108 | | BELLE NO 1 | PANHANDLE HUTCHINSON | 0,4 | EL PASO NATURAL GAS |
| 8048369 | 11037 | 4221131036 | 102 | | BOWERS E NO 2 | WASHITA CREEK (MORROW UP | 3300,0 | NATURAL GAS PIPELINE |
| *8048561 | 16599 | 4223300000 | 108 | | COCKRELL RANCH #40 | PANHANDLE HUTCHINSON | 1,4 | SKELLY |
| *8048585 | 16711 | 4200310353 | 108 | | EMBAR-B NO 34 (33073) | GOLDSMITH N (SA-CONS) | 22,0 | EL PASO NATURAL GAS |
| *8048562 | 16600 | 4223300000 | 108 | | HAILE W B NO 8A | PANHANDLE HUTCHINSON | 7,2 | SKELLY |
| 8048587 | 16723 | 4249530277 | 108 | | MCCABE NO 41 (21555) | HALLEY | 3,0 | EL PASO NATURAL GAS |
| 8048589 | 16728 | 4213505085 | 108 | | N PENNELL UNIT #107 (21556) | PENNELL | 8,7 | EL PASO NATURAL GAS |

| JD NO | JA DKT | API NO | SEC | D | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|---|
| 8048588 | 16727 | 4213520360 | 108 | | N PENWELL UNIT #19 (21556) | PENWELL | 1,5 | EL PASO NATURAL GAS |
| *8048563 | 16601 | 4223300000 | 108 | | NEIL J R NO 3 | PANHANDLE HUTCHINSON | 5,8 | EL PASO NATURAL GAS |
| 8048590 | 16731 | 4223330740 | 103 | | BNUM NO 16 | PANHANDLE HUTCHINSUN | 22,0 | EL PASO NATURAL GAS |
| *8048564 | 16602 | 4223300000 | 108 | | TURNER-KENT A NO 31 | PANHANDLE HUTCHINSON | 19,5 | GETTY |
| -POLK & PATTON INC | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048443 | 15164 | 4236731575 | 103 | | BLAIR-WOODY UNIT NO 1 | DICEY (CONGLOMERATE) | 100,0 | NATURAL GAS PIPELINE |
| 8048442 | 15163 | 4223732602 | 103 | | ETHEL BROWN A NO 1 | PERRIN SW (CONGL 4850) | 200,0 | SOUTHWESTERN GAS PIP |
| -POST PETROLEUM COMPANY INC | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048423 | 14686 | 4233306540 | 103 | | KIRK #86-A | SHIRLEY (TONKAWA) | 365,0 | NORTHERN NATURAL GAS |
| -ROLLUM CO | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048479 | 15941 | 4228531421 | 103 | | C E WILLIAMS NO 1-A | ESPERANZA (2750) | 100,0 | LOVACA GATHERING CO |
| -ROMINES AND WARNER | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048375 | 12017 | 4223300000 | 108 | | J A WHITTENBURG WELL NO 1 | PANHANDLE - HUTCHINSON C | 0,0 | PHILLIPS PETROLEUM C |
| 8048376 | 12018 | 4223300000 | 108 | | J A WHITTENBURG WELL NO 4 | PANHANDLE - HUTCHINSON C | 0,0 | PHILLIPS PETROLEUM C |
| 8048377 | 12019 | 4223300000 | 108 | | J A WHITTENBURG WELL NO 6 | PANHANDLE - HUTCHINSON C | 0,0 | PHILLIPS PETROLEUM C |
| 8048372 | 12013 | 4217900000 | 108 | | W C ARCHER WELL NO 1 | PANHANDLE GRAY COUNTY | 1,4 | GETTY OIL CO |
| 8048373 | 12014 | 4217900000 | 108 | | W C ARCHER WELL NO 2 | PANHANDLE GRAY COUNTY | 1,4 | GETTY OIL CO |
| 8048374 | 12015 | 4217900000 | 108 | | W C ARCHER WELL NO 3 | PANHANDLE GRAY COUNTY | 1,4 | GETTY OIL CO |
| -SAXON OIL COMPANY | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048568 | 16640 | 4249530392 | 103 | | M B HARD #5 | KEYSTONE (SAN ANDRES) | 8,3 | TRANSWESTERN PIPELIN |
| 8048569 | 16643 | 4238331365 | 103 | | TURNER A #2 | SPRABERRY (TREND AREA) | 15,0 | NORTHERN NATURAL GAS |
| 8048570 | 16648 | 4238331356 | 103 | | UNIVERSITY 10-9 #1 | SPRABERRY (TREND AREA) | 29,0 | NORTHERN NATURAL GAS |
| 8048571 | 16650 | 4238331359 | 103 | | UNIVERSITY 10-9 #4 | SPRABERRY (TREND AREA) | 24,0 | NORTHERN NATURAL GAS |
| -SHELL OIL CO | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048309 | 06967 | 4250131625 | 103 | | DENVER UNIT 5516 | MASSON | 853,0 | SHELL OIL CO |
| -SIMPSON-MANN OIL PRODUCERS | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048499 | 16155 | 4239931376 | 103 | | WEBB #1-136 | URBAN (MILES) | 90,0 | MID-PLAINS PIPELINE |
| -SUBURBAN PROPANE GAS CORP | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048515 | 16385 | 4223531369 | 103 | | BAKER S NO 1 | BAKER RANCH (CANYON) | 73,0 | NORTHERN NATURAL GAS |
| -SUN OIL COMPANY (DELAWARE) | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048504 | 16221 | 4245900000 | 108 | | SIDNEY P VICTORY NO 1 | EAST TEXAS | 0,3 | WARREN PETROLEUM CO |
| 8048505 | 16222 | 4218300000 | 108 | | SUE ST JOHN NO 1 | EAST TEXAS | 0,4 | WARREN PETROLEUM CO |
| 8048506 | 16223 | 4218300000 | 108 | | W D LACY NO 3 | EAST TEXAS | 0,4 | ATLANTIC RICHFIELD C |
| -TENNECO OIL COMPANY | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048265 | 05545 | 4238900000 | 108 | | CALDWELL NO 1 | OLDS (DELAWARE) | 3,1 | CONOCO INC |
| 8048313 | 07272 | 4237132520 | 103 | | HOLMES #32 | HILLARD | 1,4 | LARCO GAS CORP |
| 8048370 | 11178 | 4217930642 | 103 | | WORLEY 34A | PANHANDLE GRAY COUNTY | 36,0 | PHILLIPS PETROLEUM C |
| -TEXACO INC | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048596 | 19191 | 4203900000 | 102 | | A R RUCKS FEE WELL #2 | DANBURY SW | 0,0 | NATURAL GAS PIPELINE |
| 8048264 | 05936 | 4217900000 | 108 | | MCLARTY LESTER B #11 | PANHANDLE EAST | 19,0 | COLTEXO CORP |
| 8048363 | 09926 | 4246100000 | 108 | | UPTON M FEE #1 | SPRABERRY (TREND AREA) | 10,6 | EL PASO NATURAL GAS |
| -TEXAS OIL & GAS CORP | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048594 | 18793 | 4248131848 | 102 | | GANN A #2 | TWIN BASIN (FRIO 6550) P | 115,0 | UNITED GAS PIPELINE |
| 8048572 | 16657 | 4224931055 | 103 | | MINTEN B #1 | FALFURIAS (8050) | 60,0 | UNITED GAS PIPELINE |
| 8048500 | 016159 | 4228531281 | 102 | | STOVALL O WELL #1 | S W SPEAKS (YEGUA 9813) | 127,0 | TEXAS EASTERN TRANSM |
| 8048492 | 16124 | 4223500000 | 103 | | WINTERBOTHAM #1 | DOVE CREEK (CANYON D) | 900,0 | COLUMBIA GAS TRANSMI |
| 8048493 | 16125 | 4223500000 | 103 | | WINTERBOTHAM #2 | DOVE CREEK (CANYON D) | 375,0 | COLUMBIA GAS TRANSMI |
| 8048494 | 16126 | 4223500000 | 103 | | WINTERBOTHAM B #1 | DOVE CREEK (CANYON D) | 290,0 | COLUMBIA GAS TRANSMI |
| 8048495 | 16127 | 4223500000 | 103 | | WINTERBOTHAM C #1 | DOVE CREEK (CANYON D) | 310,0 | COLUMBIA GAS TRANSMI |
| 8048527 | 16480 | 4223500000 | 103 | | WINTERBOTHAM D #2 | DOVE CREEK (CANYON D) | 275,0 | NORTHERN NATURAL GAS |
| 8048573 | 16658 | 4208931045 | 103 | | YOUENS GAS UNIT WELL #2 | CECIL NOBLE (WOOTEN) | 35,0 | TENNESSEE GAS PIPELI |
| -TEXAS PACIFIC OIL COMPANY INC | | | | | RECEIVED: 07/22/80 JA: TX | | | |

| JD NO | JA DKT | API NO | SEC | D | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|---|
| 8048277 | 02040 | 4221932425 | 103 | | CENTRAL LEVELLAND UNIT NO 211-A | LEVELLAND | 3,3 | AMOCO PRODUCTION CO |
| 8048450 | 15680 | 4221932639 | 103 | | CENTRAL LEVELLAND UNIT WELL #219 | LEVELLAND | 32,2 | AMOCO PRODUCTION CO |
| 8048451 | 15681 | 4221932638 | 103 | | CENTRAL LEVELLAND UNIT WELL #220 | LEVELLAND | 1,8 | AMOCO PRODUCTION CO |
| 8048452 | 15682 | 4221932644 | 103 | | CENTRAL LEVELLAND UNIT WELL #221 | LEVELLAND | 2,6 | AMOCO PRODUCTION CO |
| 8048453 | 15683 | 4221932643 | 103 | | CENTRAL LEVELLAND UNIT WELL #222 | LEVELLAND | 1,5 | AMOCO PRODUCTION CO |
| 8048454 | 15684 | 4221932641 | 103 | | CENTRAL LEVELLAND UNIT WELL #224 | LEVELLAND | 3,7 | AMOCO PRODUCTION CO |
| 8048528 | 16481 | 4221932700 | 103 | | SOUTHEAST LEVELLAND UNIT NO 242 | LEVELLAND/SAN ANDRES | 0,7 | AMOCO PRODUCTION CO |
| 8048529 | 16482 | 4221932699 | 103 | | SOUTHEAST LEVELLAND UNIT NO 243 | LEVELLAND/SAN ANDRES | 10,7 | AMOCO PRODUCTION CO |
| 8048530 | 16483 | 4221932698 | 103 | | SOUTHEAST LEVELLAND UNIT NO 244 | LEVELLAND/SAN ANDRES | 16,3 | AMOCO PRODUCTION CO |
| -TEXLAN OIL CO INC | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048440 | 15150 | 4207300000 | 102 | | PARSONS R L #1 (RRC ID NO 80528) | PARSONS (RODESSA-HILL) | 180,0 | DELMI GAS PIPELINE C |
| -TOM KIDD OIL PROPERTIES | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048446 | 15370 | 4205900000 | 102 | | J W MCFARLANE A 3-24 RRC ID#82330 | TILTON (HOPE UPPER) FIEL | 260,0 | DELMI GAS PIPELINE C |
| -TRAVELERS OIL CO | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048262 | 06540 | 4223300000 | 108 | | BAMBINO #5 RRC #01181 | PANHANDLE-HUTCHINSON COU | 2,7 | PHILLIPS PETROLEUM C |
| 8048279 | 06570 | 4223300000 | 108 | | BULLWHEEL #2 RRC #02146 | PANHANDLE-HUTCHINSON COU | 3,7 | PHILLIPS PETROLEUM C |
| 8048278 | 06571 | 4223300000 | 108 | | BULLWHEEL #3 RRC #02146 | PANHANDLE-HUTCHINSON COU | 3,7 | PHILLIPS PETROLEUM C |
| 8048323 | 06572 | 4223300000 | 108 | | BULLWHEEL #4 RRC #02146 | PANHANDLE-HUTCHINSON COU | 3,7 | PHILLIPS PETROLEUM C |
| 8048324 | 06573 | 4223300000 | 108 | | BULLWHEEL #5 RRC #02146 | PANHANDLE-HUTCHINSON COU | 3,7 | PHILLIPS PETROLEUM C |
| 8048282 | 06567 | 4206500000 | 108 | | BURK #1 RRC #02475 | PANHANDLE-CARSON COUNTY | 6,7 | GETTY OIL CO |
| 8048281 | 06568 | 4206500000 | 108 | | BURK #2 RRC #02475 | PANHANDLE-CARSON COUNTY | 6,7 | GETTY OIL CO |
| 8048280 | 06569 | 4206500000 | 108 | | BURK #3 RRC #02475 | PANHANDLE-CARSON COUNTY | 6,7 | GETTY OIL CO |
| 8048328 | 06577 | 4223300000 | 108 | | BUSH #1 RRC #03060 | PANHANDLE-HUTCHINSON COU | 0,5 | PHILLIPS PETROLEUM C |
| 8048329 | 06579 | 4223300000 | 108 | | BUSH #4 RRC #03060 | PANHANDLE-HUTCHINSON COU | 0,5 | PHILLIPS PETROLEUM C |
| 8048259 | 06559 | 4223300000 | 108 | | DAVIS #2 RRC #03223 | PANHANDLE-HUTCHINSON COU | 1,5 | PHILLIPS PETROLEUM C |
| 8048299 | 06601 | 4223300000 | 108 | | GEORGE #1 RRC #01986 | PANHANDLE-HUTCHINSON COU | 3,3 | PHILLIPS PETROLEUM C |
| 8048300 | 06602 | 4223300000 | 108 | | GEORGE #3 RRC #01986 | PANHANDLE-HUTCHINSON COU | 3,3 | PHILLIPS PETROLEUM C |
| 8048301 | 06603 | 4223300000 | 108 | | GEORGE #4 RRC #01986 | PANHANDLE-HUTCHINSON COU | 3,3 | PHILLIPS PETROLEUM C |
| 8048306 | 06608 | 4206500000 | 108 | | HELMS #1 RRC #02001 | PANHANDLE-CARSON COUNTY | 12,5 | PHILLIPS PETROLEUM C |
| 8048307 | 06609 | 4206500000 | 108 | | HELMS #2 RRC #02001 | PANHANDLE-CARSON COUNTY | 12,5 | PHILLIPS PETROLEUM C |
| 8048308 | 06611 | 4206500000 | 108 | | HELMS #4 RRC #02001 | PANHANDLE-CARSON COUNTY | 12,5 | PHILLIPS PETROLEUM C |
| 8048283 | 06565 | 4223300000 | 108 | | HERRING #7 #01688 | PANHANDLE-HUTCHINSON COU | 0,9 | |
| 8048285 | 06563 | 4223300000 | 108 | | JAKE #1 RRC #02696 | PANHANDLE-HUTCHINSON COU | 3,2 | PHILLIPS PETROLEUM C |
| 8048284 | 06564 | 4223300000 | 108 | | JAKE #3 RRC #02696 | PANHANDLE-HUTCHINSON CO | 3,2 | PHILLIPS PETROLEUM C |
| 8048258 | 06560 | 4223300000 | 108 | | JOLLY #1 RRC #00994 | PANHANDLE-HUTCHINSON COU | 0,3 | PHILLIPS PETROLEUM C |
| 8048287 | 06561 | 4223300000 | 108 | | JOLLY #2 RRC #00994 | PANHANDLE-HUTCHINSON COU | 0,3 | PHILLIPS PETROLEUM C |
| 8048286 | 06562 | 4223300000 | 108 | | JOLLY #3 RRC #00994 | PANHANDLE-HUTCHINSON COU | 0,3 | PHILLIPS PETROLEUM C |
| 8048325 | 06574 | 4223300000 | 108 | | NEIL #1 RRC #00926 | PANHANDLE-HUTCHINSON CO | 2,0 | PHILLIPS PETROLEUM C |
| 8048326 | 06575 | 4223300000 | 108 | | NEIL #2 RRC #00926 | PANHANDLE-HUTCHINSON COU | 2,0 | PHILLIPS PETROLEUM C |
| 8048327 | 06576 | 4223300000 | 108 | | NEIL #3 RRC #00926 | PANHANDLE-HUTCHINSON COU | 2,0 | PHILLIPS PETROLEUM C |
| 8048335 | 06588 | 4223300000 | 108 | | NOBLE #2 RRC #00995 | PANHANDLE-HUTCHINSON COU | 1,3 | PHILLIPS PETROLEUM C |
| 8048336 | 06590 | 4223300000 | 108 | | NOBLE #4 RRC #00995 | PANHANDLE-HUTCHINSON COU | 1,3 | PHILLIPS PETROLEUM C |
| 8048337 | 06591 | 4223300000 | 108 | | NOBLE #5 RRC #00995 | PANHANDLE-HUTCHINSON COU | 1,3 | PHILLIPS PETROLEUM C |
| 8048338 | 06592 | 4223300000 | 108 | | OATES #1 RRC #00981 | PANHANDLE-HUTCHINSON COU | 0,7 | PHILLIPS PETROLEUM C |
| 8048293 | 06595 | 4223300000 | 108 | | OATES #11 RRC #00981 | PANHANDLE-HUTCHINSON COU | 0,7 | PHILLIPS PETROLEUM C |
| 8048294 | 06596 | 4223300000 | 108 | | OATES #12 RRC #00981 | PANHANDLE-HUTCHINSON COU | 0,7 | PHILLIPS PETROLEUM C |
| 8048295 | 06597 | 4223300000 | 108 | | OATES #16 RRC #00981 | PANHANDLE-HUTCHINSON COU | 0,7 | PHILLIPS PETROLEUM C |
| 8048296 | 06598 | 4223300000 | 108 | | OATES #17 RRC #00981 | PANHANDLE-HUTCHINSON COU | 0,7 | PHILLIPS PETROLEUM C |
| 8048297 | 06599 | 4223300000 | 108 | | OATES #18 RRC #00981 | PANHANDLE-HUTCHINSON COU | 0,7 | PHILLIPS PETROLEUM C |
| 8048298 | 06600 | 4223300000 | 108 | | OATES #19 RRC #00981 | PANHANDLE-HUTCHINSON COU | 0,7 | PHILLIPS PETROLEUM C |
| 8048339 | 06593 | 4223300000 | 108 | | OATES #4 RRC #00981 | PANHANDLE-HUTCHINSON COU | 0,7 | PHILLIPS PETROLEUM C |
| 8048292 | 06594 | 4223300000 | 108 | | OATES #6 RRC #00981 | PANHANDLE-HUTCHINSON COU | 0,7 | PHILLIPS PETROLEUM C |

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| JD NO | JA DKT | API NO | SEC | D | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|---|
| 8048333 | 06585 | 4223300000 | 108 | | SKIATEX #10 RRC #01017 | PANHANDLE-HUTCHINSON COU | 2,6 | PHILLIPS PETROLEUM C |
| 8048334 | 06586 | 4223300000 | 108 | | SKIATEX #11 RRC #01017 | PANHANDLE-HUTCHINSON COU | 2,6 | PHILLIPS PETROLEUM C |
| 8048330 | 06580 | 4223300000 | 108 | | SMITH #1 RRC #00723 | PANHANDLE-HUTCHINSON COU | 3,5 | PHILLIPS PETROLEUM C |
| 8048331 | 06581 | 4223300000 | 108 | | SMITH #2 RRC #00723 | PANHANDLE-HUTCHINSON COU | 3,5 | PHILLIPS PETROLEUM C |
| 8048332 | 06582 | 4223300000 | 108 | | SMITH #3 RRC #00723 | PANHANDLE-HUTCHINSON COU | 3,5 | PHILLIPS PETROLEUM C |
| 8048261 | 06591 | 4223300000 | 108 | | STEVENSON #1 RRC #01595 | PANHANDLE-HUTCHINSON COU | 7,1 | DIAMOND SHAMROCK COR |
| 8048302 | 06604 | 4223300000 | 108 | | SULLIVAN #1 RRC #01296 | PANHANDLE-HUTCHINSON COU | 2,8 | PHILLIPS PETROLEUM C |
| 8048303 | 06605 | 4223300000 | 108 | | SULLIVAN #2 RRC #01296 | PANHANDLE-HUTCHINSON COU | 2,8 | PHILLIPS PETROLEUM C |
| 8048304 | 06606 | 4223300000 | 108 | | SULLIVAN #3 RRC #01296 | PANHANDLE-HUTCHINSON COU | 2,8 | PHILLIPS PETROLEUM C |
| 8048305 | 06607 | 4223300000 | 108 | | SULLIVAN #4 RRC #01296 | PANHANDLE-HUTCHINSON COU | 2,8 | PHILLIPS PETROLEUM C |
| 8048260 | 06582 | 4223300000 | 108 | | TRACT #2 RRC #00952 | PANHANDLE-HUTCHINSON COU | 0,6 | |
| -UNION OIL COMPANY OF CALIF | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048271 | 03582 | 4237131756 | 107 | | MOORE UNIT #1 WELL #2 (76125) | GOMEZ (ELLENBURGER) | 2920,0 | EL PASO NATURAL GAS |
| -WALTER EXPLORATION INC | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048548 | 16537 | 4237132751 | 103 | | MCDONALD-STATE NO 1 | PUTNAM (WOLFCAMP) | 0,0 | TRANSWESTERN PIPELIN |
| -WARREN PETR CO A DIV OF GULF OIL CO | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048361 | 09208 | 4210331960 | 103 | | P J LEA ET AL #96 | LEA (SAN ANDRES) | 12,0 | EL PASO NATURAL GAS |
| -WES-TEX DRILLING COMPANY | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048545 | 16538 | 4203330917 | 103 | | BLAGRAVE NO 1 | ACKERLY (DEAN SAND) | 2,0 | GETTY OIL CO |
| -WORLD PRODUCERS INC | | | | | RECEIVED: 07/22/80 JA: TX | | | |
| 8048598 | 10564 | 4236731648 | 102 | | C M MCCULLOH #1 | MOBY DICK (CONGL) | 60,0 | NATURAL GAS PIPELINE |

OTHER PURCHASERS

| | |
|---|---|
| 8048531 | NORTHERN NATURAL GAS CO |
| 8048547 | NORTHERN NATURAL GAS CO |
| 8048548 | NORTHERN NATURAL GAS CO |
| 8048560 | PANHANDLE EASTERN PL CO |
| 8048561 | GETTY OIL CO |
| 8048562 | GETTY OIL CO |
| 8048563 | PANHANDLE EASTERN PL CO |
| 8048564 | NORTHERN NAT GAS CO |
| 8048585 | PANHANDLE EASTERN PIPELINE CO |

BILLING CODE 6450-85-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf).

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.203 and 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.204, file a protest with the Commission on or before September 9, 1980.

Please reference the FERC Control Number (JD NO) in all correspondence related to these determinations.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-25883 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

**Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978**

Issued: August 18, 1980.

| JD NO | JA DKT | API NO | SEC | D | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|---|
| NEW MEXICO DEPARTMENT OF ENERGY & MINERALS | | | | | | | | |
| *AMERADA HESS CORPORATION | | RECEIVED: 07/24/80 | JA: NM | | | | | |
| 8048691 | | 3002510420 | 108 | | E WOOD #8 | EUNICE | 19,0 | NORTHERN NATURAL GAS |
| 8048692 | | 3002503382 | 108 | | STATE NE F 1 | EUMONT | 2,9 | PHILLIPS PETROLEUM C |
| *AMOCO PRODUCTION CO | | RECEIVED: 07/24/80 | JA: NM | | | | | |
| 8048684 | | 3004521147 | 108 | | CANDELARIA GAS COM #1 (2ND FILING) | AZTEC = PICTURED CLIFFS | 19,0 | EL PASO NATURAL GAS |
| 8048683 | | 3004521079 | 108 | | NYE GAS COM C #1 (2ND FILING) | BLANCO = PICTURED CLIFFS | 18,0 | EL PASO NATURAL GAS |
| 8048685 | | 3004508776 | 108 | | STATE GAS COM BG #1 (2ND FILING) | BLANCO = MESA VERDE | 19,0 | EL PASO NATURAL GAS |
| *BLACKWOOD & NICHOLS CO LTD | | RECEIVED: 07/24/80 | JA: NM | | | | | |
| 8048682 | | 3004501047 | 108 | | NORTHEAST BLANCO UNIT WELL NO 2-20 | BLANCO MESAVERDE SW 20-3 | 20,0 | EL PASO NATURAL GAS |
| *EL PASO NATURAL GAS COMPANY | | RECEIVED: 07/24/80 | JA: NM | | | | | |
| 8048686 | | 3003920683 | 108 | | SAN JUAN 28-7 UNIT #171 PC & CH | SOUTH BLANCO-PICTURED CL | 14,0 | EL PASO NATURAL GAS |
| *J GREGORY MERRION&ROBERT L BAYLESS | | RECEIVED: 07/24/80 | JA: NM | | | | | |
| *8048687 | | 3003908089 | 108 | | ATLANTIC #1 | BLANCO PIC CLIFFS SOUTH/ | 18,0 | EL PASO NATURAL GAS |
| *MANANA GAS INC | | RECEIVED: 07/24/80 | JA: NM | | | | | |
| 8048693 | | 3004523015 | 108 | | CLARENCE #1 | BLOOMFIELD-FARMINGTON | 2,8 | EL PASO NATURAL GAS |
| *PHILLIPS PETROLEUM COMPANY | | RECEIVED: 07/24/80 | JA: NM | | | | | |
| 8048690 | | 3002526378 | 108 | | E VACUUM GB/SA UNIT TR 2720 NO 005 | VACUUM GB/SA | 2,0 | EL PASO NATURAL GAS |
| 8048699 | | 3002526383 | 103 | | E VACUUM GB/SA UNIT TR 2801 NO 006 | VACUUM GB/SA | 8,0 | EL PASO NATURAL GAS |
| 8048701 | | 3002526381 | 103 | | E VACUUM GB/SA UNIT TR 2913 NO 006 | VACUUM GB/SA | 2,0 | EL PASO NATURAL GAS |
| 8048700 | | 3002526380 | 103 | | E VACUUM GB/SA UNIT TR 2913 NO 008 | VACUUM GRAYBURG/SAN ANDR | 4,0 | EL PASO NATURAL GAS |
| 8048702 | | 3002526400 | 103 | | E VACUUM GB/SA UNIT TR 3202 NO 008 | VACUUM GRAYBURG/SAN ANDR | 54,0 | EL PASO NATURAL GAS |
| 8048703 | | 3002526394 | 103 | | VACUUM GB/SA UNIT TR 0524 NO 001 | VACUUM GRAYBURG/SAN ANDR | 38,0 | EL PASO NATURAL GAS |
| 8048705 | | 3002526379 | 103 | | VACUUM GB/SA UNIT TR 2738 NO 005 | VACUUM GB/SA | 1,0 | EL PASO NATURAL GAS |
| 8048694 | | 3002526518 | 103 | | VACUUM GB/SA UNIT TR 3202 NO 009 | VACUUM GB/SA | 46,0 | EL PASO NATURAL GAS |
| 8048696 | | 3002526389 | 103 | | VACUUM GB/SA UNIT TR 3315 NO 006 | VACUUM GB/SA | 3,0 | EL PASO NATURAL GAS |
| 8048697 | | 3002526520 | 103 | | VACUUM GB/SA UNIT TR 3328 NO 003 | VACUUM GB/SA | 2,0 | EL PASO NATURAL GAS |
| 8048704 | | 3002526401 | 103 | | VACUUM GB/SA UNIT TR 3332 NO 001 | VACUUM GRAYBURG/SAN ANDR | 24,0 | EL PASO NATURAL GAS |
| 8048698 | | 3002526402 | 103 | | VACUUM GB/SA UNIT TR 3374 NO 002 | VACUUM GB/SA | 11,0 | EL PASO NATURAL GAS |
| 8048695 | | 3002526525 | 103 | | VACUUM GB/SA UNIT TR 3456 NO 007 | VACUUM GRAYBURG/SAN ANDR | 10,0 | EL PASO NATURAL GAS |
| *READ & STEVENS INC | | RECEIVED: 07/24/80 | JA: NM | | | | | |
| 8048689 | | 3000560371 | 108 | | LUCKY LAKE NO 2 | LUCKY LAKE SOUTH-QUEEN | 2,0 | PHILLIPS PETROLEUM C |
| *TENNECO OIL COMPANY | | RECEIVED: 07/24/80 | JA: NM | | | | | |
| 8048688 | | 3004110615 | 108 | | BURGLAND #1 | CHAVEROO SAN ANDRES | 3,8 | CITIES SERVICE OIL C |
| WEST VIRGINIA DEPARTMENT OF MINES | | | | | | | | |
| *BETA DRILLING FUND 79 LTD | | RECEIVED: 07/25/80 | JA: WV | | | | | |
| 8048757 | | 4708524444 | 103 | | HARRY MOATS M-881 | GRANT DISTRICT | 18,0 | CONSOLIDATED GAS SUP |
| 8048765 | | 4708524486 | 103 | | NELLIE BRADEN M-875 | MURPHY DISTRICT | 18,0 | CONSOLIDATED GAS SUP |
| *CONSOLIDATED GAS SUPPLY CORPORATION | | RECEIVED: 07/25/80 | JA: WV | | | | | |

| JD NO | JA DKT | API NO | SEC | D | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|---|
| 8048724 | | 4703300738 | 108 | | A S STOUT 11691 | WEST VIRGINIA OTHER A837 | 6,0 | GENERAL SYSTEM PURCH |
| 8048726 | | 4709701566 | 108 | | B C RADABAUGH 11808 | W VA OTHER A83772 | 13,0 | GENERAL SYSTEM PURCH |
| 8048708 | | 4703301967 | 103 | | C W ROBINSON 12589 | WEST VIRGINIA OTHER 1258 | 30,0 | GENERAL SYSTEM PURCH |
| 8048706 | | 4700501249 | 103 | | CHARLESTON NAT BANK 12349 | PINEVILLE FIELD AREA A59 | 83,0 | GENERAL SYSTEM PURCH |
| 8048721 | | 4700501087 | 108 | | CHARLESTON NATIONAL BANK 12522 | PINEVILLE FIELD AREA A59 | 3,0 | GENERAL SYSTEM PURCH |
| 8048707 | | 4701900413 | 103 | | CHARLESTON NATIONAL BANK 12617 | WEST VIRGINIA OTHER A857 | 45,0 | GENERAL SYSTEM PURCH |
| 8048720 | | 4700100966 | 108 | | CLARENCE PUE 12517 | WEST VIRGINIA OTHER A837 | 7,0 | GENERAL SYSTEM PURCH |
| 8048748 | | 4704700812 | 103 | | CONSOLIDATED COAL CO 12611 | PINEVILLE A59442 | 40,0 | GENERAL SYSTEM PURCH |
| 8048747 | | 4704700805 | 103 | | CONSOLIDATED COAL CO 12612 | PINEVILLE A59442 | 45,0 | GENERAL SYSTEM PURCH |
| 8048746 | | 4704700801 | 103 | | CONSOLIDATED COAL CO 12614 | PINEVILLE FIELD AREA A59 | 41,0 | GENERAL SYSTEM PURCH |
| 8048719 | | 4700100727 | 108 | | DELLETT CROSTON 12007 | WEST VIRGINIA OTHER A837 | 3,0 | GENERAL SYSTEM PURCH |
| 8048717 | | 4700100678 | 108 | | DORA B ANDRICK 11845 | WEST VIRGINIA OTHER A837 | 7,0 | GENERAL SYSTEM PURCH |
| 8048713 | | 4703302159 | 103 | | DORA E MCWHORTER 12608 | WEST VIRGINIA OTHER A857 | 25,0 | GENERAL SYSTEM PURCH |
| 8048727 | | 4710900743 | 108 | | EUGENE M COOK 11789 | PINEVILLE FIELD AREA A59 | 12,0 | GENERAL SYSTEM PURCH |
| 8048716 | | 4704700608 | 108 | | GLADYS B COOKE 11575 | PINEVILLE FIELD AREA A59 | 17,0 | GENERAL SYSTEM PURCH |
| 8048710 | | 4703302055 | 103 | | GUINN-MINTER 12591 | WEST VIRGINIA OTHER A857 | 23,0 | GENERAL SYSTEM PURCH |
| 8048736 | | 4703300854 | 108 | | HIRAM EDMONDS 11831 | W VA OTHER A83772 | 5,0 | GENERAL SYSTEM PURCH |
| 8048714 | | 4704102148 | 103 | | I B SNYDER 12311 | W VA OTHER A83772 | 27,0 | GENERAL SYSTEM PURCH |
| 8048751 | | 4709500669 | 103 | | J VICTOR AYERS 12563 | WEST VIRGINIA OTHER A857 | 23,0 | GENERAL SYSTEM PURCH |
| 8048738 | | 4704101968 | 108 | | JIM GILLOOLY 11747 | W VA OTHER A83772 | 16,0 | GENERAL SYSTEM PURCH |
| 8048723 | | 4701302522 | 108 | | LOUIS BENNETT 11739 | W VA OTHER A83772 | 18,0 | GENERAL SYSTEM PURCH |
| 8048734 | | 4703300832 | 108 | | MAE GASTON 11826 | W VA OTHER A83772 | 16,0 | GENERAL SYSTEM PURCH |
| 8048739 | | 4704102164 | 108 | | MARY C BURNSIDE 12488 | W VA OTHER A83772 | 11,0 | GENERAL SYSTEM PURCH |
| 8048749 | | 4707700189 | 103 | | MILES L COBUN 12459 | GREER-GLADESVILLE 290235 | 150,0 | GENERAL SYSTEM PURCH |
| 8048712 | | 4703302157 | 103 | | NORA E DAVISSON 12607 | WEST VIRGINIA OTHER A857 | 25,0 | GENERAL SYSTEM PURCH |
| 8048750 | | 4707700200 | 103 | | PAULINE F SMITH 12609 | GREER-GLADESVILLE 290235 | 35,0 | GENERAL SYSTEM PURCH |
| 8048715 | | 4704700773 | 103 | | POCAHONTAS LAND CORP 12587 | PINEVILLE FIELD AREA A59 | 30,0 | GENERAL SYSTEM PURCH |
| 8048725 | | 4706700305 | 108 | | ROBERT M BELL 11620 | WEST VIRGINIA OTHER A837 | 7,0 | GENERAL SYSTEM PURCH |
| 8048718 | | 4700100681 | 108 | | RUTH M DAYTON 11798 | WEST VIRGINIA OTHER A837 | 21,0 | GENERAL SYSTEM PURCH |
| 8048735 | | 4703300835 | 108 | | VANCE WARD 11833 | W VA OTHER A83772 | 17,0 | GENERAL SYSTEM PURCH |
| 8048737 | | 4704101909 | 108 | | W B LAWSON 11619 | WEST VIRGINIA OTHER A837 | 3,0 | GENERAL SYSTEM PURCH |
| 8048709 | | 4703302054 | 103 | | W J LAM 12590 | WEST VIRGINIA OTHER A857 | 23,0 | GENERAL SYSTEM PURCH |
| 8048711 | | 4703302086 | 103 | | WILLIAM L HORNOR 12592 | WEST VIRGINIA OTHER A857 | 23,0 | GENERAL SYSTEM PURCH |
| 8048722 | | 4703300708 | 108 | | WIRT M POST 11581 | WEST VIRGINIA OTHER A837 | 19,6 | GENERAL SYSTEM PURCH |
| *E & C GAS CO | | | | | RECEIVED: 07/28/80 JA: MV | | | |
| 8048728 | | 4703300034 | 108 | | EC-2 | SARDIS DISTRICT | 8,0 | EAGLE GAS CO |
| *EAGLE GAS CO | | | | | RECEIVED: 07/28/80 JA: MV | | | |
| 8048731 | | 4703320135 | 108 | | C P HOOD WELL NO 71 | COAL DISTRICT | 4,0 | LUMBERPORT-SHINNSTON |
| 8048732 | | 4703320097 | 108 | | OKEY LYON | EAGLE DISTRICT | 12,0 | LUMBERPORT-SHINNSTON |
| 8048729 | | 4703320082 | 108 | | T J LYON WELL NO (60) #1 | EAGLE DISTRICT | 10,0 | LUMBERPORT-SHINNSTON |
| 8048733 | | 4703320078 | 108 | | VIRGINIA R MARTIN WELL NO (59) #1 | EAGLE DISTRICT | 8,0 | LUMBERPORT-SHINNSTON |
| *GAMMA DRILLING FUND 79 LTD | | | | | RECEIVED: 07/25/80 JA: MV | | | |
| 8048761 | | 4708524472 | 103 | | LUCY L SIX H-901 | GRANT | 18,0 | CONSOLIDATED GAS SUP |
| 8048762 | | 4708524473 | 103 | | LUCY L SIX H-902 | GRANT | 18,0 | CONSOLIDATED GAS SUP |
| 8048763 | | 4708524480 | 103 | | RALPH SIX H-905 | GRANT | 18,0 | CONSOLIDATED GAS SUP |
| 8048764 | | 4708524481 | 103 | | RALPH SIX H-907 | GRANT | 18,0 | CONSOLIDATED GAS SUP |
| *GLENN L HAUGHT & SONS | | | | | RECEIVED: 07/25/80 JA: MV | | | |
| 8048752 | | 4708524218 | 103 | | A J LAYFIELD H-686 | GRANT DISTRICT | 24,0 | CONSOLIDATED GAS SUP |
| 8048753 | | 4708524419 | 103 | | A J LAYFIELD H-687 | GRANT DISTRICT | 24,0 | CONSOLIDATED GAS SUP |
| 8048754 | | 4708524420 | 103 | | A J LAYFIELD H-688 | GRANT DISTRICT | 24,0 | CONSOLIDATED GAS SUP |
| 8048755 | | 4708524427 | 103 | | M MOATS H-706 | GRANT DISTRICT | 24,0 | CONSOLIDATED GAS SUP |
| 8048756 | | 4708524430 | 103 | | M MOATS H-709 | GRANT DISTRICT | 24,0 | CONSOLIDATED GAS SUP |

| JD NO | JA DKT | API NO | SEC | D | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|---|
| *JOHNSON PRODUCING CO | | | | | RECEIVED: 07/25/80 JA: WV | | | |
| 8048745 | | 4709702010 | 108 | | A M GOULD #1 | MEADE | 4,2 | EQUITABLE GAS CO |
| 8048743 | | 4709702004 | 108 | | B B MARTIN #1 | MEADE | 4,2 | EQUITABLE GAS CO |
| 8048778 | | 4702121752 | 108 | | E D FULTON #6 6A | GLENVILLE | 4,7 | EQUITABLE GAS CO |
| 8048742 | | 4709702003 | 108 | | G W SIMMONS #1 | MEADE | 0,4 | EQUITABLE GAS CO |
| 8048744 | | 4709702009 | 108 | | G W SIMMONS #2 | MEADE | 0,4 | EQUITABLE GAS CO |
| 8048779 | | 4702121756 | 108 | | HERRON #1 (ARBUCKLE) | GLENVILLE | 1,3 | EQUITABLE GAS CO |
| 8048741 | | 4704102561 | 108 | | J FINSTER #3 | COURTHOUSE | 1,8 | EQUITABLE GAS CO |
| 8048740 | | 4702102179 | 108 | | J W VANNOY #2 | DEKALB | 5,8 | EQUITABLE GAS CO |
| 8048777 | | 4702121725 | 108 | | J W WOLF #3 | GLENVILLE | 5,9 | EQUITABLE GAS CO |
| 8048776 | | 4702121201 | 108 | | P W BARTLETT #1 | DEKALB | 3,1 | EQUITABLE GAS CO |
| *MEGA DRILLING FUND 79-2 LTD | | | | | RECEIVED: 07/25/80 JA: WV | | | |
| 8048758 | | 4708524458 | 103 | | HAROLD GOFF M-888 | UNION DISTRICT | 18,0 | CONSOLIDATED GAS SUP |
| 8048759 | | 4708524459 | 103 | | HAROLD GOFF M-889 | UNION DISTRICT | 18,0 | CONSOLIDATED GAS SUP |
| 8048760 | | 4708524460 | 103 | | HAROLD GOFF M-890 | UNION DISTRICT | 18,0 | CONSOLIDATED GAS SUP |
| *PETROLEUM DEVELOPMENT CORP | | | | | RECEIVED: 07/25/80 JA: WV | | | |
| 8048771 | | 4704102160 | 108 | | A M HALL #1 | WESTON - JANE LEW | 0,0 | CONSOLIDATED GAS SUP |
| 8048772 | | 4704102161 | 108 | | A M HALL #2 | WESTON - JANE LEW | 0,0 | CONSOLIDATED GAS SUP |
| 8048768 | | 4703301214 | 108 | | ALDEN ROGERS #1 | BRIDGEPORT | 0,0 | CONSOLIDATED GAS SUP |
| 8048766 | | 4703301187 | 108 | | BERNARD CURK #2 | GLADE RUN | 0,0 | CONSOLIDATED GAS SUP |
| 8048773 | | 4704102167 | 108 | | D FORINASH #1 | WESTON - JANE LEW | 0,0 | CONSOLIDATED GAS SUP |
| 8048770 | | 4703301223 | 108 | | HAFER-COURTNEY #1 | BRIDGEPORT | 0,0 | CONSOLIDATED GAS SUP |
| 8048769 | | 4703301222 | 108 | | MARY L COSTILOW #1 | BRIDGEPORT | 0,0 | CONSOLIDATED GAS SUP |
| 8048774 | | 4704101700 | 108 | | N L JENKINS #1 | WESTON-JANE LEW | 18,0 | CONSOLIDATED GAS SUP |
| 8048767 | | 4703301199 | 108 | | V RAYMOND #1 | BRIDGEPORT | 0,0 | CONSOLIDATED GAS SUP |
| 8048775 | | 4709100140 | 108 | | WILLIAM SMITH #1 | PRUNTYTOWN | 0,0 | CONSOLIDATED GAS SUP |
| *V L MORNOR INVESTMENT CO | | | | | RECEIVED: 07/25/80 JA: WV | | | |
| 8048730 | | 4703320125 | 108 | | JACKSON BEESE WELL NO M-5 | CLAY DISTRICT | 6,0 | EAGLE GAS CO |
| ********** | | | | | | | | |
| ** U.S. GEOLOGICAL SURVEY - ALBUQUERQUE,NM | | | | | | | | |
| ********** | | | | | | | | |
| *SOUTHLAND ROYALTY CO | | | | | RECEIVED: 07/24/80 JA: CO 4 | | | |
| 8048663 | COA-0338-80 | 0506706374 | 103 | | RED MESA #1 | UNDESIGNATED | 50,0 | NORTHWEST PIPELINE C |
| *AMOCO PRODUCTION CO | | | | | RECEIVED: 07/24/80 JA: NM 4 | | | |
| 8048675 | NM-4884-79 | 3003906094 | 108 | | FRED PHILLIPS E #1 | TAPACITO - PICTURED CLIF | 21,0 | NORTHWEST PIPELINE C |
| 8048640 | NM-0370-80 | 3003922179 | 103 | | JICARILLA CONTRACT 146 WELL #10E | BASIN DAKOTA | 41,0 | NORTHWEST PIPELINE C |
| 8048611 | NM-0371-80 | 3003922174 | 103 | | JICARILLA CONTRACT 146 WELL #21E | BASIN DAKOTA | 122,0 | NORTHWEST PIPELINE C |
| 8048659 | NM-0448-80-A | 3002526354 | 103 | | SOUTH MATTIX UNIT #36 | FOWLER DRINKARD | 1,0 | EL PASO NATURAL GAS |
| *ARCO OIL AND GAS COMPANY | | | | | RECEIVED: 07/24/80 JA: NM 4 | | | |
| 8048670 | NM-0366-80 | 3003922252 | 103 | | JICARILLA #112 | W LINDRITH (GALLUP/DAKOT | 125,0 | EL PASO NATURAL GAS |
| *CONOCO INC | | | | | RECEIVED: 07/24/80 JA: NM 4 | | | |
| 8048627 | NM-0439-80 | 3002526486 | 103 | | BRITT B NO 26 | NMFU | 30,0 | WARREN PETROLEUM |
| 8048605 | NM-0431-80-B | 3002526540 | 103 | | BURGER B-20 NO 2 (BLINEBRY) | NMFU | 24,0 | WARREN PETROLEUM CO |
| 8048604 | NM-0431-A | 3002526540 | 103 | | BURGER B-20 NO 2 (TUBB) | NMFU | 79,0 | WARREN PETROLEUM CO |
| 8048628 | NM-0440-80 | 3002526565 | 103 | | LYNN A NO 6 | NMFU | 51,0 | EL PASO NATURAL GAS |
| 8048606 | NM-0432-80-A | 3002526511 | 103 | | WARREN UNIT NO 78(TUBB) | NMFU | 25,0 | WARREN PETROLEUM CO |
| 8048607 | NM-0432-80-B | 3002526510 | 103 | | WARREN UNIT NO 78(BLINE BRY) | NMFU | 4,0 | WARREN PETROLEUM CO |
| *EL PASO EXPLORATION CO | | | | | RECEIVED: 07/24/80 JA: NM 4 | | | |
| 8048614 | NM-0404-80 | 3003906063 | 108 | | JICARILLA 123 C #12 | SOUTH BLANCO-PICTURED CL | 18,0 | NORTHWEST PIPELINE C |
| *EL PASO NATURAL GAS COMPANY | | | | | RECEIVED: 07/24/80 JA: NM 4 | | | |
| 8048671 | NM-0397-80 | 3002500000 | 108 | | CARLSON FED #2 | JALMAT-YATES GAS | 20,0 | EL PASO NATURAL GAS |
| 8048613 | NM-0403-80 | 3004500000 | 108 | | CLEVELAND #5 | FULCHER KUTZ-PICTURED CL | 24,0 | EL PASO NATURAL GAS |

| JD NO | JA DKT | API NO | SEC | D | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|---|
| 8048651 | NM-0386-80 | 3004520812 | 108 | | DAY A #12 | BLANCO-PICTURED CLIFFS G | 20,0 | EL PASO NATURAL GAS |
| 8048681 | NM-0394-80 | 3004520494 | 108 | | FEUILLE #2 | BLANCO-PICTURED CLIFFS G | 23,0 | EL PASO NATURAL GAS |
| 8048620 | NM-0410-80 | 3004523720 | 103 | | HARDIE E #1A | BLANCO MESAVERDE | 130,0 | EL PASO NATURAL GAS |
| 8048680 | NM-0393-80 | 3004520988 | 108 | | HEATON #2B | BLANCO-PICTURED CLIFFS G | 21,0 | EL PASO NATURAL GAS |
| 8048622 | NM-0412-80 | 3004523713 | 103 | | HEATON #5A | BLANCO MESAVERDE | 110,0 | EL PASO NATURAL GAS |
| 8048655 | NM-0417-80 | 3004520531 | 108 | | HUERFANO UNIT #186 | BASIN-DAKOTA GAS | 15,0 | EL PASO NATURAL GAS |
| 8048656 | NM-0421-80 | 3004520764 | 108 | | HUERFANO UNIT #213 | BASIN-DAKOTA GAS | 16,0 | EL PASO NATURAL GAS |
| 8048642 | NM-0375-80 | 3004523709 | 103 | | KING #1A | BLANCO MESAVERDE | 100,0 | EL PASO NATURAL GAS |
| 8048673 | NM-0396-80 | 3003920255 | 108 | | KLEIN #1A | OTERO-CHACRA GAS | 24,0 | EL PASO NATURAL GAS |
| 8048677 | NM-0387-80 | 3003905206 | 108 | | LINDRITH UNIT #53 | SOUTH BLANCO-PICTURED CL | 18,0 | EL PASO NATURAL GAS |
| 8048648 | NM-0380-80 | 3004523842 | 103 | | MARSHALL #1E | BASIN DAKOTA | 70,0 | EL PASO NATURAL GAS |
| 8048647 | NM-0379-80 | 3004523844 | 103 | | MCADAMS #5E | BASIN DAKOTA | 80,0 | EL PASO NATURAL GAS |
| 8048650 | NM-0383-80 | 3003906802 | 108 | | RINCON UNIT #26 | SOUTH BLANCO-PICTURED CL | 18,0 | EL PASO NATURAL GAS |
| 8048649 | NM-0381-80 | 3003921973 | 103 | | RINCON UNIT #99A | BLANCO MESAVERDE | 220,0 | EL PASO NATURAL GAS |
| 8048678 | NM-0388-80 | 3003907002 | 108 | | RIPLEY #3 | BLANCO-MESAVERDE GAS | 18,0 | EL PASO NATURAL GAS |
| 8048654 | NM-0416-80 | 3003921045 | 108 | | SAN JUAN 27-4 UNIT #115 | TAPACITO-PICTURED CLIFFS | 18,0 | EL PASO NATURAL GAS |
| 8048629 | NM-0441-80 | 3003907171 | 108 | | SAN JUAN 27-4 UNIT #18 | BLANCO-MESAVERDE GAS | 11,0 | EL PASO NATURAL GAS |
| 8048630 | NM-0442-80 | 3003906888 | 108 | | SAN JUAN 27-5 UNIT #51 MV & PC | SOUTH BLANCO-PICTURED CL | 24,0 | EL PASO NATURAL GAS |
| 8048644 | NM-0420-80 | 3003906774 | 108 | | SAN JUAN 27-5 UNIT #93 | SOUTH BLANCO-PICTURED CL | 20,0 | EL PASO NATURAL GAS |
| 8048652 | NM-0414-80 | 3003907330 | 108 | | SAN JUAN 28-5 UNIT #1 | BLANCO-MESAVERDE GAS | 10,0 | EL PASO NATURAL GAS |
| 8048623 | NM-0413-80 | 3003907242 | 108 | | SAN JUAN 28-7 UNIT #108 | BLANCO-MESAVERDE GAS | 9,0 | EL PASO NATURAL GAS |
| 8048621 | NM-0411-80 | 3004523428 | 103 | | SAN JUAN 32-9 UNIT #9A | BLANCO MESAVERDE | 110,0 | EL PASO NATURAL GAS |
| 8048653 | NM-0415-80 | 3004511364 | 108 | | SAN JUAN 32-9 UNIT X #70 | BLANCO-MESAVERDE GAS | 20,0 | EL PASO NATURAL GAS |
| 8048679 | NM-0392-80 | 3004506406 | 108 | | SCHWERDTFEGER A #2 | SOUTH BLANCO-PICTURED CL | 20,0 | EL PASO NATURAL GAS |
| 8048645 | NM-0377-80 | 3004523986 | 103 | | SHARP #1A | BLANCO MESAVERDE | 180,0 | EL PASO NATURAL GAS |
| 8048646 | NM-0378-80 | 3004523815 | 103 | | SHARP #2A | BLANCO MESAVERDE | 180,0 | EL PASO NATURAL GAS |
| 8048672 | NM-0395-80 | 3003920371 | 108 | | VAUGHN #13 | BASIN-DAKOTA GAS | 18,0 | EL PASO NATURAL GAS |
| 8048641 | NM-0374-80 | 3004523772 | 103 | | WARREN #1A | BLANCO MESAVERDE | 150,0 | EL PASO NATURAL GAS |
| 8048643 | NM-0376-80 | 3004523771 | 103 | | WARREN #3A | BLANCO MESAVERDE | 150,0 | EL PASO NATURAL GAS |
| *HNG OIL COMPANY | | | | | RECEIVED: 07/24/80 JA: NM 4 | | | |
| 8048599 | NM042280102 | 3001526250 | 108 | | WILSON 6 FEDERAL #4 NM18644 | SIOUX YATES | 18,0 | EL PASO NATURAL GAS |
| 8048600 | NM042280103 | 3001526250 | 103 | | WILSON 6 FEDERAL #4 NM18644 | SIOUX YATES | 18,0 | EL PASO NATURAL GAS |
| *JEROME P MCHUGH | | | | | RECEIVED: 07/24/80 JA: NM 4 | | | |
| 8048639 | NM-0372-80 | 3004512113 | 108 | | PRICE #1 | BASIN DAKOTA | 19,0 | EL PASO NATURAL GAS |
| *JOHN E SCHALK | | | | | RECEIVED: 07/24/80 JA: NM 4 | | | |
| 8048674 | NM-4382-79 | 3003921137 | 108 | | SCHALK 29-4 WELL #5 | CHOZA MESA PICTURED CLIF | 0,0 | NORTHWEST PIPELINE C |
| *LADD PETROLEUM CORPORATION | | | | | RECEIVED: 07/24/80 JA: NM 4 | | | |
| 8048676 | NM-0337-80 | 3004500000 | 103 | | FEDERAL A #2-E | BASIN DAKOTA | 438,5 | SOUTHERN UNION GATHE |
| *LIVELY EXPLORATION COMPANY | | | | | RECEIVED: 07/24/80 JA: NM 4 | | | |
| 8048635 | NM 0282-80 | 3004521018 | 108 | | LIVELY #1 | SAN JUAN | 13,5 | EL PASO NATURAL GAS |
| *MCCLELLAN OIL CORPORATION | | | | | RECEIVED: 07/24/80 JA: NM 4 | | | |
| 8048664 | NM-0347-80 | 3000560559 | 102 | | J J FEDERAL NO 1 WELL NM 12687 | WILDCAT (ABO) 4034-92 42 | 90,0 | TRANSWESTERN PIPELIN |
| 8048665 | NM-0348-80 | 3000560584 | 102 | | MM FEDERAL NO 1 WELL NM 0559993 | WILDCAT (ABO) 4034-92 42 | 108,0 | TRANSWESTERN PIPELIN |
| *NORTHWEST EXPLORATION COMPANY | | | | | RECEIVED: 07/24/80 JA: NM 4 | | | |
| 8048632 | NM-0444-80 | 3004520434 | 102 | | NATANI #2 | UNNAMED CHACRA | 24,0 | |
| *NORTHWEST PIPELINE CORPORATION | | | | | RECEIVED: 07/24/80 JA: NM 4 | | | |
| 8048637 | NM-0289-80 | 3003921813 | 103 | | SJ 30-5 #8 DK | BASIN DAKOTA | 36,0 | NORTHWEST PIPELINE C |
| 8048636 | NM-0288-80 | 3004523635 | 103 | | SJ 32-8 #40 | BLANCO MESAVERDE | 32,0 | EL PASO NATURAL GAS |
| *ODESSA NATURAL CORPORATION | | | | | RECEIVED: 07/24/80 JA: NM 4 | | | |
| 8048610 | NM-0367-80 | 3003922196 | 103 | | CHACON JICARILLA D-16 | CHACON DAKOTA ASSOCIATED | 0,0 | EL PASO NATURAL GAS |
| *PERRY R BASS | | | | | RECEIVED: 07/24/80 JA: NM 4 | | | |
| 8048668 | NM-035180103 | 3001522989 | 103 | | BIG EDDY UNIT NO 73 | WILDCAT MORROW | 400,0 | NATURAL GAS PIPELINE |
| 8048669 | NM-035280103 | 3001522966 | 103 | | BIG EDDY UNIT NO 76 | WILDCAT MORROW | 850,0 | NATURAL GAS PIPELINE |

| JD NO | JA DKT | API NO | SEC | D | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|---|
| *RINCON OPERATING CO | | | | | RECEIVED: 07/24/80 JA: NM 4 | | | |
| 8048634 | NM-0159-80 | 3004523396 | 103 | | UTE DOME FEDERAL #1 | UTE DOME | 0,0 | |
| *SOUTHLAND ROYALTY CO | | | | | RECEIVED: 07/24/80 JA: NM 4 | | | |
| 8048638 | NM-0296-80 | 3001504282 | 108 | | GISSLER A #4 | FREN | 7,0 | PHILLIPS PETROLEUM C |
| 8048612 | NM-0453-80 | 3004523749 | 103 | | HANKS #11-E | BASIN DAKOTA | 80,0 | SOUTHERN UNION GATHE |
| 8048660 | NM-0450-80 | 3003922009 | 103 | | JICARILLA 101 #6 | BLANCO MESA VERDE | 125,0 | GAS CO OF NEW MEXICO |
| 8048661 | NM-0451-80-B | 3003922072 | 103 | | JICARILLA 101 #8 | BLANCO MESA VERDE | 100,0 | GAS CO OF NEW MEXICO |
| 8048662 | NM-0451-80-A | 3003922072 | 103 | | JICARILLA 101 #8 | BLANCO PICTURED CLIFFS | 75,0 | GAS CO OF NEW MEXICO |
| 8048601 | NM-0425-80 | 3002526567 | 103 | | QUERECHO #1 | SOUTH COMBIN | 89,0 | PHILLIPS PETROLEUM C |
| *SUPRON ENERGY CORPORATION | | | | | RECEIVED: 07/24/80 JA: NM 4 | | | |
| 8048633 | NM-0445-80 | 3004513303 | 108 | | NICKSON #1 | BALLARD P C | 9,6 | GAS CO OF NEW MEXICO |
| 8048657 | NM-0446-80 | 3004513319 | 108 | | NICKSON #2 | BALLARD PICTURE CLIFFS | 4,1 | GAS CO OF NEW MEXICO |
| 8048658 | NM-0447-80 | 3004505752 | 108 | | NICKSON #3 | BALLARD PICTURE CLIFFS | 4,0 | GAS CO OF NEW MEXICO |
| 8048608 | NM-0433-80 | 3004505801 | 108 | | NICKSON #4 | BALLARD PICTURE CLIFFS | 3,5 | GAS CO OF NEW MEXICO |
| 8048609 | NM-0434-80 | 3004505768 | 108 | | NICKSON #5 | BALLARD PICTURE CLIFFS | 5,0 | GAS COMPANY OF NEW M |
| 8048624 | NM-0435-80 | 3004505723 | 108 | | NICKSON #6 | BALLARD PICTURE CLIFFS | 2,7 | GAS CO OF NEW MEXICO |
| 8048625 | NM-0436-80 | 3004505730 | 108 | | NICKSON #7 | BALLARD PICTURE CLIFFS | 4,1 | GAS CO OF NEW MEXICO |
| *TENNECO OIL COMPANY | | | | | RECEIVED: 07/24/80 JA: NM 4 | | | |
| 8048602 | NM-0429-80 | 3004523800 | 103 | | DELHI-TAYLOR #5-E | BASIN DAKOTA | 500,0 | EL PASO NATURAL GAS |
| 8048603 | NM-0430-80 | 3004523799 | 103 | | DELHI-TAYLOR 6-E | BAIN DAKOTA | 500,0 | EL PASO NATURAL GAS |
| 8048618 | NM-0408-80 | 3004523294 | 103 | | M JACKSON #2-A | BASIN DAKOTA | 737,0 | EL PASO NATURAL GAS |
| 8048616 | NM-0406-80 | 3004523824 | 103 | | HUGHES #5 | BASIN DAKOTA | 500,0 | EL PASO NATURAL GAS |
| 8048619 | NM-0409-80 | 3004523825 | 103 | | HUGHES #6 | BASIN DAKOTA | 500,0 | EL PASO NATURAL GAS |
| 8048615 | NM-0405-80 | 3004523816 | 103 | | TAPP #3 | BASIN DAKOTA | 500,0 | EL PASO NATURAL GAS |
| 8048617 | NM-0407-80 | 3004523967 | 103 | | TAPP #4 | BASIN DAKOTA | 500,0 | EL PASO NATURAL GAS |
| *UNION OIL COMPANY OF CALIF | | | | | RECEIVED: 07/24/80 JA: NM 4 | | | |
| 8048666 | NM-035080102 | 3002526440 | 102 | | LAGUNA DEEP UNIT FEDERAL #2 | EAST GEM (MORROW) | 730,0 | LLANO INC |
| 8048667 | NM-035080103 | 3002526440 | 103 | | LAGUNA DEEP UNIT FEDERAL #2 | EAST GEM (MORROW) | 730,0 | LLANO INC |
| *YATES PETROLEUM CORPORATION | | | | | RECEIVED: 07/24/80 JA: NM 4 | | | |
| 8048631 | 80-0443-NM | 3000560649 | 102 | | GYP MO FEDERAL NO 1 | WILDCAT | 0,0 | TRANSWESTERN PIPELIN |
| 8048626 | NM-0438-80 | 3001522978 | 103 | | LECHUGUILLA CANYON UNIT NO 4 | WILDCAT | 0,0 | EL PASO NATURAL GAS |

OTHER PURCHASERS

8048667 NORTHWEST PIPELINE CORP

BILLING CODE 6450-85-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf).

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before September 9, 1980.

Please reference the FERC Control Number (JD NO) in all correspondence related to these determinations.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-25884 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

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**[Docket No. ER80-602]**

## Kansas City Power & Light Co.; Proposed Tariff Change

August 18, 1980.

The filing Company submits the following:

Take notice that on August 11, 1980, Kansas City Power & Light Company (KCPL) tendered for filing proposed Addenda to the following listed Service Schedules for the indicated companies and municipalities.

*Customer and Service Schedule*

Baldwin City, Kansas
- Schedule E-MPA-1, Supplement No. 9 to KCPL's Rate Schedule FERC No.

Carrollton, Missouri
- Schedule E-MPA-1, Supplement No. 9 to KCPL's Rate Schedule FERC No. 86

Garnett, Kansas
- Schedule G-MPA, Supplement No. 8 to KCPL's Rate Schedule FERC No. 78

Marshall, Missouri
- Schedule G-MPA, Supplement No. 11 to KCPL's Rate Schedule FERC No. 83

Missouri Public Service Company
- Schedule D, Supplement No. 5 to KCPL's Rate Schedule FERC No. 53
- Schedule SE, Supplement No. 6 to KCPL's Rate Schedule FERC No. 53

Ottawa, Kansas
- Schedule E-MPA, Supplement to undesignated Rate Schedule filed in FERC Docket No. ER80-510

The Empire District Electric Company
- Schedule B, Supplement No. 2;
- Schedule C, Supplement No. 3;
- Schedule D, Supplement No. 4; and
- Schedule G, Supplement No. 7; KCPL's Rate Schedule FERC No. 88

The Kansas Power and Light Company
- Schedule D, Supplement No. 2 to KCPL's Rate Schedule FERC No. 55

Union Electric Company
- Schedule II, Supplement No. 5 to KCPL's Rate Schedule FERC No. 63

Associated Electric Cooperative, Inc.
- Schedule SE, Supplement No. 4 and
- Schedule E-MPA-1, Supplement No. 5 to KCPL's Rate Schedule FERC No. 31A

Northern States Power Company; Interstate Power Company; Iowa Public Service Company; Omaha Public Power District; St. Joseph Light & Power Company
- Schedule I, Schedule III, Schedule IV and Schedule V to the Twin Cities-Iowa-Omaha-Kansas City 345 KV Interconnection Coordinating Agreement, Supplement No. 5 to KCPL's Rate Schedule FERC No. 67

KCPL states that the purpose of this filing is to update the filed Service Schedules to comply with FERC Order No. 84 and requests and effective date 60 days from the date of this filing.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.18, 1.10). All such petitions or protests should be filed on or before September 8, 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 this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-25903 Filed 8-22-80; 8:45am]

BILLING CODE 6450-85-M

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**[Docket Nos. RP78-37, et al.]**

## Lawrenceburg Gas Transmission Corp., et al.; Filing of Pipeline Refund Reports and Refund Plans

August 15, 1980.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street NE, Washington, D.C. 20426, on or before September 2, 1980. Copies of the respective filings are on file with the Commission and available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

### Appendix

| Filing date | Company | Docket No. | Type filing |
|---|---|---|---|
| 7/22/80 | Lawrenceburg Gas Transmission Corp. | RP78-37, *et al.* | Report. |
| 7/24/80 | Great Lakes Gas Transmission Co. | RP79-10 | Do. |
| 7/30/80 | El Paso Natural Gas Co. | RP78-18 | Do. |
| 8/1/80 | Great Lakes Gas Transmission Co. | RP79-10 | Do. |
| 8/6/80 | Southern Natural Gas Co. | G-4264 | Do. |

[FR Doc. 80-25904 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

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**[Docket No. SA80-139]**

## The Louisiana Land & Exploration Co.; Application for Adjustment

August 18, 1980.

Take notice that on July 31, 1980, The Louisiana Land and Exploration Company (LL&E), P.O. Box 60350, New Orleans, LA 70160 filed with the Federal Energy Regulatory Commission (Commission) an application for an adjustment under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA). 15 U.S.C. 3301, *et seq.* LL&E petitions for a modification to, exception from, and/or exception to 18 CFR 273.202(b) of the Commission's Regulations. In addition, LL&E requests interim relief to permit it to continue collecting the section 102 NGPA price pending action on its application for adjustment.

Specifically, LL&E seeks relief from the time limit imposed under the interim collection procedures set forth in section 273.202(b) of the Commission's Regulations for the LL&E Fee #6 Well, Lake Hatch Field, Terrebonne Parish, Louisiana. LL&E requests that the time limit for the interim collections for this well be extended from July 31, 1980, until October 31, 1980.

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's

Rules of Practice and Procedure, Order No. 24 issued March 22, 1979 (44 FR 18961, March 30, 1979).

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of 18 CFR § 1.41(e). All Petitions to intervene must be filed on or before September 9, 1980.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-25905 Filed 8-22-80; 8:45 am]

**BILLING CODE 6450-85-M**

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**[Docket No. ER80-592]**

## Monongahela Power Co. and West Penn Power Co.; Filing

August 18, 1980.

The filing Company submits the following:

Take notice that Allegheny Power Service Corporation (APSC) on August 8, 1980 tendered for filing on behalf of Monongahela Power Company and West Penn Power Company, two of the electric utility members of the integrated Allegheny Power System, Modification No. 10 dated August 1, 1980 to the Operating Agreement dated June 1, 1971 between Monongahela Power Company, West Penn Power Company, Appalachian Power Company, Ohio Power Company, and Wheeling Electric Company, three of the electric utility members of the integrated American Electric Power System, designated Monongahela Rate Schedule FERC No. 5, West Penn Rate Schedule FERC No. 5, Appalachian Rate Schedule FERC No. 55, Ohio Power Rate Schedule FERC No. 73, and Wheeling Rate Schedule FERC No. 5.

Modification No. 10: (1) provides that the energy cost for third party Short-Term and Limited Term transactions shall be the out-of-pocket cost of such energy (which in each case includes any losses incurred) plus the maximum of 1 mill per kilowatt hour in order to comply with the Commission's orders in Docket RM79-29 and in the case of Monongahela and West Penn to comply with the condition imposed by the Commission in that connection in Docket ER80-195; (2) adds a specific section dealing with third party emergency transactions which (a) imposes a demand charge of 2 mills in the case of the American Electric Power System companies and 1.7 mills in the case of the Allegheny Power System companies for such third party transactions and provides that the energy cost shall be the out-of-pocket cost of such energy (which in each case includes any losses incurred) plus a maximum of 1 mill per kilowatt hour; and (3) increases the demand charge from 20¢ to 24¢ per kilowatt week for Short-Term and from 85¢ to $1.00 per kilowatt month for Limited Term third party transactions when the supplying group is the Allegheny Power System companies.

Allegheny Power Service Corporation notes that the increases in demand charges for Short-Term and Limited Term third party service will make those charges the same as those charged by the American Electric Power System companies and which have been included for these services in filings with other systems interconnected with the Allegheny Power System companies.

APSC requests waiver of certain of the Commission's requirements to allow these modifications to become effective 60 days after the "filing date" and states that since Emergency, Short-Term and Limited-Term Power and Energy transactions are scheduled from time to time as load and capacity conditions on the systems of the parties dictate, it is impossible to estimate the effect on revenues which would result from Modification No. 10.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before September 8, 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 this application are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-25906 Filed 8-22-80; 8:45 am]

**BILLING CODE 6450-85-M**

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**[Project No. 2629]**

## The Village of Morrisville, Vt.; Application for Major License

August 15, 1980.

Take notice that an application was filed November 17, 1966, and revised on January 29, 1980, and June 16, 1980, under the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r), by the Village of Morrisville for a major license for the Morrisville Project. The proposed project would be located on the Lamoille River, Elmore Pond Brook, and the Green River in Lamoille County, Vermont. Correspondence with the Applicant on this matter should be addressed to: Mr. Robert B. Page, Superintendent, Morrisville Water and Light Department, Morrisville, Vermont 05661; and Kleinschmidt and Dutting, Consulting Engineers, 73 Main Steet, Pittsfield, Maine 04967.

*Project Description*—The project would comprise the following existing facilities: (1) *Cadys Falls Plant* consisting of: a concrete gravity dam 371 feet ling with a 186-foot long spillway with crest elevation of 576.89 U.S.G.S. datum and 3.5-foot high flashboards; a reservoir with a surface area of 150 acres at pond elevation 580.39; a 9-foot diameter penstock extending from an intake 1,100 feet downstream to a surge tank, from which two penstocks extend to the powerhouse; two hydroelectric units at 600 kW and 700 kW capacity; and appurtenant facilities; (2) *Morrisville Plant* consisting of: a concrete gravity dam 250 feet long; two spillways: one, a part of the dam, 216 feet long with crest at elevation 627.79 and 4-foot flashboards; and the other 80 feet long with crest elevation at 629.78 and 2-foot flashboards in a 150-foot long concrete wall; a small pond; two 150-foot long penstocks, one 7 feet in diameter, the other 10 feet, extending from the intake to the powerhouse; two hydroelectric units of 600 kW and 1,200 kW capacity; and appurtenant facilities; (3) *Elmore Lake Storage Reservoir* consisting of: a concrete weir 36-foot long which raises the lake 4 feet above natural level with crest at elevation 1,139.0 feet, and storage for power use downstream of 700 acre-feet; and (4) *Green River Storage Reservoir* consisting of: a concrete arch dam constructed to elevation 1,225 feet and an earth dike 20 feet high and 250 feet long with a 60-foot long spillway in the arch dam with crest elevation at 1,220 (a stilling pool for the spillway being formed by a 20-foot high weir topped by flashboards); a storage reservoir of 17,400 acre-feet; a 6-foot diameter penstock from the dam to the upper gate house for future power facilities; and a presently unconstructed powerhouse which would have an installed capacity of 2,000 kW.

Project power is and will be used by the Applicant for public utility purposes.

*Computing Applications*—Anyone desiring to file a competing application must submit to the Commission, on or before October 20, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent

allows an interested person to file the competing application no later then Feb. 17, 1981. Since this application was filed during the term of a preliminary permit, any party intending to file a competing application should review 18 CFR 4.33(h). A notice of intent must conform with the requirements of 18 CFR § 4.33 (b) and (c), *as amended* 44 FR 61328, (October 25, 1979). A competing application must conform with the requirements of 18 CFR § 4.33 (a) and (d), *as amended,* 44 FR 61328 (October 25, 1979).

*Comments, Protests, or Petitions to Intervene*—Anyone desiring to be hard or to make any protest about this application should file a petiiton 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 apropriate 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 October 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.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-25871 Filed 8-22-80 8:45 am]

BILLING CODE 6450-85-M

**[Docket Nos. G-5716, et al.]**

## Northern Natural Gas Producing Co., et al.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

August 15, 1980.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before August 22, 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). 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 the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

**Kenneth F. Plumb,**

*Secretary.*

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

| Docket No. and date filed | Applicant | Purchaser and location | Price per Mcf | Pressure base |
|---|---|---|---|---|
| G-5716D, August 7, 1980 | Northern Natural Gas Producing Company, Nine Greenway Plaza, Suite 26700, Houston, Texas 77046. | Northern Natural Gas Company, Hugoton Field, Finney and Grant Counties, Kansas. | To release gas for irrigation fuel... | |
| G-7642D, August 8, 1980 | Mobil Oil Corporation, Nine Greenway Plaza, Suite 2700, Houston, Texas 77046. | Northern Natural Gas Company, Hugoton Field, Stevens County, Kansas. | To release gas for irrigation fuel... | |

Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 80-25907 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

**[Docket No. RP80-128]**

## Northwest Pipeline Corp.; Change in FERC Gas Tariff

August 15, 1980.

Take notice that on August 1, 1980, Northwest Pipeline Corporation (Northwest) tendered for filing with the Commission, its FERC Gas Tariff, First Revised Volume No. 1 which, when accepted for filing and permitted to become effective, will supercede Northwest's currently effective FERC Gas Tariff, original Volume No. 1. Additionally, Northwest is tendering for filing and acceptance Fifth Revised Sheet No. 1 and Original Sheet Nos. 1-A, 1-B and 1-C to its FERC Gas Tariff, Original Volume No. 2.

As more fully explained in the instant filing, the basic purpose for the complete revision of Northwest's current tariff is to:

(1) Increase certain sections of the tariff to allow for future expansion;

(2) Revise certain provisions to reflect current operating conditions;

(3) Eliminate rate schedules and/or provisions in the General Terms and Conditions no longer in effect;

(4) Enhance interpretation and clarity of provisions throughout the tariff;

(5) Provide a consistent reference to the Federal Energy Regulatory Commission; and

(6) To update Northwest's index to its Volume No. 2 Tariff.

The proposed effective date of the instant filing is September 1, 1980. A copy of this filing is being served on Northwest's jurisidictional customers and state commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rule of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 29, 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 this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-25908 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

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**[Docket No. ER80-620]**

## Ohio Edison Co.; Filing

August 18, 1980.

The filing Company submits the following:

Take notice that Ohio Edison Company on August 12, 1980, tendered for filing a proposed change in its FERC electric service tariff FERC No. 66, an amendment No. 4 to the Interconnection Agreement between The Dayton Power and Light Company and Ohio Edison Company. The amendment provides that the rate for Interchange Power from a third party shall be the cost of such power plus transmission losses and a demand charge of 2 mills per KWH if Ohio Edison is the supplying party and 1.3 mills per KWH if Dayton is the supplying party and provides that energy charge for Short Term Power shall be out-of-pocket cost plus ten percent but if purchased from a third party shall be the cost of such energy plus 1 mill per KWH plus the transmission losses of the supplying party.

The Dayton Power and Light Company has concurred with the filing.

Any person desiring to be heard or to protest said application should file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions and protests should be filed on or before September 8, 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 this application are on file at the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-25909 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

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**[Docket No. ER80-621]**

## Ohio Power Co.; Filing

August 18, 1980.

The filing Company submits the following:

Take notice that American Electric Power Service Corporation on behalf of its affiliate, Ohio Power Company (Ohio Power) tendered for filing on August 13, 1980, a new rate schedule, Modification No. 12 between Ohio Power and The Cleveland Electric Illuminating Company (CEI). This Modification provides for the sale of System Unit Power by Ohio Power and the purchase by CEI of electric power and electric energy associated therewith for the contract period and in the demand quantities as follows: August 1, 1980–December 31, 1980—400,000 kW.

Applicant has requested the Commission to accept the Amendment for filing on or before August 1, 1980 as it intends to commence the sale of System Unit Power to CEI as of that date.

The proposed demand rate for System Unit Power of $5.35 per kilowatt month would yield anticipated revenues on 400,000 kW of sales of $31,373,600 over the five-month contract period. There have been no previous sales of System Unit Power between the parties.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street, Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure on or before September 8, 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 this application are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-25910 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

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**[Docket N. RP80-129]**

## State of Ohio Ex Rel. William J. Brown (Attorney General); Complaint

August 18, 1980.

Take notice that on August 4, 1980, William J. Brown, Attorney General of the State of Ohio, filed a complaint regarding the tariff provisions and purchased gas cost adjustment charges of Columbia Gas Transmission Corporation, Columbia LNG Corporation, Consolidated Gas Supply Corporation and Consolidated System LNG Company.

This complaint, which was filed pursuant to Section 13 of the Natural Gas Act of 1938 and Section 1.6 of the Commission's Rules of Practice and Procedure, alleges that the aforenamed companies and corporations have committed violations of their tariffs by failing to institute "minimum bill" provisions contained therein, by attempting to pass on to customers the capital costs of nonutilized or underutilized facilities through the PGA clause, while allegedly violating both the just and reasonable standard of the Natural Gas Act and the public policy embodied in Opinion Nos. 622 and 622–A.

Any person desiring to be heard or to protest said complaint should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 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 September 15, 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 this complaint are on file with the

Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-25874 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

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**[Docket No. CP79-424]**

## Pacific Gas Transmission Co.; Staff Inspection

August 15, 1980.

Take notice that on August 21 and August 22, 1980, the Commission staff and a representative of the sponsors of the Rocky Mountain Pipeline project will conduct an environmental inspection of the pipeline route proposed in the above-referenced docket. Alternative routes will also be viewed. The primary alternative route to be inspected involves portions of the pipeline systems of Northwest Pipeline Corporation and El Paso Natural Gas Company.

For further information, please call Kenneth Frye at 202-357-9039.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-25911 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

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**[Docket No. ER80-612]**

## South Carolina Electric & Gas Co.; Filing

August 18, 1980.

The filing Company submits the following:

Take notice that on August 11, 1980, South Carolina Electric & Gas Company (SCE&G) tendered for filing an Amendment to certain rate schedules contained in SCE&G's interconnection agreements with Carolina Power & Light Company, Duke Power Company, and the South Carolina Public Service Authority. SCE&G states that the Amendment being filed is a unilateral change being made by SCE&G for the purpose of complying with FERC Order No. 84 issued on May 7, 1980, in Docket No. 79-29.

According to SCE&G, copies of this filing have been sent to the affected Companies and the South Carolina Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 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 September 8, 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 this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-25912 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

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**[Dockets Nos. RP78-36 and RP80-49]**

## Southern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

August 18, 1980.

Take notice that Southern Natural Gas Company (Southern) on August 12, 1980 tendered for filing proposed changes in its FPC Gas Tariff, Sixth Revised Volume No. 1. The proposed changes would reduce revenues from jurisdictional sales and service by approximately $20,259,000 from rates proposed in Southern's July 24, 1980 PGA filing to become effective on July 1, 1980.

Southern states that this filing includes a revised tariff sheet with a proposed effective date of August 1, 1980. On June 30, 1980 Southern filed revised tariff sheets with a proposed effective date of August 1, 1980 which reflected reduced rates as provided for in Stipulation III of Southern's Docket No. RP78-36 and current gas costs as provided for in Southern's July 1, 1980 PGA filing made on May 30, 1980. However, on July 24, 1980 Southern made a supplemental PGA filing pursuant to the Commission's Order issued June 30, 1980 which reflected a reduction of .677¢ in the commodity and one part rates. This filing reflects the reduction in gas costs as provided for in Southern's July 24, 1980 PGA filing.

Copies of the filing are being served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 3, 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 this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-25870 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

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**[Docket No. RP78-68]**

## United Gas Pipe Line Co.; Filing of Revised Tariff Sheets

August 15, 1980.

Take notice that on Aug. 1, 1980, United Gas Pipe Line Company (United) tendered for filing Substitute Fifty-First Revised Sheet No. 4 to its FERC Gas Tariff, First Revised Volume No. 1, Substitute Tenth Revised Sheet No. 187, Substitute Sixth Revised Sheet No. 226, Substitute Seventh Revised Sheet No. 289-A, Substitute Fourth Revised Sheet No. 397, Substitute Fourth Revised Sheet No. 401, Substitute Fourth Revised Sheet No. 407, Substitute Fourth Revised Sheet No. 448, Substitute Third Revised Sheet No. 593, Substitute Third Revised Sheet No. 625, Substitute Second Revised Sheet No. 651, Substitute Fourth Revised Sheet No. 685, Substitute Second Revised Sheet No. 753, Substitute Second Revised Sheet No. 771, Substitute First Revised Sheet No. 832, Substitute Fourth Revised Sheet No. 909, Substitute First Revised Sheet No. 926, Substitute Fifth Revised Sheet No. 957, Substitute First Revised Sheet No. 993, Substitute First Revised Sheet No. 1018, Substitute First Revised Sheet No. 1055, Substitute First Revised Sheet No. 1073, Substitute First Revised Sheet No. 1090, Substitute Third Revised Sheet No. 1156, Substitute First Revised Sheet No. 1173, Substitute First Revised Sheet No. 1196, Substitute First Revised Sheet No. 1234, Substitute First Revised Sheet No. 1256, Substitute Original Sheet No. 1274, Substitute Original Sheet No. 1296, Substitute Original Sheet No. 1319, Substitute Original Sheet No. 1340, Substitute Original Sheet No. 1359, Substitute Original Sheet No. 1412, Substitute Original Sheet No. 1430, Substitute Original Sheet No. 1446, Substitute Original Sheet No. 1478, Alternate Substitute Original Sheet No. 1522, Substitute Original Sheet No. 1541, and Substitute Original Sheet No. 1571 of its Original Volume No. 2. These proposed tariff sheets reflect rates computed in accordance with the terms of the settlement, including a reduction in the settlement rates pursuant to Article XI to reflect a reduced income

tax allowance effective December 1, 1979.

United has requested that the Commission waive its notice requirements and authorize United to place the settlement rates reflected on the revised tariff sheets in effect as of August 1, 1980. Such action will permit United to compute and made refunds in accordance with the settlement for all deliveries from December 1, 1978 to July 31, 1980 and will prevent accumulation of refund amounts attributable to the difference between the rates placed in effect under the RP78–68 filings and the settlement rates after July 31, 1980.

Copies of the proposed tariff sheets have been mailed to United's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 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 August 29, 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 this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-25872 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

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**[Docket No. CP80-468]**

## United Gas Pipe Line Co.; Application

August 18, 1980.

Take notice that on July 30, 1980, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP80–468 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the installation of a tap to enable Entex, Inc. (Entex), a successor in interest to United Gas, Inc., to provide gas service for a residential subdivision, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to install a tap on its existing 10-inch Bogalusa line near Collins, Covington County, Mississippi. Applicant states that pursuant to the terms and conditions of an existing service agreement between it and Entex, Applicant through Entex makes gas service available to the Laurel, Mississippi, Service Area which service includes supplying rural consumers through taps and rural service lines serving various communities and their adjoining environs.

Applicant asserts that it has been informed by Entex that the proposed tap is required to supply a high priority residential subdivision located near Collins, Mississippi. The proposed tap is estimated to cost $1,200 which cost would be met by funds on hand, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 9, 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 Section 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 it 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 procedures herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-25873 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

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**[Docket No. ER80-616]**

## Wisconsin Public Service Corp.; Filing

August 18, 1980.

The filing Company submits the filing:

Take notice that Wisconsin Public Service Corporation on August 12, 1980, tendered for filing revised Service Schedules A, B, D, E, and F to the Master Interconnection Agreement with Wisconsin Power and Light Company. This revision will revise the said Schedules to comply with Commission Order No. 84 issued May 7, 1980, in Docket No. RM79–29.

Copies of this filing were served upon Wisconsin Power and Light Company. The Agreement is to be effective August 10, 1980.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 8, 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 this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-25875 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

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**[Docket No. ER80-617]**

## Wisconsin Public Service Corp.; Filing

August 18, 1980.

The filing Company submits the following:

Take notice that Wisconsin Public Service Corporation on August 12, 1980 tendered for filing revised Service Schedules B, D, E, and F to the Partial Requirements Service Agreements with the City of Manitowoc and Consolidated Water Power Company. This revision will revise the said Schedules to comply with Commission Order No. 84 issued May 7, 1980, in Docket No. RM79–29.

Copies of this filing were served upon the City of Marshfield, City of Manitowoc and Consolidated Water Power Company. The Agreement is to be effective August 10, 1980.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal

Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Paragraph 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (1.8, 1.10). All such petitions or protests should be filed on or before September 8, 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 this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-25876 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

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**[Docket No. ER80-618]**

### Wisconsin Public Service Corp.; Filing

August 18, 1980.

The filing company submits the following:

Take notice that Wisconsin Public Service Corporation on August 12, 1980 tendered for filing revised Service Schedules A, B, D, E, and F to the Power Pool Agreement with Wisconsin Power and Light Company and Madison gas and Electric Company. This revision will revise the said Schedules to comply with Commission Order No. 84 issued May 7, 1980, in Docket No. RM79-29.

Copies of this filing were served upon Wisconsin Power and Light company and Madison Gas and Electric Company. The Agreement is to be effective August 10, 1980.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Paragraph 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 September 8, 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 this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-25877 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

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**[Docket No. ER80-615]**

### Wisconsin Public Service Corp.; Filing

August 18, 1980.

The filing company submits the following:

Take notice that Wisconsin Public Service Corporation on August 13, 1980, tendered for filing revised Service Schedules A, C, D, E, and F to the Interconnection and Interchange Agreement with Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin). This revision will revise the said Schedules to comply with Commission Order No. 84 issued May 7, 1980, in Docket No. RM79-29.

Copies of this filing were served upon Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin). The Agreement is to be effective August 10, 1980.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Paragraph 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 September 8, 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 this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-25878 Filed 8-22-80; 8:45 am]

BILLING CODE 6450-85-M

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## ENVIRONMENTAL PROTECTION AGENCY

**[OPTS-51115; FRL 1586-4]**

### Certain Chemicals; Premanufacture Notices

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of two PMN's and provides a summary of each.

**DATES:** Written comments by: PMN 80-184, September 28, 1980; PMN 80-190, October 3, 1980.

**ADDRESS:** Written comments to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, 202-755-8050.

**FOR FURTHER INFORMATION CONTACT:** Rick Green, Premanufacturing Review Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, 202-426-2601.

**SUPPLEMENTARY INFORMATION:** Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any subtance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** of May 15, 1979 (44 FR 28558). The requirement to submit a PMN of new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section

5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register**.

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register**.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN's are published herein.

Interested persons may, on or before the dates shown under "Dates", submit to the Document Control Officer (TS–793), Rm. E–447, Office of Pesticides and Toxic Substances, 401 M St. SW., Washington, D.C. 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–51115]" and the specific PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: August 15, 1980.

**Douglas G. Bannerman,**

*Acting Deputy Assistant Administrator for Chemical Control.*

*PMN 80–184*

*Close of Review Period.* October 28, 1980.

*Manufacturer's Identity.* Claimed confidential. Generic information provided:

Manufacturing site—East-north central region, U.S.

Standard Industrial Classification Code—285.

*Specific Chemical Identity.* Polymer of: Castor oil fatty acid, benzoic acid, epoxy resin, fumaric acid, styrene, and *N,N*-dimethyl ethanol amine.

The following summary is taken from data submitted by the manufacturer in the PMN.

*Use.* Claimed confidential. The substance will be used in an open use that will release less than 50 kilograms (kg) of the substance to the environment per year. The use may involve potential exposure to skin and eyes.

*Production Estimates.*

| | Kilograms per year | |
|---|---|---|
| | Minimum | Maximum |
| 1st year | 25,000 | 75,000 |
| 2d year | 75,000 | 300,000 |
| 3d year | 300,000 | 400,000 |

*Physical/Chemical Properties.*

| | Polymer solution | Dried polymer |
|---|---|---|
| Solid content | 61.7 percent | |
| Density | 1.04 g/ml | 1.22 g/ml. |
| Solubility in water | | 5.0 percent 020°C. |
| Number average molecular weight. | 2600–2800 | |
| Weight average molecular | 6600–6950 | |
| Flash point (closed cup) | 125°F | Above 212°F. |
| Residual monomer | 0.6 percent | |
| pKa | 6.8 | |
| Elemental analysis | | Percent C=77.00 Percent H=7.21 Percent O=15.79. |
| Chemical oxygen demand | 2,150,000 | (μgO/g). |

*Toxicity of Raw Materials.* 9–11 fatty acid. Not considered a hazardous material under current regulation of the Occupational Safety and Health Act.

Benzoic acid. Prolonged contact of benzoic acid with the skin may cause irritation and have a keratolytic effect. The oral $LD_{50}$ in rats is 2,530 mg/kg. Acute and chronic toxicity by ingestion is low.

Solid epoxy resin. The skin and eye exposure in rabbits has not been found to cause irritation or sensitization. The oral $LD_{50}$ in rats is about 30,000 mg/kg.

Fumaric acid. The oral $LD_{50}$ in rats is 10,700 mg/kg and the skin $LD_{50}$ in rabbits is 20 g/kg. Dust may be irritating to nose and eyes because of mildly acidic nature.

Styrene. The oral $LD_{50}$ in rats is 5,000 mg/kg (minimally toxic). The American Conference of Governmental Industrial Hygienists (ACGIH) has established a Threshold Limit Value (TLV) of 100 ppm to protect against narcosis and irritation.

Dimethylethanolamine. Slightly toxic by ingestion and slightly toxic through the skin. The oral $LD_{50}$ in rats is 2,340 mg/kg and the skin $LD_{50}$ in rabbits is 1,370 mg/kg. Vapors may irritate nose and throat.

Cumene hydroperoxide. Moderately toxic by oral route and severely toxic by inhalation. The oral $LD_{50}$ in rats is 382 mg/kg and the inhalation $LD_{50}$ in rats is 220 ppm per 4 hours. Skin contact causes chemical burns.

Xylene. The oral $LD_{50}$ in rats is 4,300 mg/kg. The ACGIH has established a TLV of 100 ppm to protect against irritation and systemic effects.

Butyl cellosolve. The oral $LD_{50}$ in rats is 1,480 mg/kg. The ACGIH has established a TLV of 50 ppm to protect against irritation and systemic effects.

**Occupational Exposure**

| Activity | Exposure route | Maximum number exposed | Maximum duration | | Concentration | |
|---|---|---|---|---|---|---|
| | | | Hr/Da | Da/Yr | Average | Peak |
| Manufacture | Inhalation Dermal | 8 | 24 | 46 | | 1–10 ppm. |
| Disposal | Inhalation Dermal | 2 | 25 | 10 | | 0–1 ppm. |

*Environmental Release/Disposal.* The manufacturer estimates that less than 50 kg of the substance will be released to the environemnt per year. Each reactor at the manufacturing plant is equipped with an exhaust and fume condenser. The effluent

(air borne) is also treated by an exhaust fume scrubber. Scrubber water goes to biological treatment lagoons with a sixty-day retention period. Sludge is transported by state licensed carriers to a state licensed landfill.

*PMN 80–190.*

*Close of Review Period.* November 2, 1980.

*Manufacturer's Identity.* Claimed confidential.

*Specific Chemical Identity.* Claimed confidential. Generic name provided: Copolyester from dimethyl terephthalate, alpha, omega-hydroxy terminated aliphatic hydrocarbons; and a ploya lkylene glycol.

The following summary is taken from data submitted by the manufacturer in the PMN.

*Use.* Thermoplastic elastomeric resin for the production of tubing, hose, molded articles, and wire jacketing.

*Production Estimates.* Confidential.

*Physical/Chemical Properties*

Hardness, Shore D—50 points.
Melting point—187°C.
Thermogravimetric analysis:
Initial decomposition temperature ($N_2$)—295°C.
Extrapolated decomposition temperature ($N_2$)—371°C.
Specific gravity—1.20.
Solubility—Soluble in chloroform and orthochlorophenol; insoluble in water and acetone.

[FR Doc. 80–25810 Filed 8–22–80; 8:45 am]

BILLING CODE 6560–01–M

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[PP OG2300/T260; FRL 1586–3]

## Mobay Chemical Corp.; Establishment of Temporary Tolerances

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice.

**SUMMARY:** On July 16, 1980 temporary tolerances were established for residues of the fungicide 1-(4-chlorophenoxy)-3,3-dimethyl-1-(1*H*-1,2,4-triazol-1-yl)-2-butanone and its metabolite beta-(4-chlorophenoxy)-alpha-(1,1-dimethylethyl)-1*H*-1,2,4-triazol-1-ethanol in or on fresh apples and fresh grapes at 1 part per million (ppm).

**FOR ADDITIONAL INFORMATION CONTACT:** Eugene Wilson, Product Manager (PM) 21, Registration Division (TS–767), Office of Pesticide Programs, Rm. E–349, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202/755–1806).

**SUPPLEMENTARY INFORMATION:** On December 3, 1979 and May 6, 1980, Mobay Chemical Corp., Agricultural Chemicals Division, PO Box 4913, Kansas City, MO 64120 requested that tolerances be established for residues of the fungicide 1-(4-chlorophenoxy)-3,3-dimethyl-1-(1*H*-1,2,4-triazol-1-yl)-2-butanone and its metabolite, beta-(4-chlorophenoxyl)-alpha-(1,1-dimethylethyl)-1*H*-1,2,4-triazol-1-ethanol in or on fresh apples and fresh grapes at 1 ppm.

These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with the experimental use permits that were issued under the Federal Insecticide, Fungicide, and Rodenticide Act as amended, 92 Stat. 819; 7 U.S.C. 136.

The scientific data reported and other relevant material were evaluated, and it has been determined that the tolerances are adequate to protect the public health.

The temporary tolerances have been established on the condition that the temporary tolerances and the experimental use permits be used with the following provisions:

1. The total amount of the pesticide to be used will not exceed the amounts authorized in the experimental use permits.

2. Mobay Chemical Corp. will immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm will also keep records of production, distribution, and performance and, on request, make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire on December 31, 1982. Residues not in excess of the temporary tolerances remaining in or on the raw agricultural commodities after the expiration date will not be considered actionable if the pesticide is legally applied during the term and in accordance with the provisions of the experimental use permits and temporary tolerances. These tolerances may be revoked if the experimental use permits are revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health.

(Sec. 408(j), 68 Stat. 561, (21 U.S.C. 136a(j)))

Dated: August 18, 1980.

**Herbert Hamson,**

*Acting Director, Registration Division, Office of Pesticide Programs.*

[FR Doc. 80–25811 Filed 8–22–80; 8:45 am]

BILLING CODE 6560–01–M

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[OPP 180474; FRL 1585–4]

## New Jersey Department of Environmental Protection Crisis Exemption for Pirimicarb on Apples To Control Aphids

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA gives notice that the New Jersey Department of Environmental Protection (hereafter referred as as "New Jersey") availed itself of a crisis exemption to use pirimicarb on 2,400 acres of apples to control green and rosy apple aphids.

**DATE:** The crisis exemption became effective on June 12, 1980. By denying the specific exemption under the Federal Insecticide, Fungicide, and Rodenticide Act on June 19, 1980, EPA withdrew New Jersey's right to exercise a crisis exemption for use of pirimicarb.

**FOR FURTHER INFORMATION CONTACT:** Donald R. Stubbs, Registration division (TS–767), Rm. E–124, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202–426–0223.

**SUPPLEMENTARY INFORMATION:** New Jersey stated that dimethoate is the only insecticide recommended for control of green and rosy apple aphids on apples during the summer in New Jersey for its integrated pest management program. According to New Jersey, growers are complaining about the increased difficulty of controlling aphids with dimethoate and other registered aphicides. New Jersey also reported that Pirimor, which contains the active ingredient pirimicarb, can be used in the integrated program for aphid control without upsetting the European red mite/predator balance. According to New Jersey, the use of pirimicarb would prevent substantial economic losses in apple orchards.

New Jersey planned to make a maximum of three applications in a program that would end by August 1, 1980. Application of Pirimor 50W was being made at a rate of 1 ounce active ingredient per 100 gallons of spray, with up to 4 ounces of active ingredient per acre. Application was made by ground equipment by State-certified applicators.

EPA determined that since there were alternative registered, effective pesticides for the control of aphids on apples, the definition of an emergency was not met. Accordingly, EPA denied the request for a specific exemption and withdrew New Jersey's right to exercise a crisis exemption for use of pirimicarb.

(Sec. 18, as amended (92 Stat. 819; 7 U.S.C. 136))

Dated: August 18, 1980.

**Edwin L. Johnson,**

*Deputy Assistant Administrator for Pesticide Programs.*

[FR Doc. 80–25803 Filed 8–22–80; 8:45 am]

BILLING CODE 6560–01–M

[OPTS 90000; FRL 1585-3]

## Toxics Integration Information Series and Toxics Integration Policy Series; Notice of Availability

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA is announcing the availability of the Toxics Integration Policy Series Information Series and the Toxics Integration Policy Series. The Information series will provide information on the status of assessment and regulation of chemical substances throughout the Environmental Protection Agency. The Policy Series is designed as an information forum for discussion and development as of policy and implementation approaches for integrated management of chemical substances.

**FOR FURTHER INFORMATION CONTACT:** John B. Ritch, Jr., Director, Industry Assistance Office, Office of Pesticides and Toxics Substances (TS-799), U.S. Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460, Toll-free: (800-424-9065), In Washington, D.C.: (554-1404).

**SUPPLEMENTARY INFORMATION:** Section 9 of the Toxic Substances Control Act (TSCA), Pub. L. 94-469, requires the Environmental Protection Agency to integrate and coordinate the various Federal activities involved with controlling toxic substances whenever regulatory action is contemplated or initiated under this Act.

The Toxics Integration Information Series will provide basic information on the status of assessment and regulation of chemical substances throughout the Environmental Protection Agency. In addition, the series will provide locator and reference information regarding groups and Agencies chartered with chemical substance research, assessment, and regulatory missions. Finally, the series will contain occasional publications analyzing scientific, technical, and business information regarding chemical substances and groups of substances that will be useful to EPA and other decisionmakers.

The Toxics Integration Policy Series will provide a forum for discussion and development of policy and implementation approaches for integrated management of chemical substances throughout the Environmental Protection Agency and the Federal government as well as the State level.

*Ordering*

Documents in these series will be distributed by the Industry Assistance Office. To order any of the documents in the series, write or call the Industry Assistance Office. To have your name placed on the mailing list to receive notices of future documents as they become available in the Toxics Integration Information Series and the Toxics Integration Policy Series, please complete and return the coupon below to the Industry Assistance Office. (Address above.)

Name _____

Company/Organization _____

Address or P.O. Box _____

City, State, and Zip _____

After the initial supply of each document is exhausted, copies can be purchased from the National Technical Information Service (NTIS), whose reference number can be found in the OPTS comprehensive List of Scientific and Technical Reports, also available from the Industry Assistance Office.

This notice announces the availability of four documents in the Toxics Integration Information/Policy Series.

The first, *Perspectives on the Top 50 High Production Chemicals,* reviews the information sources available on 50 high production chemicals from a regulatory, marketing, and chemistry perspective. This document describes the types of information readily available on individual chemicals with special reference to the regulatory status of these chemicals; it comparatively displays TSCA Chemicals in Commerce Inventory data for these chemicals as well as data from other information sources. The document also briefly discusses the impact of projected energy shortages on the manufacture of these chemicals.

The second document, *Overview of Federal Toxics Programs* (in press), describes the organizational and regulatory settings through which 17 major Federal programs deal with toxic chemicals in terms of research, assessment and regulation. This directory allows the reader to understand the various Federal programs that can impact a toxic chemical through the many phases fo its life cycle.

The third document now available in this series is a *Directory of Federal Coordinating Groups for Toxic Substances,* March 1980. This directory provides a ready reference to facilitate communications between Federal agencies concerned with toxics control.

The fourth document is the intitial publication in the companion Toxics Integration Policy Series which is designed as a forum for both staff and estramural studies of cross-cutting toxic chemical policy and implementation issues. This publication, *State Administrative Models for Toxic Management,* describes the three primary management mechanisms that State governments are using to oversee both environmental and chemical regulatory programs to provide for integrated approaches for chemical control.

Dated: August 18, 1980.

**Walter W. Kovalick, Jr.,**

*Acting Deputy Assistant Administrator for Program Integration and Information.*

[FR Doc. 80-25804 Filed 8-22-80; 8:45 am]

BILLING CODE 6560-01-M

[PP 5G1590/T255; FRL 1586-5]

## Tricyclazole; Establishment of Temporary Tolerances

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** On June 13, 1980 temporary tolerances were established for the combined residues of the fungicide tricyclazole (5-methyl-1,2,4-triazolo (3,4-*b*)-benzothiazole) and its metabolites 1,2,4-triazolo (3,4-*b*)-benzothiazole-5-methanol in or on rough rice (rice grain with hulls) at 8 parts per million (ppm); in liver and kidney of cattle, swine, horses, goats, poultry, and sheep at 0.3 ppm; and in milk and eggs at 0.03 ppm.

**FOR FURTHER INFORMATION CONTACT:** Eugene Wilson, Product Manager (PM) 21, Registration Division, (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, 202-755-1806.

**SUPPLEMENTARY INFORMATION:** On April 28, 1980 and May 26, 1980, Elanco Products Company, P.O. Box, 1750, Indianapolis, IN 46206 submitted a pesticide petition (PP 5G1590) to the EPA. The petition requested that temporary tolerances be established for the combined residues of the fungicide tricyclazole (5-methyl-1,2,4-triazolo (3,4-*b*)-benzothiazole) and its metabolite 1,2,4-triazolo (3,4,-*b*)-benzothiazole-5-methanol in or on rough rice (rice gain with hulls) at 8 ppm; in liver and kidney of cattle, swine, horses, goats, poultry, and sheep at 0.3 ppm; and in milk and eggs at 0.03 ppm.

These tolerances are to permit the marketing of the above raw agricultural commodities when treated in accordance with an experimental use permit being issued under the Federal Insecticide, Fungicide, and Rodenticide

Act (Pub. L. 80–104, 61 Stat. 163, as amended by Pub. L. 92–516, 86 Stat. 975; Pub. L. 94–140, 89 Stat. 754, Pub. L. 95–396, 92 Stat. 819; 7 U.S.C. 136.)

The scientific data reported and other relevant material were evaluated, and it has been determined that the tolerances are adequate to protect the public health.

The temporary tolerances have been established on the condition that the temporary tolerances and experimental use permit be used with the following provisions:

1. The total amount of the active fungicide to be used will not exceed the amount authorized in the experimental use permit.

2. Elanco Products Company will immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm will also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire on August 21, 1981. Residues not in excess of the amount remaining in or on the raw agricultural commodities after the expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health.

(Sec. 408(1), 68 Stat. 561, (21 U.S.C. 346a(j)))

Dated: August 18, 1980.

**Herbert Hamson,**

*Acting Director, Registration Division, Office of Pesticide Program.*

[FR Doc. 80-25809 Filed 8-22-80; 8:45 am]

BILLING CODE 6560-01-M

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**[FRL 1586-8; PP 6G2330/T250]**

## Mobay Chemical Corp.; Establishment of a Temporary Tolerance

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** On May 29, 1980, EPA established a temporary tolerance for th combined residues of the nematocide ethyl 3-methyl-4-(methylthio) phenyl (1-methlethyl) phosphoramidate and its cholinesterase-inhibiting metabolites in or on the raw agricultural commodity grapes at 0.1 ppm.

**FOR FURTHER INFORMATION CONTACT:** Eugene Wilson, Product Manager (PM) 21, Registration division (TS–767), Office of Pesticide Programs, Rm. E–349, 401 M Street, SW, Washington, DC 20460, 202/755–1806.

**SUPPLEMENTARY INFORMATION:** Mobay Chemical Corp. Agricultural Chemicals Division, P.O. Box 4913, Kansas City, MO 64120, submitted a pesticide petition (PP 6G2330) to the EPA. The petition requested that a temporary tolerance be established for the combined residues of the namatocide ethyl 3-methyl-4-(methylthio) phenyl (1-methylethyl) phosphoramidate and its cholinesterase-inhibiting metabolites in or on the raw agricultural commodity grapes at 0.01 ppm.

This temporary tolerance would permit the marketing of the above raw agricultural commodity treated in accordance with an experimental use permit concurrently being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (Pub. L. 80–104, 61 Stat. 163, as amended by Pub. L. 92–516, Pub. L. 94–140, 89 Stat. 754, Pub. L. 95–396, 92 Stat. 819, 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of a temporary tolerance would protect the public health. The temporary tolerance has been established on the condition that the experimental use permit be used with the following provisions:

1. The total amount of the insecticide to be used will not exceed the quantity authorized in the experimental use permit.

2. Mobay Chemical Corp. will immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm will also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary tolerance expires on December 31, 1982. Residues not in excess of this temporary tolerance remaining in or on the above raw agricultural commodity after expiration of this tolerance will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health.

(Sec. 408 (j), 68 Stat. 561, (21 U.S.C. 346a(j))

Dated: August 18, 1980.

**Herbert Harrison,**

*Acting Director, Registration Division, Office of Pesticide Programs.*

[FR Doc. 80-25806 Filed 8-22-80; 8:45 am]

BILLING CODE 6560-01-M

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**[FRL 1586-7; OPTS-51116]**

## Resin From Monocarboxylic Acids, Polyhydric Alcohols, Dibasic Acid Anhydride, Polycarboxlyic Acid Anhydride, and a Silicone Resin; Premanufacture Notice

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of a PMN and provides a summary.

**DATE:** Written comments by September 5, 1980.

**ADDRESS:** Written comments to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, 202–755–8050.

**FOR FURTHER INFORMATION CONTACT:** Kirky Maconaughey, Premanufacturing Review Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202–426–3936.

**SUPPLEMENTARY INFORMATION:** Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances complied by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commerical purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the

**Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitiled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, a summary of the data taken from the PMN is published herein.

Interested persons may, on or before September 5, 1980, submit to the Document Control Officer (TS–793), Rm. E–447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–51116]" and the PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604).

Dated: August 19, 1980.

**Douglas G. Bannerman,**

*Acting Deputy Assistant Administrator for Chemical Control.*

*PMN 80–159.*

*Close of Review Period.* October 5, 1980.

Manufacturer's Identity. International Minerals & Chemical Corp. Mundelein, IL 60060.

*Specific Chemical Identity.* Claimed confidential. Generic name provided: Resin from monocarboxylic acids, polyhydric alcohols, dibasic acid anhydride, polycarboxylic acid anhydride, and a silicone resin.

The following summary is taken from data submitted by the manufacturer in the PMN.

*Use.* Vehicle in an exterior coating for naval vessels which will be used for applications above the water line.

*Production Estimates.* Approximately one million pounds per year.

*Physical/Chemical Properties* (Resin).

Acid number—38.

Melting point—Undetermined.

Physical State—Semi-solid or liquid.

Color—8 Maximum (Gardner).

Vapor pressure—Undetermined.

Partition coefficient—Undetermined.

*Toxicity Data* (Starting materials).

Polyhydric alcohol (I). Acute oral toxicity (mouse) $LD_{50}$: >25 g/kg. Acute oral toxicity (guinea pig) $LD_{50}$: >4 g/kg. Primary skin irritation (rabbit): mildly irritating. Primary eye irritation (rabbit): severely irritating.

Polyhydric alcohol (II). No data available.

Dibasic acid anhydride. Acute oral toxicity (rat) $LD_{50}$: 4 g/kg. Primary skin irritation (rabbit): mildly irritating. Primary eye irritation (rabbit): Severely irritating.

Polycarboxylic acid anhydride. Acute oral toxicity (mouse) $LD_{50}$: 2,210 mg/kg.

Alkoxyalkanol (diluent). Acute oral toxicity (human) $LDL_{o}$: 50 mg/kg. TLV–TWA: (skin): 50 ppm.

Aliphatic alcohol (diluent). Acute oral toxicity (human) $LDL_{o}$: 500 mg/kg. TLV–TWA: 100 ppm.

*Exposure.* The manufacturer states that two to three people may be exposed to the PMN substance for about one-half to two hours each, 35 times a year.

*Disposal.* The submitter states that disposal will not be necessary, however, in case of spill, the substance will be absorbed by a mineral absorbent and removed to an approved chemical waste disposal site. Waste water with 6% caustic solution used to clean reactor will be removed from the site by a certified waste disposal service once a year.

[FR Doc. 80–25807 Filed 8–22–80; 8:45am]

BILLING CODE 6560–01–M

## FEDERAL COMMUNICATION COMMISSION

**[FCC 80–386]**

**[CC Docket No. 80–339; Transmittel Nos. 2258, et. al.]**

### ITT World Communications Inc., et. al.; Instituting Investigation; Memorandum Opinion and Order

In the matter of ITT World Communications, Inc., Transmittal Nos. 2258, 2259, 2260; RCA Global Communications, Inc., Transmittal Nos. 4610, 4611, 4613, 4614, 4615, 4616; TRT Telecommunications, Corp., Transmittal Nos. 909, 910, 911; Western Union International, Inc., Transmittal Nos. 1430, 1431; Western Union International Caribbean, Inc., Transmittal No. 224; Revisions to tariffs for establishing separate charges for terminals, tielines, and transmission offered in connection with international telex service and implementing expanded gateways and additional domestic operating areas for international telecommunications service.

Adopted: July 1, 1980.

Released: August 8, 1980.

By the Commission:

1. Presently before the Commission are petitions requesting rejection or, alternatively, suspension and investigation of a series of proposed tariff revisions filed by various International Record Carriers (IRCs).[1] The revisions purport to "unbundle" international telex rates, that is, establish separate charges for terminals, tielines, and transmission and implement expanded gateways and additional domestic operating areas for international telecommunications service.[2] For the reasons to be discussed below, we consider the proposed tariff revisions to be a step forward in accomplishing the unbundling of international telex rates. Thus, we will allow them to become effective. However, there are a number of issues that need further resolution, and for this reason, we will order an investigation.

**I. Background and Petitioners Contentions**

2. The subject tariff filings were made in response to our recent orders in Docket No. 21005, *Interface of the International Telex Service with the Domestic Telex and TWX Services (Unbundling* order), 76 F.C.C. 2d 61 (1980), and Docket No. 19660, *International Record Carriers' Scope of Operations in the Continental United States (Gateways* order), 76 F.C.C. 2d 115 (1980). In the *Unbundling* order we required the IRCs to file separate cost-based rates for terminal equipment, access lines, and transmission. 76 F.C.C. 2d at 78, 80–81, 83. In the *Gateways* order, we provided that the expansion of the number of domestic points of IRC operation would be conditioned upon the unbundling of the telex rate structure. 76 F.C.C. 2d at 145, 146, 154.

3. At the present time, international telex customers access each of the IRCs either directly by a dedicated tieline plus telex machine [3] or indirectly by interconnection with Western Union. In the latter situation, the customer uses a Western Union provided access line to the domestic telex or TWX networks plus the appropriate terminal equipment obtained from Western Union or another vendor.[4] Under current tariff provisions, TRT offers a $0.55 per minute reduction from the basic country-to-country international rates to all customers who are directly-connected to the TRT switch, while ITT, RCA, WUI, and WUI Caribbean offer the same $0.55 per minute discount only to those directly connected customers who pay for their own tielines and terminal equipment. In addition, all customers who are directly connected to ITT, RCA, WUI, and WUI Caribbean and pay bundled rates receive free paper and other supplies; in the case of TRT, all customers directly connected receive free supplies. For customers not directly connected, each IRC gives a $0.55 per minute reduction to those who pay for their own interconnecting telex or TWX call. Those who make a so-called "free" call on Western Union telex or TWX facilities pay the IRC the full international telex rate.[5]

4. The above rate structures, which were implemented in late 1979, were characterized as "optional unbundling" by the IRCs. Customers retained the option of paying the undiscounted (or bundled) country-to-country rates which had been in the tariffs all along. ITT, which filed the first such proposal, stated that it already had a fair number of customers who provided their own terminals and tielines or otherwise obtained access to the ITT switch, and who objected to paying the same usage rate as other customers. Thus, ITT offered, at the customer's option, a $0.30 per minute discount to those who accessed the ITT switch at their own expenses. Voicing the need to remain competitive with ITT, the other IRCs also chose to offer a discount. Shortly thereafter, RCA increased the amount to $0.55 per minute, which set off another round of matching by the other IRCs.

5. In the *Unbundling* order, we acknowledged that the optional unbundling was a step in the right direction, but determined that it has not gone far enough. Recognizing that the bundled rate structure has led to to a proliferation of terminals and tielines, we conclude that so long as some bundled rates exist, there will be a danger of economic waste. By contrast, we concluded that with complete unbundling, users and the public interest as a whole would be better served because all would know the true costs of telex service and would thus be able to weigh those component costs against the benefits to be derived. 76 F.C.C. 2d at 80–81. Thus, we directed each of the IRCs to completely unbundle its rates on a cost supported basis. 76 F.C.C. 2d at 80–83.

6. This brings us to the present filings. With the exception of calls originating in Puerto Rico and the Virgin Islands, all telex rates for ITT, RCA, TRT, and WUI would be reduced by $0.55 per minute. In other words, the $0.55 discount in existing tariffs would be built into the basic rates. Customers having direct access to the IRC switch would either provide terminal equipment at their own expense or rent terminal equipment at the rates presently listed in each of the IRC's leased channel tariffs. Customers of ITT, RCA, and WUI would furnish their own access lines at their own expense. Customers of TRT would either furnish their own access lines or rent them from TRT at $20 per month to any point within the Standard Metropolitan Statistical Area (SMSA) for each of TRT's operating areas. Customers of ITT, RCA, and WUI would pay separately for their own paper and other supplies. TRT, however, would provide supplies to its direct access customers at no charge. Customers accessing each IRC through Western Union would be charged the reduced basic rates if they paid Western Union for their telex or TWX call. Those calling an IRC's so-called "free" access number would be charged an additional $0.55 per minute.

7. The situation for calls originating in Puerto Rico and the Virgin Islands

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[1] For the remainder of this order, ITT World Communications Inc. will be known as ITT, RCA Global Communications, Inc. will be RCA, TRT Telecommunications Corporation will be TRT, and Western Union International, Inc. and its subsidiary Western Union International Caribbean, Inc. will be WUI and WUI Caribbean, respectively.

[2] Western Union Telegraph Company (Western Union) has filed petitions to reject, or in the alternative to suspend and investigate the revisions under ITT Transmittal No. 2258, RCA Transmittal Nos. 4610, 4613, and 4614, TRT Transmittal Nos. 909 and 911, WUI Transmittal No. 1430, and WUI Caribbean Transmittal No. 224. Trans-Lux Corporation (Trans-Lux) has filed petitions to suspend and petitions to reject the revisions under ITT Transmittal Nos. 2258, 2259, and 2260, RCA Transmittal Nos. 4610 and 4611, TRT Transmittal Nos. 909, 910, and 911, WUI Transmittal No. 1430, and a petition to reject the revisions under WUI Caribbean Transmittal No. 224. In addition, ITT has filed a petition to reject or, in the alternative, to suspend and investigate the revisions under TRT Transmittal Nos. 909 and 911. Responsive pleadings have been filed by the various parties.

We have also received letters from several small telex users. They complain that the reduction in transmission rates would not compensate for the new terminal equipment and access line charges they would pay under mandatory unbundling, and this would result in their paying significantly higher amounts for service. In essence, these users disagree with our policy of mandatory unbundling adopted earlier. *See* para. 5 below. Because these issues have already been fully discussed in our *Unbundling* order, we will not readdress them here. *See* Docket No. 21005, *Interface of International Telex Service with the Domestic Telex and TWX Services*, 76 F.C.C. 2d 61, 78–80 (1980).

[3] Direct access lines are connected to gateway cities only. However, as a result of the *Gateways* order, we are permitting the expansion of the number of domestic points of operaton upon the satisfactory unbundling of the telex rate structure.

[4] In the *Unbundling* order, we directed that Graphnet Systems, Inc. and other carriers offering domestic telex-compatible service be provided interconnection with the IRCs for through international telex service upon demand. 76 F.C.C. 2d at 77, 83.

[5] The call is free only in the sense that the customer does not incur any additional charge above the normal country-to-country rate. However, the Western Union charges associated with these calls are paid to Western Union by the IRCs and are included in the overall revenue requirement of the country-to-country usage rates.

would be somewhat different. Rather than incorporating the $0.55 per minute discount in its basic international rates, WUI Caribbean would continue to apply existing undiscounted rates to customers accessing the IRC's switch by way of a so-called "free" telex call. Those who pay for their own telex call to WUI Caribbean, or those who provide their own tieline and terminal equipment, would receive a $0.55 per minute discount. WUI Caribbean proposes to lease telex machines at the terminal equipment rates listed in its private line tariffs. Paper and other supplies would be supplied at the customer's expense. ITT, RCA, and TRT take a different approach. They propose to follow the same plan as for the mainland except that RCA and TRT would not charge $0.55 per minute additional to those customers accessing the IRC switches by way of a "free" telex call originating with the local telex carriers. ITT, on the other hand, would require that those accessing its switch by way of the local telex carrier pay for their local calls to the local carrier.

8. In its petitions, Western Union argues that each of the IRCs has failed to justify its rates for terminal equipment, and that its equipment has in fact been underpriced in violation of Section 201(b) of the Act, 47 U.S.C. § 201(b).[6] It further contends that each IRC has failed to justify its transmission charges, and has discriminated against customers originating calls with Western Union by charging those customers $0.55 per minute for calling the IRC's so-called "free" access number. In addition, Western Union claims that RCA, in contravention of Section 61.38 of the Rules, 47 C.F.R. 61.38 has not provided data concerning savings associated with the anticipated reduced utilization of Western Union's domestic telex and TWX facilities to access inbound customers located in each of the new RCA operating areas.

9. Trans-Lux also questions the reasonableness of terminal equipment charges in each of the IRC tariffs. Lastly, ITT contends that TRT's failure to unbundle paper supplies is contrary to the Commission's unbundling policy and, moreover, that TRT's proposal to lease access lines for $20 within the SMSA of an operating area is noncompensatory and contrary to unbundling policy.

[6] Section 201(b) requires that all charges, practices, classifications, and regulations for and in connection with communications services be just and reasonable.

## II. Discussion

### *A. Transmission Charges*

10. Western Union argues that the IRCs have failed to provide cost justification for their proposed overseas transmission charges as required by Section 61.38 of the Rules, 47 C.F.R. 61.38, and the *Unbundling* order. The IRCs, on the other hand, claim that they have already submitted cost justification data with their optional unbundling tariffs. Further, they contend that in Docket No. 20778, the *International Audit*, 75 F.C.C. 2d 726 (1980), the Commission concluded that a full cost of service study would not be useful.

11. On the facts before us, we do not consider the traditional Section 61.38 data for the transmission charges to be warranted at this time. The provision of full cost support data for basic transmission rates is not essential to the review of these filings, as our primary purpose here is to evaluate the reasonableness of the proposed unbundling. As a separate matter, the procedures for deriving such information is now being developed by the staff as a result of our findings in the *International Audit*, 75 F.C.C. 2d at 727–28.

12. Although we may later initiate a proceeding in which we require the IRCs to provide a complete justification for their basic transmission rates, at this time our concern is to ensure that the objectives of the *Unbundling* order are met. To this end, we intend to examine the costs for the items that are unbundled from the transmission charges, that is, the terminal equipment, local access lines, and supplies. By looking at the cost justification for these items, and assessing whether they are properly supported, we may determine whether the unbundled transmission rates have been sufficiently reduced. In other words, as each item is unbundled from transmission, it will correspondingly reduce the revenue requirement to be recovered by way of the transmission rate.

13. Other expense and investment shifts affecting transmission charges also result from either unbundling or adding the new IRC operating areas. First, there will be an increase in IRC utilization of domestic landline haul facilities and increased domestic transmission responsibilities resulting from the expansion of gateways and operating areas. Furthermore, there will be reductions in both inbound and outbound hinterland access traffic to the IRC networks.

14. We find that the data before us concerning each of the above factors appear incomplete for purposes of determining whether transmission charges have been properly reduced. Although it is claimed by the filing IRCs that much of the above data was submitted with the optional unbundling tariffs which became effective in late 1979, the situation there may be readily distinguished from present circumstances. At the time we allowed the various optional unbundling revisions to go into effect, we considered them a step forward. The *Unbundling* rulemaking proceeding, however, was still pending. Accordingly, there was no need to decide at that point whether the IRC support data would be adequate for the purposes of complete unbundling. Now, that question is squarely before us, we are required to take a hard and fresh look at the data on the basis of the significantly broader issue.

15. On review, we find that the data on hand and the arguments of petitioners raise serious questions concerning the adequacy of each IRC's proposed unbundling of terminal equipment and access lines from transmission charges. In particular, the IRC's unbundling of terminal equipment costs has not been satisfactorily supported, as the existing tariff rates relied upon appear too low. Accordingly, we find it necessary to set for investigation each of the unbundling proposals. In investigating these proposals we shall focus on the question of whether the new transmission rates constitute a just and reasonable unbundling of the former rates under Section 201(b) of the Act. To this end, should we find that the costs of terminal equipment, access lines, and supplies have not been fully unbundled from transmission rates such that the transmission rates are too high, we will prescribe new charges which represent a just and reasonable unbundling of all rate elements.

### *B. Terminal Equipment Charges*

16. Western Union and Trans-Lux each argue that the IRCs have not provided the economic data and justification for their terminal equipment charges as required by Section 61.38 of the Rules. In addition they claim that the equipment rates, in particular the rate of $46.00 per month for an M32 ASR telex terminal, are non-compensatory and thus unreasonably low in violation of Section 201(b) of the Act. In support, they point out that these equipment rates have been in effect for many years without change and that they are considerably lower than the rates charged by other suppliers of the same equipment.

17. To begin our analysis, we acknowledge that the terminal

equipment rates for leased channel service have been in existence for many years. Moreover, these rates already apply to telex users who wish to lease a machine from an IRC. Because neither a rate change nor a new rate is involved, there is no requirement for the IRCs to provide Section 61.38 data for terminal equipment. Thus, the omission of such data is insufficient basis for rejection of the filing.

18. Nevertheless, the fact that a rate is on file with this Commission does not create a presumption of lawfulness, regardless of its time on file. *See, e.g., Carterfone,* 13 F.C.C. 2d 420, *recon. denied,* 14 F.C.C. 2d 571 (1968). *See also Arizona Grocery Co.* v. *Atchison, Topeka & Santa Fe Railway Co.,* 284 U.S. 370, 389 (1932); *Southern Railway Company* v. *Prescott,* 240 U.S. 632, 638 (1916). The terminal equipment rates in question have been in the IRC tariffs without modification for a number of years, some for well over ten years. During that period, we have seen periods of unparalleled inflation and other changed economic conditions. As a result, we have no way of knowing whether the terminal equipment rates are compensatory, even if it is assumed they were properly justified at the time they were filed. Furthermore, the IRCs' allegations that certain factors, such as increased efficiency, will compensate for inflation are insufficient comfort in the absence of a proper showing to this effect. In any case, as a consequence of our *Unbundling* order, IRC equipment rates will take on added significance for what figures to be a new and larger set of customers and carriers. Therefore, it is incumbent upon us to make fresh determinations of their lawfulness.

19. As with transmission charges, we do not consider the previously submitted proposals in connection with IRC optional unbundling to be sufficient for present purposes. *See* paras. 12–15 above. The time has come, in other words, for the IRCs to develop updated cost support material for their terminal equipment charges.

20. In this regard, we are mindful of the IRCs' contentions that it makes little sense to investigate these charges at a time when we are considering deregulation of terminal equipment. *Unbundling* order, 76 F.C.C. 2d at 82. However, the proposed reductions in transmission rates are based, in part, on the revenue requirement shifts resulting from the unbundling of terminal equipment. Therefore, we need reliable information to ascertain whether the costs of terminal equipment have been completely unbundled from the transmission charges. Stated differently, in the event we deregulate this terminal equipment, we would still wish to satisfy ourselves that all vestiges of terminal equipment costs have been removed from transmission to ensure against cross-subsidization between regulated and unregulated activities. *Cf. Second Computer Inquiry, Docket No. 20828,* 77 F.C.C. 2d —, FCC 80–189, released May 2, 1980, at paras. 162–67, where a transition period has been fixed before deregulating terminal equipment to avoid this very problem.

21. Accordingly, we shall investigate whether the terminal equipment charges are just and reasonable. To this end, we will require the carriers to justify these rates by, among other things, providing historical and projected data concerning expenses and investment. The specific justification we deen necessary is listed in the Appendix.

*C. Local Access Lines*

22. In its petition, ITT takes issue with TRT's proposal to allow customers to obtain for $20 per month a local access line that will connect TRT's switch to a customer's telex machine located within the SMSA for that switch. ITT argues that this charge is not a calculated average of the expected cost of a tieline because TRT's tariff also allows a customer to have TRT act as that customer's agent in obtaining local access connections from the local domestic carrier, passing on the charge to the customer. In effect ITT argues a customer would opt to lease the facility from TRT at the $20 monthly rate only if the charge imposed by the underlying carrier would be greater than $20 per month. ITT therefore concludes that TRT would in fact be subsidizing many customer tielines in violation of the Commission's requirement for cost-based unbundling.

23. We find that ITT raises a valid question concerning TRT's proposed charge. TRT bases its $20 rate on the average cost to it of a representative group of tielines accessing its points of operation. In our view, however, this derivation fails to properly account for the likelihood that customers would lease local access lines through TRT as agent where the underlying carrier's charge is less than $20 per month. Moreover, TRT has provided access line costs based on traditional access arrangements rather than estimates of the costs of accessing the expanded points of operation, which include SMSAs rather than city boundaries. As a part of our investigtion, therefore, we shall require TRT to justify its proposed local access line charge by, among other things, providing data as outlined in the Appendix which include projected expenses and investment.

24. With respect to the other IRCs, as justification for their proposed unbundling of transmission charges, we shall require that they provide historical data on local access line investment and expenses as listed in the Appendix. By examining the IRCs' costs of providing tie lines prior to unbundling, we will be able to make a determintion as to whether the proposed revisions sufficiently reduce transmission charges.

*D. Paper and Other Supplies*

25. ITT complains that TRT's continuing to provide paper and other supplies at its own expense is contrary to the intent of the *Unbundling* order. TRT answers that the bundling of supplies is valid because their cost is causally related to usage, and that the first mention of supplies is in the Commission's denial of stay of the *Unbundling* and *Gateways* orders. According to TRT, deciding the issue in the context of denying a stay is invalid. Nevertheless, the carrier purports to be willing to unbundle supplies if the Commission desires.

26. In our order denying stay of Docket No. 21005 *Unbundling*) and Docket No. 19660 (*Gateways*), we clarified our intention that supplies be unbundled from telex transmission charges, 77 F.C.C. 2d —, FCC 80–197, released April 14, 1980, at para. 13. TRT has been unable to persuade us otherwise because, as we see it, customers who originate their calls by way of a domestic carrier cannot take advantage of the "free" supplies, and customers who are directly connected to TRT should have the option of obtaining paper and other supplies from any source. Nevertheless, because the issue of unbundling supplies was not specifically mentioned until the order denying stay, we consider it appropriate to give TRT an opportunity to fully address the matter. Therefore, we will investigate that portion of TRT's present tariff that provides for paper and other supplies at the carrier's expense.

27. In addition, we will require the other IRCs' full cost of providing supplies if we are to determine whether this component of the revenue requirement has been removed from the transmission rate. Accordingly, as part of the investigation, we shall require each IRC to provide expense and investment data for paper and other supplies as listed in the Appendix.

*E. Domestic Transmission of Outbound Traffic*

28. Western Union contends that the subject tariff revisions would in effect

selectively eliminate country-to-country rates in a manner which discriminates against the customers of Western Union and other domestic carriers. Western Union explains that IRC customers accessing the IRCs at their operating points would not pay an additional charge for transmission from the IRC operating point to its overseas switch. On the other hand, customers accessing the IRC switch by way of Western Union and other domestic carriers must either pay for their own call, or in the case of Western Union, may call the IRCs so called "free" access number and be charged an additional $0.55 per minute. Western Union points out that no IRC has demonstrated that it costs any more to pay another carrier for the domestic call than to provide the domestic transmission itself.

29. In response, the IRCs argue that the cost to Western Union subscribers of domestic transmission would be considerably reduced if Western Union were to agree to interconnect at each of the new IRC domestic operating centers. They also contend that the proposed rate structure comports with Commission policy by giving the customer an economic choice, that is, either accessing the IRC by leasing a terminal and tieline, or utilizing Western Union facilities and paying the additional charge. Under this view, a customer with both domestic and international telex needs would choose according to its volume of service. Finally, TRT attempts to show that its incremental cost of providing domestic transmission is considerably less than its payment for use of Western Union's telex and TWX.

30. In order to address Western Union's allegations of unlawful discrimination, we must take a practical look at the IRCs' proposed rate scheme under their expanded operations. The IRCs propose to offer international telex service from each of their domestic operating centers at the same country-to-country rate. In other words, the customer must first access the IRC network before the country-to-country rate would apply. Western Union, however, in essence seeks to have the country-to-country rate concept applied beyond the IRCs' networks to the point of call origination. Under this view, the IRCs would in effect be required to absorb the charges imposed by Western Union or another carrier for access to the IRCs' networks.

31. We do not agree that the proposal IRC limitation of country-to-country rates to their own networks raises questions of unlawful discrimination. Under this scheme a customer would be free to access the IRC of its choice at any point (presumably the nearest) of operation. Thus, all customers could take advantage of country-to-country rates once they had obtained access to an IRC operating center, either through Western Union, another carrier, or through the lease of their own terminal and tieline. Although the IRCs would impose a $.55 charge for a "free" access call direct to the IRC switch in New York or San Francisco, customers retain the option of accessing the IRCs at other points and can elect the method which best suits their needs. Under these circumstances we see no need to investigate the proposed revisions.

32. This leaves us with the problem that the data provided by the IRCs fails to establish that they have reduced the transmission charges sufficiently to reflect the savings they realize by no longer adsorbing the cost of hinterland access for outbound traffic. Therefore, as part of our investigation, we will require each IRC to provide investment and expense data concerning the domestic transmission of outbound traffic. These data are to be divided into two categories. One will involve calls to an IRC switch originating with Western Union or other domestic carriers. For this group we request historical and projected data. The second category concerns the domestic transmission to be provided by the IRCs from their new operating centers. Here, of course, only projected data will be suitable. The information required is listed in detail in the Appendix.

*F. Domestic Transmission of Inbound Traffic*

33. In its petition, Western Union complains that RCA's data fails to reflect the cost savings which unbundling will generate in connection with the handling of inbound traffic. Savings, it says, will be realized from the fact that some customers who now receive inbound telex calls by way of Western Union would receive them by direct lines or dataphone type services once unbundling takes place and the IRCs begin to operate in the new areas. RCA disagrees, claiming that any potential reduction in payments to Western Union would be offset by additional expenses which RCA expects to incur in establishing the new operating areas and by reductions in accounting rates with foreign administrations.

34. Significantly, though, RCA has failed to present any data in support of its argument. In fact, with the exception of WUI, none of the IRCs shows its projected savings, and no IRC describes in sufficient detail the additional investment and expenses it anticipates. Thus, we have no basis for knowing how the savings compare with the additional investment and expenses. For this reason, as part of the investigation, we shall require all IRCs to provide the projected savings resulting from unbundling and the establishment of new operating areas, as well as the projected additional investment and expenses associated with the domestic transmission of inbound traffic. The specific information requested is listed in the Appendix.

**III. Conclusions and Investigation Procedure**

35. For reasons already explained, there is no clear basis for rejection. Investigation of these revisions, however, is warranted in view of the substantial questions of lawfulness which have been raised regarding the degree to which a cost-supported unbundling has been achieved. Again, the purpose of this investigation is to determine whether the charges for each of the unbundled service features are just and reasonable and whether the transmission charges have been sufficiently reduced in view of the concomitant reduction in the revenue requirements associated with transmission. At the completion of the investigation, we expect to be in a position to either accept the unbundling proposals or to prescribe specific unbundling plans for each of the IRCs.

36. To this end, we will require each of the IRCs to provide certain expense and investment information concerning terminal equipment, local access, provision of paper and other supplies, domestic transmission of inbound and outbound messages, and access to the networks by the domestic carriers for inbound and outbound messages. The specifics in this regard are spelled out in the Appendix and the text of this order.

37. Given the specific nature of the issues involved, we do not find an oral evidentiary hearing warranted. In our judgment, a "paper" proceeding will be adequate. *See, e.g., Resale and Shared Use of Common Carrier Services and Facilities*, 60 F.C.C. 2d 261 (1976), *recon. granted in part*, 62 F.C.C. 2d 588, *aff'd sub nom. American Telephone and Telegraph Company* v. *FCC*, 572 F.2d 17 (2d Cir.), *cert. denied*, 99 S. Ct. 213 (1978) (formal evidentiary hearing not required when parties have been given an opportunity to present their views by way of written submissions). The burden of proving whether the unbundling proposals are just and reasonable shall lie with the filing carriers.

38. Turning to the question of whether the tariff filings should be suspended, we find that the public would benefit from allowing the tariffs to go into effect at this time. Although the underlying support for the tariffs raises questions of lawfulness, we find that the proposed revisions are an impetus in the direction of the complete unbundling we have already found to be in the public interest. Thus, on one level, they satisfy the requirement of the *Gateways* order (76 F.C.C. 2d at 145 (that the IRCs unbundle the terminals and local access lines from the transmission charges. Therefore, we consider it appropriate to allow the IRCs to implement their proposed expansion of gateways and new domestic operating centers.

39. Examining the specifics of the proposed revisions, we find that those customers who access the IRCs by way of Western Union will be paying the same amounts as they have been under optional unbundling. The same is true for gateway customers who provide their own local access and telex machine. The major difference between the two tariffs is that under optional unbundling a customer in a gateway can obtain a tieline and telex machine at no additional charge by paying the bundled rate, whereas under the new proposals, a customer must provide his own access line and may either provide his own terminal equipment or rent the equipment from the IRC.[7] Although we question whether the equipment rental charge is properly cost-supported, we nevertheless find that on balance, the proposed tariffs are preferable to the present situation.

40. In regard to TRT's proposed $20 monthly rate for local access lines, we do not find that suspension is warranted. Even if the rate is assumed to be too low, as ITT contends, we do not find that the potential for harm to competitors exists during the pendency of an investigation because, at the present time, customers of TRT are getting the same access lines at no charge while paying the unbundled telex rate.[8]

41. Accordingly, it is ordered, pursuant to Sections 4(i)–(j), 201–205, and 403 of the Communications Act, 47 U.S.C. §§ 154(i)–(j), 201–205, and 403, that an investigation is instituted into the following issues:

(1) Whether each of the charges for teletypewriter equipment listed in ITT's Tariff F.C.C. No. 43, RCA's Tariff F.C.C. No. 58, TRT's Tariff F.C.C. No. 63, WUI's Tariff F.C.C. No. 4, and WUI Caribbean's Tariff F.C.C. No. 3 are just and reasonable and otherwise lawful.

(2) Whether the local access charges proposed by TRT in its Transmittal No. 909 as revisions to its tariff F.C.C. No. 60 are just and reasonable and otherwise lawful.

(3) Whether the charges for international telex service as proposed by ITT in its Transmittal No. 2258 as revisions to its Tariff F.C.C. No. 12, by RCA in its Transmittal Nos. 4610 and 4613 as revisions to its Tariff F.C.C. No. 90 and in its Transmittal No. 4614 as revisions to its Tariff F.C.C. No. 88 (international marine mobile telex service), by TRT in its Transmittal No. 911 as revisions to it Tariff F.C.C. No. 64, by WUI in its Transmittal No. 1430 as revisions to its Tariff F.C.C. No. 5, and as listed by WUI Caribbean in its Tariff F.C.C. No. 2 have been sufficiently reduced from the bundled charges previously listed in the same tariffs and referred to earlier in this order so as to fully reflect all of the investment and expense shifts resulting from the unbundling of international telex rates.

(4) Whether the provision of paper and other supplies without charge to the customer as a part of the TRT's international telex service listed in its Tariff F.C.C. No. 64 is just and reasonable and otherwise lawful.

42. It is further ordered, That, with the respect to each of the above issues, the burden of introduction of evidence and burden of proof are placed upon each carrier whose tariffs are under investigation.

43. It is further ordered, That ITT, RCA, TRT, WUI, WUI Caribbean, Trans-Lux, and Western Union shall be named parties to this proceeding.

44. It is further ordered, That ITT, RCA, TRT, WUI, and WUI Caribbean shall submit their direct cases on the above issues within 60 days of the release of this order. Such direct cases shall include, but shall not be limited to, the data requested in the Appendix to this order. Other parties may file their reply cases or comments within 30 days thereafter. ITT, RCA, TRT, WUI, and WUI Caribbean may file their responses within 15 days thereafter.

45. It is further ordered, That the Chief, Common Carrier Bureau is delegated authority to require the submission of additional information, make further inquiries, and modify issues, dates, and procedures, if necessary to provide for a fuller record and more efficient proceeding.

46. It is further ordered, That the petitions to reject or, in the alternative, to suspend and investigate, filed by Western Union and ITT Are Granted to the extent indicated and otherwise are denied.

47. It is further ordered, That the petitions to reject filed by Trans-Lux are denied

48. It is further ordered, That the petitions to suspend and investigate filed by Trans-Lux are granted to the extent indicated and otherwise are denied.

Federal Communications Commission.

**William J. Tricarico,**

*Secretary.*

**Appendix**

The following information is to be provided as a part of the carrier's direct case for the tariff investigation initiated by this order. All data must be accompanied by reference to its source, basis of development, and derivation.

I. Terminal Equipment—Separately for models 32 KSR, 32 ASR, T–100, 28, Other:

A. Investment—historical (average for the 12 months ended December 31, 1979):
1. First cost as shown in accounting records
2. Associated capitalized costs and loadings (specify each item)
3. Working capital
4. Depreciation reserve
5. Number of units and minutes

B. Investment—average projected for each year, 1980 through 1983, assuming unbundling and expanded gateways:
1. First cost
2. Associated capitalized costs and loadings (specify each item)
3. Working capital
4. Depreciation reserve ratio if different from A4 above
5. Number of units and minutes

C. Expense—historical (for 12 months ended Dec. 31, 1979):
1. Maintenance
2. General and administrative
3. Sales and marketing
4. Taxes other than FIT
5. Depreciation
6. FIT
7. Other (specify)
8. Provision for return

D. Expense—projected for each year, 1980 through 1983, assuming unbundling and expanded gateways:
1. Maintenance
2. General and administrative
3. Sales and marketing
4. Taxes other than FIT
5. Depreciation
6. FIT
7. Other (specify)
8. Provision for return

II. Local Access Lines:

A. Investment—historical (average for 12 months ended Dec. 31, 1979):
1. First cost as shown in accounting records
2. Associated capitalized costs and loadings (specify each item)
3. Working capital
4. Depreciation reserve

[7] Under optional unbundling, all of TRT's gateway customers receive the $0.55 discount, even if TRT provides the access line and terminal equipment. Nevertheless, we consider TRT's proposed tariff to be preferable to its optional unbundling tariff, because TRT will no longer be giving away terminals and tielines at no charge.

[8] The terminal equipment charges are not subject to our suspension power because they are already in the tariff and, as such, do not constitute a new or revised rate. *See* Section 204(a) of the Act, 47 U.S.C. § 204(a).

5. Number of units and minutes

B. (For TRT only) Investment—average projected for each year, 1980 through 1983, assuming unbundling and expanded gateways:
1. First cost
2. Associated capitalized costs and loadings (specify each item)
3. Working capital
4. Depreciation reserve ratio if different from A4 above
5. Number of units and minutes

C. Expense—historical (for 12 months ended Dec. 31, 1979):
1. Maintenance
2. General and administrative
3. Sales and marketing
4. Taxes other than FIT
5. Depreciation
6. FIT
7. Other (specify)
8. Provision for return

D. (For TRT only) Expense—projected for each year, 1980 through 1983, assuming unbundling and expanded gateways:
1. Maintenance
2. General and administrative
3. Sales and marketing
4. Taxes other than FIT
5. Depreciation
6. FIT
7. Other (specify)
8. Provision for return

III. Provision of Paper and other supplies:

A. Investment—historical (average for the 12 months ended Dec. 31, 1979)

B. Expenses—historical (for 12 months ended Dec. 31, 1979)

IV. Domestic Carrier—access to IRC network [1] (outbound traffic):

A. Investment—historical (average for the 12 months ended Dec. 31, 1979):
1. First cost as shown in accounting records
2. Associated capitalized costs and loadings (specify each item)
3. Working capital
4. Depreciation reserve
5. Number of units and minutes

B. Investment—average projected for each year, 1980 through 1983, assuming unbundling and expanded gateways:
1. First cost
2. Associated capitalized costs and loadings (specify each item)
3. Working capital
4. Depreciation reserve ratio if different from A4 above
5. Number of units and minutes

C. Expense—historical (for 12 months ended Dec. 31, 1979):
1. Maintenance
2. General and administrative
3. Sales and marketing
4. Taxes other than FIT
5. Depreciation
6. FIT
7. Other (specify)
8. Provision for return

D. Expense—projected for each year, 1980 through 1983, assuming unbundling and expanded gateways:
1. Maintenance
2. General and administrative
3. Sales and marketing
4. Taxes other than FIT
5. Depreciation
6. FIT
7. Other (specify)
8. Provision for return

V. Domestic Landline Haul by IRCs with Expanded Gateways (not applicable to WUI Caribbean):

A. Investment—average projected for each year, 1980 through 1983, assuming unbundling and expanded gateways:
1. First cost as shown in accounting records
2. Associated capitalized costs and loadings (specify each item)
3. Working capital
4. Depreciation reserve
5. Number of units and minutes

B. Expenses—projected for each year, 1980 through 1983, assuming unbundling and expanded gateways:
1. Maintenance
2. General and administrative
3. Sales and marketing
4. Taxes other than FIT
5. Depreciation
6. FIT
7. Other (specify)
8. Provision for return

VI. Inbound Traffic (assuming unbundling and expanded gateways):

A. Savings for each year 1980 through 1983 (specify)

B. Additional investment—average projected for each year, 1980 through 1983:
1. First cost
2. Associated capitalized costs and loadings (specify each item)
3. Working capital
4. Depreciation reserve
5. Number of units and minutes

C. Additional expense—projected for each year, 1980 through 1983:
1. Maintenance
2. General and administrative
3. Sales and marketing
4. Taxes other than FIT
5. Depreciation
6. FIT
7. Other (specify)
8. Provision for return

[FR Doc. 80-25863 Filed 8-22-80; 8:45 am]

BILLING CODE 6712-01-M

[1] This will for the most part comprehend the outbound traffic originated by Western Union Telex and TWX subscribers.

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**[CC Docket No. 80-339; Transmittal No. 2258, et. al.]**

## ITT World Communications Inc. et. al.; Memorandum Opinion and Order

Adopted: July 1, 1980.

Released: August 8, 1980.

In the matter of ITT World Communications Inc., Transmittal Nos. 2258, 2259, 2260; RCA Global Communications, Inc., Transmittal Nos. 4610, 4611, 4613, 4614, 4615, 4616; TRT Telecommunications Corp., Transmittal Nos. 909, 910, 911; Western Union International, Inc., Transmittal 1430, 1431; Western Union International Caribbean, Inc. Transmittal No. 224; FTC Communications, Inc., Transmittal No. 69; revisions to tariffs for establishing separate charges for terminals, tielines, and transmission offered in connection with international telex service and implementing expanded gateways and additional domestic operating areas for international telecommunications service.

By the Chief, Common Carrier Bureau:

1. Presently before the Chief, Common Carrier Bureau, pursuant to delegated authority, is a petition by Western Union Telegraph Company (Western Union) requesting rejection or, alternatively, suspension and investigation of proposed tariff revisions filed by FTC Communications, Inc. (FTCC).[1] The revisions purport to "unbundle" international telex rates, that is, establish charges for terminals, tielines, and transmission and implement expanded gateways and additional domestic operating areas for international telecommunications service.

2. FTCC's proposed tariff revisions follow the same pattern as those recently filed by other International Record Carriers (IRCs) in response to the Commission's *Unbundling* order, Docket 21005, *Interface of the International Telex Service with the Domestic Telex and TWX Services*, 76 F.C.C. 2d 61 (1980). These comparable revisions are described in paragraph 6 of Order FCC 80-386, adopted July 1, 1980. [2] That order fully considered the contentions of Western Union and others in support of rejection, or suspension and investigation, and designated the telex unbundling proposals of each of the other IRCs for investigation. The issues raised by Western Union here are similar to those it raised in regard to the other IRCs' tariff filings. As a result, we do not see any need to repeat that analysis, and we will consolidate FTCC's proposed revisions into the investigation.

3. Accordingly, it is ordered, pursuant to Sections 4(i)-(j), 201-205, and 403 of the Communications Act, 47 U.S.C. §§ 154 (i)-(j), 201-205, and 403, and Section 0.291 of the Commission's Rules

[1] Also before us is an opposition pleading filed by FTCC.

[2] Pursuant to Special Permission No. 80-340 granted July 2, 1980, FTCC, in Transmittal No. 74, deleted a provision which would have provided for a $.05 per minute charge for calling an INWATS number to access FTCC. We have previously rejected a similar proposed tariff revision filed by ITT World Communications Inc. for failure to obtain authority to provide INWATS access as required by Section 214 of the Communication Act, 47 U.S.C. § 214. *ITT World Communications Inc.*, Transmittal No. 2256, released July 1, 1980.

47 C.F.R. § 0.291, that an investigation is instituted into the following issues:

(1) Whether each of the charges for teletypewriter equipment listed in FTCC's Tariff F.C.C. No. 17 are just and reasonable and otherwise lawful.

(2) Whether the charges for international telex service as proposed by FTCC in its Transmittal No. 69 as revisions to its Tariff F.C.C. No. 16 have been sufficiently reduced from the bundled charges previously listed in the same tariffs so as to fully reflect all of the investment and expense shifts resulting from the unbundling of international telex rates.

4. It is further ordered, That, with respect to each of the above issues, the burden of introduction of evidence and burden of proof are placed upon FTCC.

5. It is further ordered, That this investigation shall be consolidated with the investigation ordered in *ITT World Communications Inc. (ITT)*, FCC 80–386, adopted July 1, 1980.

6. It is further ordered, That the parties shall be subject to the same procedural dates as listed in paragraph 44 of *ITT*, FCC 80–386.

7. It is further ordered, That FTCC's direct case shall include, but shall not be limited to, the data requested in the Appendix to *ITT*, FCC 80–386.

8. It is further ordered, That the petition to reject or, in the alternative, to suspend and investigate, filed by Western Union is granted to the extent indicated above and is otherwise denied.

**Thomas J. Casey,**

*Acting Chief, Common Carrier Bureau.*

[FR Doc. 80–25862 Filed 8–22–80; 8:45 am]

BILLING CODE 6712–01–M

## Notification List; Mexican Standard Broadcast Stations

List of new stations, proposed changes in existing stations, deletions and corrections in assignments of Mexican standard broadcast stations modifying the assignments of Mexican broadcast stations contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting, January 30, 1941.

May 30, 1980.

**Mexican List No. 295**

| Call letters | Location | Power kW | Antenna | Schedule | Class | Antenna height (feet) | Ground system | | Proposed date of commencement of operation |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | Number of radials | Length (feet) | |
| XEQW | Merida, Yuc., N. 20°59'00", W. 89°38'44" (PO 2/KW/D, 0.200/KW/N) | 2.000D/*.350N* | ND–U–180 | *550 kHz* U | III | 323 | 120 | 443 | |
| (New) | Cd Obregon, Son., N. 27°29'37", W. 109°55'40" | 1.000 | ND–D–175 | *610 kHz* D | III | 323 | 120 | 339 | 12–1–80 |
| XEKC | Oaxaca, Oax., N. 17°13'43", W. 96°43'18" (Change to 1460 kHz) | 5.000D/1.000N | DA–2 | *680 kHz* U | II | | | | |
| | | | | | | ..... | ..... | ..... | 12–1–80 |
| (New) | SN Juan D Los L, Jal., N. 21°15'00", W. 102°19'21" | .500 | ND–D–175 | *720 kHz* D | II | 308 | 90 | 308 | 12–1–80 |
| XELTZ | *El Puertecito, Ags., N. 21°57'21", W. 102°16'14"* (Previously notified Loreto, Zac., N. 21°16'16", W. 101°58'56", 5/KW/D, 0.250/KW/N) | *3.300D/.100N* | ND–U–175 | *740 kHz* U | II | 306 | 120 | 253 | 12–1–80 |
| XEFZ | Monterrey, N.L., N. 25°40'11", W. 100°18'26" (Previously notified 0.500/KW/D, 0.100/KW/N) | .500D/*.500N* | ND–U–175 | *740 kHz* U | II | 306 | 120 | 253 | |
| (New) | Tacambaro, Mich., N. 19°14'32", W. 101°29'15" | .500 | ND–D–175 | *750 kHz* D | II | 262 | 120 | 276 | 12–1–80 |
| XEVA | Villahermosa, Tab., N. 18°00'31", W. 92°53'34" (PO 5/KW/D, 0.200/KW/N) | *10.000D/.500N* | ND–U–175 | *790 kHz* U | III | 213 | 120 | *330* | |
| XEHT | Huamantla, Tlax, *N. 19°18'40", W. 97°55'32"* | .500 | ND–D–179 | *810 kHz* D | II | 276 | 90 | 295 | Immediately |
| (New) | Leon, Gto., N. 21°07'12", W. 101°40'38" | .200 | ND–D–175 | *830 kHz* D | II | 234 | 120 | 246 | 12–1–80 |
| (New) | Sn Diego, Pue, N. 20°26'30", W. 97°41'54" | .200 | ND–D–175 | *830 kHz* D | II | 237 | 120 | 249 | 12–1–80 |
| XEZOL | Cd Juarez, Chih., N. 31°42'45", W. 106°23'38" | 1.000D/.500N | ND–U–*175* | *860 kHz* U | II | 246 | *120* | *229* | 12–1–80 |
| (New) | Villaflores, Chis., N. 16°14'05", W. 93°13'56" | .500 | ND–D–175 | *870 kHz* D | II | 226 | 120 | 238 | 12–1–80 |
| (New) | Hopelchen, Camp., N. 19°45'53", W. 89°49'30" | 1.000 | ND–D–175 | *920 kHz* D | III | 214 | 120 | 225 | 12–1–80 |
| XETAA | Torreon, Coah., N. 25°33'16", W. 103°27'44" (PO 1/KW/D, 0.200/KW/N) | *5.000D/*.200N | ND–U–175 | *920 kHz* U | III | 241 | 120 | 197 | |
| (New) | Tlaxiaco, Oax., N. 17°15'59", W. 97°40'58" | .700 | ND–D–190 | *930 kHz* D | III | 266 | 120 | 266 | 12–1–80 |

**Mexican List No. 295**—Continued

| Call letters | Location | Power kW | Antenna | Schedule | Class | Antenna height (feet) | Ground system | | Proposed date of commencement of operation |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | Number of radials | Length (feet) | |
| | | | | *950 kHz* | | | | | |
| (New) | Jiquilpan, Mich., N. 19°58'07", W. 102°43'43" | .500 | ND-D-190 | D | III | 259 | 120 | 259 | 12-1-80 |
| | | | | *950 kHz* | | | | | |
| XEROF | El Fuerte, Sin., N. 26°14'25", W. 108°42'33" (PO 1/KW/D, ND-D-190) | *5.000D/*.500N | ND-U-178 | U | III | 256 | 120 | 205 | |
| | | | | *980 kHz* | | | | | |
| (New) | Apizaco, Tlax., N. 19°26'47", W. 98°10'00" | 1.000 | DA-D | D | III | | | | 12-1-80 |
| | | | | *1010 kHz* | | | | | |
| (New) | Apizaco, Tlax., N. 19°26'47", W. 98°10'00" | .100 | ND-D-175 | D | II | 195 | 120 | 205 | 12-1-80 |
| | | | | *1020 kHz* | | | | | |
| (New) | Izucar de Mtrs., Pue., N. 18°36'17", W. 98°30'20" | .500 | ND-D-190 | D | II | 241 | 120 | 241 | 12-1-80 |
| | | | | *1100 kHz* | | | | | |
| XEBD | Perote, Ver., *N. 19°34'27", W. 97°15'04"* (PO 0.250/KW/D) | 1.000 | ND-D-175 | D | II | 201 | 90 | 200 | Immediately |
| | | | | *1110 kHz* | | | | | |
| XELEO | Leon, Gto., *N. 21°07'08", W. 101°41'01"* (PO 5/KWS/D) | 5.000D/*0.250N* | ND-D-184, DA-N. | U | II | 221 | 90 | 221 | |
| | | | | *1210 kHz* | | | | | |
| (New) | Zacatecas, Zac., N. 22°48'45", W. 102°34'35" | 5.000 | ND-D-190 | D | II | 203 | 120 | 203 | 12-1-80 |
| | | | | *1250 kHz* | | | | | |
| (New) | Tejupilco, Mex., N. 18°53'30", W. 100°09'54" | .500 | ND-D-178 | D | III | 177 | 120 | 165 | 12-1-80 |
| | | | | *1260 kHz* | | | | | |
| XELTZ | Loreto, Zac., N. 22°16'16", W. 101°58'56" (Delete) (Vide 740 kHz) | .500 | ND-D-179 | D | III | 177 | 120 | 164 | |
| | | | | *1320 kHz* | | | | | |
| XESY | Magdalena, Son., N. 30°37'45", W. 111°03'42" (Delete) | .200 | ND-D-190 | D | III | 186 | 120 | 186 | |
| | | | | *1330 kHz* | | | | | |
| (New) | Durango, Dgo., N. 24°14'53", W. 104°39'39" | 1.000 | ND-D-190 | D | III | 185 | 120 | 185 | 12-1-80 |
| | | | | *1350 kHz* | | | | | |
| (New) | Libres, Pue., N. 19°29'48", W. 97°44'00" | *.500 | ND-D-175 | D | III | 144 | 120 | 151 | 12-1-80 |
| | | | | *1440 kHz* | | | | | |
| XEVSD | Villa Const, BCS, N. 25°35'00", W. 111°45'00" (PO 1/KW/D, 0.15/KW/N) | *5.000D/.200N* | ND-U-190 | U | III | 171 | 120 | 171 | |
| | | | | *1440 kHz* | | | | | |
| (New) | Nacajuca, Tab., N. 18°08'09", W. 93°00'41" | .500 | ND-D-190 | D | III | 171 | 120 | 171 | 12-1-80 |
| | | | | *1460 kHz* | | | | | |
| XEKC | Oaxaca, Oax., N. 17°03'45", W. 96°44'00" (PO 680 kHz) | 1.000D/*.100N* | ND-U-190 | U | III | 169 | 120 | 169 | 12-1-80 |
| | | | | *1470 kHz* | | | | | |
| XEACE | Mazatlan, Sin., N. 23°12'54", W. 106°22'17" (PO 1/KW/D, ND-D-206) | 1.000D/*.100N* | ND-U-*175* | *U* | III | 167 | 120 | *127* | |
| | | | | *1480 kHz* | | | | | |
| (New) | Palenque, Chis., N. 17°31'39", W. 91°59'01" | 1.000 | ND-D-190 | D | III | 167 | 120 | 167 | 12-1-80 |
| | | | | *1490 kHz* | | | | | |
| XEME | Valladolid, Yuc., *N. 20°41'53", W. 88°12'28"* | .500D/.500N | ND-U-175 | U | IV | 148 | 90 | 148 | Immediately |
| | | | | *1540 kHz* | | | | | |
| (New) | Coahuayana, Mich., N. 18°45'09", W. 103°40'30" | .500 | ND-D-190 | D | II | *160* | *120* | *160* | 12-1-80 |
| | | | | *1570 kHz* | | | | | |
| (New) | Puebla, Pue., N. 18°59'54", W. 98°13'33" | 1.000 | DA-D | D | II | | | | 12-1-80 |
| | | | | *1600 kHz* | | | | | |
| XERCP | Pureperd, Mich., N. 19°57'00", W. 102°00'30" | .200 | ND-*D-190* | D | III | 154 | 120 | 154 | 12-1-80 |

**Richard J. Shiben,**

*Chief, Broadcast Bureau, Federal Communications Commission.*

[FR Doc. 80-25864 Filed 8-22-80; 8:45 am]

**BILLING CODE 6712-01-M**

## Mexican Standard Broadcast Station; Notification List

List of new stations, proposes changes in existing stations, deletions and corrections in assignments of Mexican standard broadcast stations modifying the assignments of Mexican broadcast stations contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting, January 30, 1941.

March 31, 1980.

**Mexican List No. 294**

| Call letters | Location | Power watts | Antenna radiation mv/m/kw | Schedule | Class | Antenna height (feet) | Ground system | | Proposed date of change or commencement of operation |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | Number radials | Length (feet) | |
| XEGTO | *Arperos*, Gto., *N. 21°06'02", W. 101°23'53"*. (PO Guanajuato, N. 21°02'23", W. 101°11'05", 0.250/KW/U). | 5.000D/.250N | DA-D, -N-176 | *600 kHz* U | III | 345 | 120 | 345 | |
| (New) | Mazatlan, Sin., N. 23°11'55" W. 106°25'20". (Delete). | 5.000D/1.000N | DA-2 | *600 kHz* U | III | | | | |
| XEZ | Merida, Yuc., N. 20°57'52", W. 89°33'00". (PO 1/KW/D, ND-D-175). | 5.000d/1.000N | ND-U-*188* | *600 kHz* U | III | 413 | 120 | 410 | |
| XEIS | Cd Guzman, Jal., N. *19°42'45", W. 103°28'27"*. (*Shares antenna with XEBC, 990 kHz*). | 5.000 | ND-D-190 | *670 kHz* D | II | *318* | *90* | 318 | Immediately. |
| XEORO | Guasave, Sin., N. 25°35'08", W. 108°28'10". (PO 0.500/KW/D). | 1.000D/*1.000N* | ND-D-175, *DA-N* | *680 kHz* *U* | II | 318 | 90 | 341 | |
| XEFZ | Monterrey, N.L., N. 25°40'11", W. 100°18'26".(*Previously on 1110 kHz*). | .500D/.100N | ND-U-175 | *740 kHz* U | II | 306 | 120 | 253 | |
| XEDGO | Durango, Dgo., *N. 24°02'43", W. 104°35'54"*. | 1.000 | ND-D-177 | *760 kHz* D | II | 269 | 90 | 315 | Immediately. |
| XELN | Linares, N. L., N. 24°52'21", W. 99°33'22". (P.O. 1.000/KW/D). | 1.000D/*100N* | ND-U-175 | *790 kHz* U | III | 295 | 90 | 262 | |
| XEZOL | Cd Juarez, Chih., N. 31°42'45", W. 106°23'38". | 1.000D/.500N | ND-U-190 | *860 kHz* U | II | 286 | 120 | 286 | Oct. 1, 1980. |
| XEUG | Guanajuato, Gto., N. 21°01'01", W. 101°15'20". | .500 | ND-D-175 | *970 kHz* D | III | 197 | 90 | 253 | Immediately. |
| XEOW | Mazatlan, Sin., N. 23°17'01", W. 106°25'09". (PO 1/KW/D, 0.250/KW/N). | *5.000D/.400* | ND-U-187 | *970 kHz* U | III | 246 | 120 | 246 | |
| XEBC | Cd Guzman, Jal., *N. 19°42'45", W. 103°28'27"*. (*Shares antenna with XEIS, 670 kHz*). | 1.000D/.100N | ND-U-187 | *990 kHz* U | II | *318* | *90* | *318* | Immediately. |
| (New) | Tacambaro, Mich., N. 19°13'07", W. 101°28'50". | 1.000 | ND-D-175 | *990 kHz* D | II | 224 | 120 | 189 | Oct. 1, 1980. |
| XEHL | Guadalajara, Jal., N. *20°48'18", W. 103°28'28"*. (PO 10/KW/D, 5/KW/N). | 50.000D/5.000N | ND-U-*190* | *1010 kHz* U | II | *246* | 120 | *246* | |
| (New) | Villaflores, Chis., N. 16°14'02", W. 93°15'29". | 2.500 | ND-D-190 | *1040 kHz* D | II | 237 | 120 | 237 | Oct. 1, 1980. |
| XEAU | Monterey, N.L., N. 25°40'11", W. 100°18'21". (*Vide 1090 kHz*). (Shares antenna with XERG, 690 kHz). | .500 | ND-D-175 | *1080 kHz* D | II | 230 | 120 | 160 | |
| XEAU | Monterrey, N.L., N. 25°40'11", W. 100°18'21". (PO 1080 kHz). | 2.500D/.250N | ND-U-175 | *1090 kHz* U | II | 230 | 120 | 160 | Oct. 1, 1980. |
| XEFZ | Monterrey, N.L., N. 25°40'11", W. 100°18'26". (Delete—Vide 740 kHz). | .500 | ND-D-175 | *1110 kHz* D | II | 191 | 90 | 204 | |
| XEYH | Hermosillo, Son., N. *29°04'29", W. 110°57'30"*. (PO Bahia De Kino, N. 28°49'45", W. 111°56'40"). | 1.000 | ND-D-175 | *1170 kHz* D | II | 210 | 90 | *177* | Oct. 1, 1980. |

**Mexican List No. 294**—Continued

| Call letters | Location | Power watts | Antenna radiation mv/m/kw | Schedule | Class | Antenna height (feet) | Ground system | | Proposed date of change or commencement of operation |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | Number radials | Length (feet) | |
| | | | | *1170 kHz* | | | | | |
| XERB | Cozumel, Q.R., N. 20°29'02", W. 86°54'19". (PO 1510 kHz). | 5.000D/.100N | ND-U-175 | U | II | ..... | ..... | ..... | Oct. 1, 1980. |
| | | | | *1260 kHz* | | | | | |
| XEOG | Ojinaga, Chih., N. 29°33'18", W. 104°24'07". (PO 1/KW/D, 0.150/KW/N, ND-U-177). | 1.000D/*.250N* | ND-D-177, DA-N | U | III | 197 | 90 | 164 | |
| | | | | 1260 kHz | | | | | |
| XEMW | San Luis Rio C., Son., N. 32°29'15", W. 114°46'50". (PO 1270 kHz). | 1.000/.250N | ND-U-175 | U | III | 203 | 120 | 133 | Oct. 1, 1980. |
| | | | | *1270 kHz* | | | | | |
| XENX | Mazatlan, Sin., N. 23°11'55", W. 106°25'20". (*Change to 1290 kHz*). | 3.000D/.250N | ND-U-175 | U | III | 175 | 90 | 175 | |
| | | | | 1270 kHz | | | | | |
| XEMW | San Luis Rio C., Son., N. 32°29'15", W. 114°46'50". (Change to 1260 kHz). (*Shares antenna with XECB, 1450 kHz*). | 1.000D/1.000N | ND-D-193, DA-N | U | III | 205 | 120 | 203 | |
| | | | | *1270 kHz* | | | | | |
| XEPV | Papantla, Ver., *N. 20°28'55", W. 97°19'02"*. | 1.000D/.250N | ND-U-*197* | U | III | *194* | 120 | *213* | Immediately. |
| | | | | *1290 kHz* | | | | | |
| XENX | Mazatlan, Sin., N. 23°11'55", W. 106°25'20". (PO 1270 kHz). | 10.000D/.250N | ND-U-175 | U | III | 175 | 90 | 175 | Oct. 1, 1980. |
| | | | | *1360 kHz* | | | | | |
| XEUD | Tuxtla Gtz, Chis., N. 16°45'06", W. 93°07'03". | 1.000D/.500N | ND-U-214 | U | III | 297 | 120 | 180 | Immediately. |
| | | | | *1370 kHz* | | | | | |
| XEUAA | Aquascalientes, Ags., N. *21°54'44", W. 102°19'01"*. (PO 1520 kHz). | .500 | ND-D-*182* | D | III | *161* | 120 | *161* | Oct. 1, 1980. |
| | | | | *1390 kHz* | | | | | |
| XERUY | Merida, Yuc., N. 20°52'17" W. 89°37'39". (PO 1400 kHz). | 10.000D/1.000N | ND-D-190, DA-N | U | III | 177 | 120 | 177 | Oct. 1, 1980. |
| | | | | *1400 kHz* | | | | | |
| XEFS | Izucar De M., Pue., N. 18°36'22", W. 98°27'32". (PO .250/KW/D). | .350D/*.100N* | ND-U-150 | U | IV | 105 | 90 | 105 | |
| | | | | *1400 kHz* | | | | | |
| XERUY | Merida, Yuc., N. 20°52'17", W. 89°37'39". (Change to 1390 kHz). | 1.000D/.250N | ND-U-190 | U | IV | 177 | 120 | 177 | |
| | | | | *1510 kHz* | | | | | |
| XERB | Cozumel, Q. R., N. 20°29'02", W. 86°54'19". (*Change to 1170 kHz*). | 5.000 | DA-D | D | II | ..... | ..... | ..... | |
| | | | | *1510 kHz* | | | | | |
| XEJPM | Cardel, Ver., N. *19°11'56", W. 96°16'25"*. (PO 0.500/KW/D, ND-D-190, 50/120/50). | 5.000 | DA-D | D | II | ..... | ..... | ..... | |
| | | | | *1510 kHz* | | | | | |
| XEYQ | Fresnillo, Zac., N. 23°07'50", W. 102°49'54". | 1.000D/*.500N* | ND-D-187, *DA-N* | U | II | 161 | 120 | 161 | October 1, 1980. |
| | | | | *1520 kHz* | | | | | |
| XEUAA | Aguascalientes, Ags., N. 21°54'44", W. 102°19'01". (*Change to 1370 kHz*). | .250 | ND-D-190 | D | II | 161 | 120 | 161 | |
| | | | | *1560 kHz* | | | | | |
| XEJPV | Zaragoza, Chih., *N. 31°38'30", W. 106°22'08"*. | 1.000 | ND-D-*195* | D | II | 174 | 120 | *164* | Immediately. |
| | | | | *1600 kHz* | | | | | |
| XEAK | Acambaro, Gto., *N. 20°02'23", W. 100°43'50"*. | 500D/.200N | ND-U-175 | U | III | 184 | 120 | 184 | Oct. 1, 1980. |

**Richard J. Shiben,**

*Chief, Broadcast Bureau, Federal Communications Commission.*

[FR Doc. 80-25653 Filed 8-22-80; 8:45 am]

**BILLING CODE 6712-01-M**

## FEDERAL RESERVE SYSTEM

### Dream, Inc.; Proposed Retention of S & M Insurance Agency

Dream, Inc., Melbourne, Iowa, 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 retain voting shares of S & M Insurance Agency, Melbourne, Iowa.

Applicant states that the proposed subusidiary would continue to engage in general insurance agency activities in a town with a population of less than 5,000. These activities would be performed from offices of applicant's subsidiary in Melbourne, Iowa, which is the geographic area to be served. 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 outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsoud 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 Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 18, 1980.

Board of Governors of the Federal Reserve System, August 18, 1980.

**Cathy L. Petryshyn,**

*Assistant Secretary of the Board.*

[FR Doc. 80-25843 Filed 8-22-80; 8:45 am]

BILLING CODE 6210-01-M

### Jesup Bancshares, Inc.; Formation of Bank Holding Company

Jesup Bancshares, Inc., Jesup, 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 80 percent or more of the voting shares of Farmers State Bank, Jesup Iowa. The factors that are considered in acting on the application are set forth in § 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 September 18, 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, August 18, 1980.

**Cathy L. Petryshyn,**

*Assistant Secretary of the Board.*

[FR Doc. 80-25842 Filed 8-22-80; 8:45 am]

BILLING CODE 6210-01-M

### MultiLine, Inc.; Acquisition of Bank

Multi-Line Inc., Tampa, Florida, 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 acquire 11.3 percent of the voting shares of First Florida Banks, Inc., Tampa, Florida. The factors that are considered in acting on the application are set forth in § 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 Atlanta. 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 September 18, 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, August 18, 1980.

**Cathy L. Petryshyn,**

*Assistant Secretary of the Board.*

[FR Doc. 80-25840 Filed 8-22-80; 8:45 am]

BILLING CODE 6210-01-M

### Philip Bancorporation, Inc.; Formation of Bank Holding Company

Philip Bancorporation, Inc., Philip, South Dakota, 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 at least 84.1 percent of the voting shares of First National Bank in Philip, Philip, South Dakota. The factors that are considered in acting on the application are set forth in § 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 Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 18, 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, August 18, 1980.

**Cathy L. Petryshyn,**

*Assistant Secretary of the Board.*

[FR Doc. 80-25841 Filed 8-22-80; 8:45 am]

BILLING CODE 6210-01-M

### SBC, Inc.; Formation of Bank Holding Co.

SBC, Incorporated, Countryside, Illinois, has applied for the Board's approaval 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 State Bank of Countryside, Countryside, Illinois. The factors that are considered in acting on the application are set forth in § 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 no later than September 18, 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, August 18, 1980.

**Cathy L. Petryshyn,**

*Assistant Secretary of the Board.*

[FR Doc. 80-25844 Filed 8-22-80; 8:45 am]

BILLING CODE 6210-01-M

### Springtown Bancshares, Inc.; Formation of Bank Holding Co.

Springtown Bancshares, Inc., Siloam Springs, Arkansas, 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 80.52 per cent of the voting shares of First National Bank, Siloam Springs, Arkansas. The factors that are considered in acting on the application are set forth in § 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 St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 18, 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, August 18, 1980.

**Cathy L. Petryshyn,**

*Assistant Secretary of the Board.*

[FR Doc. 80-25839 Filed 8-22-80; 8:45 am]

BILLING CODE 6210-01-M

## GENERAL ACCOUNTING OFFICE

### Regulatory Reports Review; Notice of Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on August 13, 1980 (FCC, NRC) and August 18, 1980 (FCC). 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 FCC and NRC 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 September 12, 1980, and should be addressed to Mr. John M. Lovelady, Senior Group 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.

#### Federal Communications Commission

The FCC requests an extension-without-change clearance of Form 349-R, Application for Renewal of FM Booster Station License. Form 349-R, is required by § 73.3539 of the Commission's Rules and Regulations. The form is used for renewing FM Booster Station Licenses. The FCC estimates that respondents number approximately 7 and that burden for completing an application will average 7 hours.

The FCC requests clearance of new Form 847, Examination Credit Certificate. Form 847 is required by amendments to Parts 13, 81, 83, and 87 of the Commission's Rules and Regulations. Due to the elimination of the 3rd Class Operator Permit, there is a change in the order of administering examinations. The easier examination on rules and operating practices (elements 1 and 2) will be given only after passing the more difficult technical examination on electronic theory (element 3). If an applicant passes element 3, but fails elements 1 and 2, the FCC will issue a one-year credit certificate (Form 847 filed by applicant and then stamped with FCC seal), to spare the applicant the burden of retaking the passed examination. The FCC estimates approximately 200 forms will be received annually and that 5 minutes will be required per form.

The FCC requests reinstatement of form 915, Priority Request and Certification. Form 915 will be filed by users of Private Line Communications Services provided by Communications Common Carriers in applying for restoration of these services on a priority basis in the event of failure pursuant to FCC Rules and Regulations (§ 64.401 and Appendix A to Part 64). The FCC states that Form 915 has been revised. The FCC estimates that approximately 500 requests will be received annually and that respondent burden will average one hour per response.

#### Nuclear Regulatory Commission

The NRC requests an extension-without-change clearance of Form 241, Reports of Proposed Activities in Non-Agreement States. The report informs the NRC of locations and dates of activities conducted in Non-Agreement States by Agreement State licensees (not to exceed 180 days a year) under general license of 10 CFR Part 150.20. Form 241 must be filed with the NRC, Office of Inspection and Enforcement Regional Office, at least three days prior to engaging in each such activity. The NRC estimates that approximately 200 reports will be filed annually and that time to complete the form will average 15 minutes.

**Norman F. Heyl,**

*Regulatory Reports, Review Officer.*

[FR Doc. 80-25827 Filed 8-22-80; 8:45 am]

BILLING CODE 1610-01-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Care Financing Administration

### Medicare Program; Schedule of Guidelines for Respiratory Therapy Services

**AGENCY:** Health Care Financing Administration (HCFA), HHS.

**ACTION:** Correction to final notice.

**SUMMARY:** This document makes certain corrections in the schedules of guidelines for Medicare program reimbursement for respiratory therapy services published in the **Federal Register** on June 3, 1980 (45 FR 37527).

**FOR FURTHER INFORMATION CONTACT:** Alton Cobb, 301-594-9773.

**SUPPLEMENTARY INFORMATION:** In FR Document No. 80–16811 published on June 3, 1980, the following corrections are made:

1. On page 37528, first column, first full paragraph in, the third and fourth line from the bottom in that paragraph should be revised by substituting for the phrase "payments for respiratory therapy services", the phrase "payments for the services of registered respiratory therapists."

2. On page 37528, second column, under the heading "Binding Contract Exception", the last sentence of the paragraph should be revised as follows:

**Binding Contract Exception**

A hospital or other institution that has contracted with a therapist or other supplier organization to furnish therapy services may be granted an exception, as specified in 42 CFR 405.432(f)(1), from the application of the guidelines for nonregistered and noncertified therapists. This exception may be granted if the hospital or other institution has a binding contract in writing with the therapist or supplier organization which was entered into prior to the date the guidelines are published. The exception may be granted for the contract period, but not longer than one year from this date. During any binding contract exception period which may be granted, the cost of services furnished by nonregistered and noncertified therapists will be evaluated under 42 CFR 405.432(c)(5). No binding contract exception that was granted with respect to the services of registered and certified therapists under the guidelines published October 6, 1978, will be extended or renewed as a result of publication of this update.

3. On page 37528, second column, item 1, under the heading "Methodology for Determining Hourly Salary Equivalency and Standard Travel Allowance Amounts", second paragraph, insert the word "Therefore" before "If" in the second sentence and make "If" lower case.

4. On page 37528, third column, the fifth sentence of the second full paragraph should be deleted, so that the paragraph reads as follows:

The salary data have been updated to account for inflation by using the most recently available figure for overall hospital wages as determined by BLS (BLS Employment and Earnings Bulletin line SIC–806 for September 1979). This figure was compared with the comparable figure for the month of the BLS triennial hospital wage survey (September 1978) to obtain an overall percentage increase. This percentage was then applied to the September 1978 respiratory therapy salary data. Using the updated 1978 data has resulted in certain of the guideline amounts for registered respiratory therapists being lower than the amounts which were published in the **Federal Register** on October 6, 1978. This is because the factor used to update the 1975 BLS data, which formed the basis of the initial guidelines for respiratory therapists, overestimated the rate of increase between 1975 and 1978.

(Secs. 1102, 1814(b), 1833(a), 1861(v)(5), 1871 of the Social Security Act; 42 U.S.C. 1302, 1395f(b), 1395l(a), 1395x(v)(5), 1395hh)

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance, and 13.774, Medicare—Supplementary Medical Insurance)

Dated: August 18, 1980.

**Howard Newman,**

*Administrator, Health Care Financing Administration.*

[FR Doc. 80–25745 Filed 8–22–80; 8:45 am]

BILLING CODE 4110–35–M

## National Institutes of Health

### Cardiology Advisory Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Cardiology Advisory Committee, National Heart, Lung, and Blood Institute, October 6 and 7, 1980, in Conference Room 8, Building 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205.

The entire meeting will be open to the public from 8:30 a.m. to 5:00 p.m. Attendance by the public will be limited to space available. Topics for discussion will include a review of the research programs relevant to the Cardiology area and consideration of future needs and opportunity.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496–4236, will provide summaries of the meeting and rosters of the Committee members.

Barbara Packard, M.D., Ph.D., Associate Director for Cardiology, Division of Heart and Vascular Diseases, National Heart, Lung, and Blood Institute, Federal Building, Room 320, Bethesda, Maryland 20205, phone (301) 496–5421, will furnish substantive program information upon request.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health)

**Note.**—NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in Section 8(b) (4) and (5) of that Circular.

Dated: August 18, 1980.

**Suzanne L. Fremeau,**

*Committee Management Officer, National Institutes of Health*

[FR Doc. 80–25787 Filed 8–22–80; 8:45 am]

BILLING CODE 4110–08–M

### Microbiology and Infectious Diseases Advisory Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Microbiology and Infectious Diseases Advisory Committee, National Institute of Allergy and Infectious Diseases, October 2 and 3, 1980 at the National Institutes of Health, Building 31C, Conference Room 8, Bethesda, Maryland.

The meeting will be open to the public on October 2 from 8:30 a.m. to approximately 4:30 p.m. to discuss program policies and issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Pub. L. 92–463, the meeting of the Committee will be closed to the public on October 2 from approximately 4:30 p.m. until recess and continue to be closed from 8:30 a.m. until adjournment on October 3, 1980 for the review, discussion, and evaluation of individual grant applications and contract proposals. These applications, proposals, and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland, telephone (301) 496–5717, will provide summaries of the meetings and rosters of the Council members as requested.

Dr. Thelma N. Fisher, Executive Secretary, Microbiology and Infectious Diseases Advisory Committee, NIAID, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496–7465, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: August 18, 1980.

**Suzanne L. Fremeau,**

*Committee Management Officer, NIH.*

**Note.**—NIH programs are not covered by OMB circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

[FR Doc. 80–25783 Filed 8–22–80; 8:45 am]

**BILLING CODE 4110–08–M**

## National Advisory Allegy and Infectious Diseases Council; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Allergy and Infectious Diseases Council, National Institute of Allergy and Infectious Diseases, September 29, 30, and October 1, 1980 at the Rocky Mountain Laboratory, National Institute of Allergy and Infectious Diseases, Hamilton, Montana.

The meeting will be open to the public on September 29 from approximately 9:00 to 9:30 a.m., and from 1:30 p.m. to appoximately 5:00 p.m. On September 30 the meeting will be open to the public. This will be to discuss program policies and issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Public Law 92–463, the meetings of the NAAIDC Allergy and Immunology Subcommittee and of the NAAIDC Microbiology and Infectious Diseases Subcommittee will be closed to the public for approximately three hours for the review, evaluation, and discussion of individual grant applications. It is anticipated that this will occur from 9:30 a.m. until approximately 12:30 p.m. on September 29, 1980. The meeting of the full Council will be closed from 8:30 a.m. until adjournment on October 1 for the review, evaluation, and discussion of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland, telephone (301) 496–5717, will provide summaries of the meetings and rosters of the Council members as requested.

Dr. William I. Gay, Director, Extramural Activities Program, NIAID, NIH, Westwood Building, Room 703, telephone (301) 496–7291, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmalogical Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: August 18, 1980.

**Suzanne L. Fremeau,**

*Committee Management Officer, NIH.*

**Note.**—NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

[FR Doc. 80–25785 Filed 8–22–80; 8:45 am]

**BILLING CODE 4110–08–M**

## National Advisory Eye Council; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Eye Council, National Eye Institute, September 21, 22, 23, and 24, 1980, Bethesda, Maryland.

The National Advisory Eye Council's standing subcommittee, the Vision Research Program Planning Subcommittee, will meet at 7:30 p.m., September 21, 1980, in the Kenwood Suite of the Bethesda Marriott Hotel, 2 Pooks Hill Road, Bethesda, Maryland, for the purpose of reviewing an outline of the new five-year planning document scheduled for publication in late 1981. Attendance by the public will be limited to space available.

The full National Advisory Eye Council will meet September 22, 23, and 24, 1980, Building 31, Conference Room 8, National Institutes of Health, Bethesda, Maryland. This meeting will be open to the public from 9 a.m. until noon on Monday, September 22, for opening remarks by the Director, National Eye Institute, discussion of procedural matters and presentations by the extramural staff of the National Eye Institute. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from approximately 1 p.m. for the remainder of the day on Monday, September 22, and all day on Tuesday and Wednesday, September 23 and 24, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Julian Morris, Chief, Office of Scientific Reports and Program Planning, National Eye Institute, Building 31, Room 6A–25, AC 301/496–5248, will provide summaries of meetings and rosters of committee members.

Dr. Ronald G. Geller, Associate Director for Extramural and Collaborative Programs, National Eye Institute, Building 31, Room 6A–04, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.867, Retinal and Choroidal Diseases Research; 13.868, Corneal Diseases Research; 13.869, Cataract Research; 13.870, Glaucoma Research; and 13.871, Sensory and Motor Disorders of Visual Research; National Institutes of Health)

Dated: August 18, 1980.

**Suzanne L. Fremeau,**

*Committee Management Officer, National Institutes of Health.*

**Note.**—NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

[FR Doc. 80–25784 Filed 8–22–80; 8:45 am]

**BILLING CODE 4110–08–M**

## National Advisory Neurological and Communicative Disorders and Stroke Council; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Neurological and Communicative Disorders and Stroke Council, National Institutes of Health, October 2 and 3, 1980, at 9 a.m. in Building 31–C, Conference Room 6, Bethesda, Maryland 20205. The meeting will be open to the public from 9 a.m. until approximately 11:30 a.m. on October 2, 1980, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available. In accordance with the provisions set forth in Sections 552b(c)(4), and 552b(c)(6) of Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from approximately 11:30 a.m. on October 2, 1980, until the conclusion of the meeting that day, and from 8:30 a.m. until adjournment on October 3, 1980, for review, discussion and evaluation of Research Grant applications and applications for Teacher-Investigator

Awards, Research Career Development Awards, and Institutional National Research Service Awards. These applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion or personal privacy.

The Chief, Office of Scientific and Health Reports, Miss Sylvia Shaffer, Building 31, Room 8A06, NIH, NINCDS, Bethesda, Maryland, 20205, telephone (301) 496–5751, will furnish summaries of the meeting and rosters of committee members.

Dr. John C. Dalton, Executive Secretary, Federal Building, Room 1016, Bethesda, Maryland 20205, telephone (301) 496–9248, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.851, Communicative Disorders Program; No. 13.852, Neurological Disorders Program; No. 13.853, Stroke and Nervous System Trauma; No. 13.854, Fundamental Neurosciences Program, National Institutes of Health)

Dated: August 18, 1980.

**Suzanne L. Fremeau,**

*Committee Management Officer, National Institutes of Health.*

**Note.**—NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

[FR Doc. 80–25782 Filed 8–22–80; 8:45 am]

BILLING CODE 4110–08–M

## National Advisory Neurological and Communicative Disorders and Stroke Council Planning Subcommittee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Neurological and Communicative Disorders and Stroke Council Planning Subcommittee, October 1, 1980, at 1 p.m. in Building 31, Room 8A28, National Institutes of Health, Bethesda, Maryland 20205. The meeting will be open to the public from 1 p.m. to approximately 3 p.m. on October 1, 1980, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available. In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6) of Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from approximately 3 p.m. to adjournment on October 1, 1980. The portion of the meeting being closed involves the review, discussion, and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Chief, Office of Scientific and Health Reports, Miss Sylvia Shaffer, Building 31, Room 8A06, NIH, NINCDS, Bethesda, Maryland, 20205, telephone (301) 496–5751, will furnish summaries of the meeting and rosters of committee members.

Dr. John C. Dalton, Executive Secretary, Federal Building, Room 1016, Bethesda, Maryland 20205, telephone (301) 496–9248, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.851, Communicative Disorders Program; No. 13.852, Neurological Disorders Program; No. 13.853, Stroke and Nervous System Trauma; No. 13.854, Fundamental Neurosciences Program, National Institutes of Health)

Dated: August 18, 1980.

**Suzanne L. Fremeau,**

*Committee Management Officer, National Institutes of Health.*

**Note.**—NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

[FR Doc. 80–25781 Filed 8–22–80; 8:45 am]

BILLING CODE 4110–08–M

## National Heart, Lung, and Blood Advisory Council and its Manpower Subcommittee and Research Subcommittee; Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Advisory Council, National Heart, Lung, and Blood Institute, September 25, 26, and 27, 1980, National Institutes of Health, Building 31, Conference Room 10, Bethesda, Maryland.

This meeting will be open to the public on September 25 from 9:00 a.m. to approximately 4:00 p.m., to discuss program policies and issues. Attendance by the public is limited to space available. In addition, meetings of the Manpower Subcommittee and the Research Subcommittee of the above Council will be held September 24, 1980 at 8:00 p.m. in Building 31, Conference Rooms 9 and 10 respectively.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Pub. L. 92–463, the meeting of the Council will be closed to the public on September 25 from 4:00 p.m. until recess and on September 26 from 9:00 a.m. to adjournment on September 27 for the review, discussion, and evaluation of individual grant applications. The meetings of the Manpower Subcommittee and the Research Subcommittee of the above Council will be closed from 8:00 p.m. to adjournment on September 24, also for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–4236, will provide summaries of the meetings and rosters of the Council members.

Dr. Jerome G. Green, Director of Extramural Affairs, NHLBI, Westwood Building, Room 7A17, (301) 496–7416, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: August 18, 1980.

**Suzanne L. Fremeau,**

*Committee Management Officer, National Institutes of Health.*

**Note.**—NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in Section 8(b)(4) and (5) of that Circular.

[FR Doc. 80–25780 Filed 8–22–80; 8:45 am]

BILLING CODE 4110–08–M

## National Institute of General Medical Sciences; Meeting

Notice is hereby given of the Second Conference on Supportive Therapy in Burn Care sponsored by the National Institute of General Medical Sciences on October 9 and 10, 1980 at the National Institutes of Health, Building 31, Conference Room 6, Bethesda, Maryland.

This meeting will be open to the public on October 9, 1980, from 7:00 p.m. to adjournment and on October 10, 1980, from 8:00 a.m. to adjournment. The agenda items will include the presentation of new work being

performed in the areas of fluid resuscitation, infection, metabolism, smoke inhalation, and excision since the November 1978 Conference, and presentations will be made by Institute staff on research and research training opportunities related to trauma and burns. Attendance by the public will be limited to space available.

Emilie A. Black, M.D., Assistant Director for Clinical Research, National Institute of General Medical Sciences, 5333 Westbard Avenue, Room 925, Bethesda, Maryland 20205, phone 301/496–7373 will provide additional information.

(Catalog of Federal Domestic Assistance Program No. 13.821, National Institutes of Health)

**Note.**—NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

Dated: August 18, 1980.

**Suzanne L. Fremeau,**

*Committee Management Officer, National Institutes of Health.*

[FR Doc. 80–25786 Filed 8–22–80; 8:45 am]

**BILLING CODE 4110–08–M**

## Pulmonary Diseases Advisory Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Pulmonary Diseases Advisory Committee, National Heart, Lung, and Blood Institute, on October 6, 1980 in Conference Room 7, Building 31, at the National Institutes of Health, Bethesda, Maryland.

The entire meeting, from 8:30 a.m. to 5:00 p.m. on October 6, will be open to the public. The Committee will discuss the current status of Division of Lung Diseases' programs and Committee plans for fiscal year 1981. Attendance by the public will be limited to the space available.

Mr. York Onnen, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496–4236, will provide summaries of the meeting and rosters of the committee members.

Dr. Malvina Schweizer, Executive Secretary of the Committee, Westwood Building, Room 6A16, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496–7208, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.838, Lung Diseases Research, National Institutes of Health)

**Note.**—NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) and (4) and (5) of that Circular.

Dated: August 18, 1980.

**Suzanne L. Fremeau,**

*Committee Management Officer, National Institute of Health.*

[FR Doc. 80–25786 Filed 8–22–80; 8:45 am]

**BILLING CODE 4110–08**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

### Approval of Petition for Reassumption of Jurisdiction Over Indian child Custody Proceedings by the Colville Confederated Tribes

August 12, 1980.

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of approval of petition for reassumption of jurisdiction over Indian child custody proceedings.

**SUMMARY:** The Colville Confederated Tribes have filed a petition with the Interior Department to reassume exclusive jurisdiction over child custody proceedings involving Indian children who reside or are domiciled on the Colville reservation in Washington. The Assistant Secretary—Indian Affairs has reviewed the petition and determined that tribal exercise of jurisdiction is feasible and that the tribe has a suitable plan for exercising such jurisdiction. this notice constitutes the official approval of the Colville Confederated tribes' petition by the Interior Department.

**EFFECTIVE DATE:** The Colville Confederated tribes shall reassume exclusive jurisdiction October 24, 1980.

**FOR FURTHER INFORMATION CONTACT:** Office of the Regional Solicitor, Department of the Interior, Lloyd 500 Building, Suite 607, 500 N.E., Multnomah Street, Portland, Oregon 97232, telephone (503) 231–2125.

**SUPPLEMENTARY INFORMATION:** The authority for the Assistant Secretary—Indian Affairs to publish this notice is contained in 25 U.S.C. § 1918(c), 25 CFR § 13.14 and 209 DM 8.

The principal author of this document is Louise Zokan, Division of Social Services, Bureau of Indian Affairs, Department of the Interior, Washington, D.C.

Section 108 of the Indian Child Welfare Act of 1978, Pub. L. 95–608, 92 Stat. 3074, 25 U.S.C. § 1918, authorizes Indian tribes that occupy a reservation as defined in 25 U.S.C. § 1903(10) over which a state asserts jurisdiction over Indian child custody proceedings pursuant to federal statute to reassume jurisdiction over such proceedings.

To reassume such jurisdiction a tribe must first file a petition in the manner prescribed in 25 CFR Part 13. The petition is then reviewed by the Interior Department using criteria set out in 25 CFR § 13.12. If the Department finds that the tribe has submitted a suitable plan and that tribal exercise of jurisdiction is feasible, the petition is approved by publication in the **Federal Register.** Tribal reassumption becomes effective 60 days after publication.

Notice that the Colville Confederated Tribes had submitted a petition for reassumption of jurisdiction was published in the **Federal Register** on April 1, 1980 F.R. Vol. 45 No 64. The following notice is based on the Interior Department's review of that petition:

### Notice

This is notice that a petition for tribal reassumption of jurisdiction over Indian child custody proceedings filed by the Colville Confederated Tribes is approved effective 60 days after publication of this notice in the **Federal Register.**

The geographic area subject to the reassumption of jurisdiction is the land known as the Colville Indian Reservation.

**Thomas W. Fredericks,**

*Acting Deputy, Assistant Secretary—Indian Affairs.*

[FR Doc. 80–25800 Filed 8–22–80; 8:45 am]

**BILLING CODE 4310–02–M**

### Bureau of Land Management

### Call for Oil Shale Technology Nominations; Clarification of Due Date for Call for Technology Nominations

The closing date for the Call for Expressions of Interest in Oil Shale Technologies is hereby extended from October 14, 1980, to October 16, 1980, in order to make the 60 day call period consistent with the date of publication of the Call. The anticipated date for the Call for Tract Specific Nominations remains unchanged at approximately January 15, 1981. During the period from October 16, 1980, to approximately January 15, 1981, the Bureau of Land Management will continue development of tract delineation and tract selection criteria in preparation for tract delineation following the close of the Call for Tract Specific Nominations.

Reference: The Call for Technology Nominations which this announcement

amends appears in the **Federal Register** 54873, August 18, 1980.

**Guy R. Martin,**

*Assistant Secretary, Land and Water Resources.*

August 19, 1980.

[FR Doc. 80-25720 Filed 8-22-80; 8:45 am]

BILLING CODE 4310-10-M

## Oklahoma; Call for Expressions of Leasing Interest in Coal

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice calling for expressions of leasing interest in Federal coal.

**SUMMARY:** This call for expressions of coal leasing interest is to integrate potential lessees' data and needs into the coal activity planning phase of the Federal coal management program in the Western Interior Federal Coal Production Region, Oklahoma Subregion. The data received from this call along with data from the Bureau of Land Management (BLM) and the Geological Survey (GS), will be used to delineate preliminary tracts within the Southeast Oklahoma Management Framework Plan (MFP) which will be considered for possible leasing.

**DATE:** Responses to this notice will be accepted until October 24, 1980.

**ADDRESSES:** Responses should be sent to:

Homer G. Meyer, Area Manager, Bureau of Land Management, Room 548, 200 NW Fifth, Oklahoma City, Oklahoma 73102, Telephone (405) 231-4481.

and to:

E. L. Johnson, Area Geologist, U.S. Geological Survey, 6136 East 32nd Place, Tulsa, Oklahoma 74135, Telephone (918) 581-7631.

**FOR FURTHER INFORMATION CONTACT:**

Marie Larragoite, Bureau of Land Management, P.O. Box 1449, New Mexico State Office, Santa Fe, New Mexico 87501, Telephone (505) 988-6227.

**SUPPLEMENTARY INFORMATION:** This notice is to advise the public that the official call for expression of leasing in the areas acceptable for further consideration for coal leasing in the Western Interior Coal Region (Southeast Oklahoma Subregion) is now in effect. The Southeast Oklahoma Subregion includes areas in the six counties of Atoka, Coal, Haskell, Le Flore, Latimer, and Pittsburg. Detailed information including a Summary Brochure, maps and additional supportive information on the areas found acceptable for further consideration for coal leasing are available from the BLM Oklahoma Resource Area Headquarters and the U.S. Geological Survey at the addresses provided above.

This call for expressions of interest is the first step in activity planning in the Southeast Oklahoma Subregion under the Federal coal management program (43 CFR 3420.4-2). The results of this call will provide significant information that will be used to delineate preliminary tracts within the Subregion that might be offered for lease sale. Preliminary tracts will be delineated in areas that were found acceptable for further consideration for coal leasing during the land-use planning process.

A major purpose of this call for expressions of interest is to integrate potential lessees' data and needs with the process of delineating the tracts which will be considered prior to a lease sale.

Expressions of interest from small businesses and public bodies are actively invited in accordance with the provisions of 43 CFR 3420.1-4 which states that a reasonable number of lease tracts will be reserved and offered through competitive lease sales to those qualifying under the definitions of public bodies and small coal mining businesses. Leases issued to small business firms under the stated provisions may be competed for and assigned only to small businesses meeting the requirements of 13 CFR 121.3-9.

Expressions of leasing interest should include the following data (where applicable):

1. Quantity needs (total tonnage, average tons per year, and year during which production would commence) for both coal producers and users.

2. Quality needs (types and grades of coal) for both producers and users.

3. Location.

a. Tract desired by mining companies (narrative description with a diagram on a surface minerals management map which is available for purchase from the BLM State Office at the address given above).

b. Public and private industry user facilities in the region.

c. If no location is indicated, but other specific data are provided, the expression will still be considered. In such cases, the joint BLM/GS/OSM tract delineation team will locate an appropriate tract.

4. Type of mine.

a. Surface or underground.

b. Technique of mining (i.e., longwall, room and pillar, dragline, etc.).

5. Proposed uses of coal.

a. By mining companies.

b. By public and private industries.

6. Where coal would be consumed (include extra-regional markets, plant output and location).

a. Within the Westen Interior (Oklahoma Subregion).

(1) Electric powerplant.

(2) Synfuels plant.

(3) Other (specify).

b. Outside the Western Interior (Oklahoma Subregion).

(1) Electric powerplant.

(2) Synfuels plant.

(3) Other (specify).

7. Transportation needs (i.e., railroads, pipelines, etc.).

a. Existing facilities.

b. Contingency or other sources.

8. Information relating to mineral ownership.

a. Information on surface owner consents previously granted (e.g., a description of the location of the property, whether consents are transferable, etc.). On any areas where surface owner consent is not transferable, Federal coal leasing cannot occur.

b. Commitments from fee coal owners or commitments for associated non-Federal coal.

Entities submitting expressions of interest under the small business or public body provisions described above should state that the submissions are for possible small business or public body set-asides and should also supply proof of small business or public body status. An individual, business entity or public body may participate and submit expressions of leasing interest under this call.

An expression of leasing is not an application. The sale and/or location of a proposed tract as indicated by an expression of interest may be modified or changed if there is sufficient reason to do so. The preliminary tracts delineated as a result of this call will be ranked and selected by the regional coal team in accordance with the provisions of 43 CFR 3420.4.

Any expressions of leasing interest may include supportive nonproprietary data. Such data may include, but are not limited to, location and quantities and types of coal (including coking coal) desired, time frames for development, proposed uses of coal, technical coal data, commitments between private surface and coal owners and adjacent land owners or lessees, and basic development proposals. Expressions which identify quantity and quality of coal and timing of need without specifying a location shall be given as serious consideration in activity planning as those that specify a location. Data which are considered proprietary should not be submitted to

the BLM as part of an expression of leasing interest. Instead, proprietary coal data may be submitted separately for information purposes to the GS Area Geologist at the address provided above.

Expressions of leasing interest submitted to BLM or data submitted separately to GS should include the name, address, and telephone number of a contact person who can provide additonal information or clarification.

All information submitted to BLM under this subpart shall be available for public inspection and copying upon request.

Dated: August 20, 1980.

**Larry L. Woodard,**

*Acting State Director.*

[FR Doc. 80-25849 Filed 8-22-80; 8:45 am]

BILLING CODE 4310-84-M

### Oklahoma; Requesting Filing of Pre-Existing Surface Owner Consent for Surface Coal Mining

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Filing of pre-existing surface owner consent for surface coal mining.

**SUMMARY:** This notice is to advise the public that pursuant to 43 CFR 3427, valid written consent for surface coal mining, given by qualified surface owners prior to August 4, 1977, may be filed with the Bureau of Land Management Oklahoma Resource Area Headquarters at the address given below.

In addition, the consent documents should contain evidence that the qualified surface owners have agreed: (1) to permit a coal operator to enter and commence surface coal mining of Federal coal; (2) whether the right to enter and commence mining is transferable to whoever may make the successful bid in a lease sale for a tract which includes the lands to which the consent applies; (3) to describe any financial or other consideration given or promised in return for a permission, including in-kind consideration; (4) to describe any consideration given in terms of type or method of operation or reclamation for the area; (5) to provide any supplemental or related contracts between the surface owner and any other person who is a party to the permission; and (6) to provide a full and accurate description of the area covered by the permission.

These pre-existing consents, when filed, will be used by the Western Interior Regional Coal Team to assist in determining, during the tract delineation, ranking, and selection process, the competitive nature of the possible lease tracts. The Oklahoma Subregion consists of the counties of Atoka, Coal, Haskell, Le Flore, Latimer and Pittsburg.

Valid written consents on lands in which the ownership of the surface is held by qualified surface owners and the ownership of the underlying coal is reserved to the Federal government, will be accepted until at least 30 working days prior to the publication of a lease sale notice of the specific lands involved, in accordance with 43 CFR 3427.2. However, submission of consent documents that currently exist will allow early consideration in the Federal coal activity planning process. The lack of a valid written consent at this time will not preclude consideration of coal tracts during the tract delineation, ranking, and selection process.

**DATE:** All pre-existing surface owner consents for the Western Interior Coal Production Region, Oklahoma Subregion, are to be received at the address given below by October 24, 1980.

**ADDRESSES:** Written consents, or evidence thereof, should be sent to: Homer G. Meyer, Area Manager, Bureau of Land Management, Room 548, 200 NW Fifth, Oklahoma City, Oklahoma 73102, Telephone (405) 231-4481.

Dated: August 20, 1980.

**Larry L. Woodard,**

*Acting State Director.*

[FR Doc. 80-25850 Filed 8-22-80; 8:45 am]

BILLING CODE 4310-84-M

## National Park Service

### Ozark National Scenic Riverways Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act, Pub. L. 92-463, 86 Stat. 770, as amended by Pub. L. 94-409, 90 Stat. 1247, that a meeting of the Ozark National Scenic Riverways Advisory Commission will be held on Friday, September 12, 1980, at 10:00 a.m., CST, at the Riverways' Headquarters on U.S. Highway 60 in Van Buren, Missouri.

The Commission was established by Pub. L. 88-492, 78 Stat. 609, 16 U.S.C. 460m-6, to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Ozark National Scenic Riverways.

The members of the Commission are as follows:

Dr. Oscar Hawksley, Warrensburg, Missouri (Chairman).
Mr. H. C. Daniel, Van Buren, Missouri.
Mr. Carlton E. Bay, Salem, Missouri.
Mr. Cecil J. Brallier, Houston, Missouri.
Mr. Henry F. Luepke, Jr., St. Louis, Missouri.
Mr. Edward Hodge, Eminence, Missouri.

The purpose of this meeting is to review with the Commission progress on the General Management Plan, report on Ozark Trail progress, provide a research update, answer any questions regarding the approved Land Acquisition Plan, explain the Concessions Evaluation Program, and provide information on Youth Programs within the Park.

The meeting will be open to the public. Any member of the public may file with the Commission prior to the meeting a written statement concerning the matters to be discussed. Persons wishing further information concerning the meeting or who wish to submit written statements, may contact Arthur L. Sullivan, Superintendent, Ozark National Scenic Riverways, P.O. Box 490, Van Buren, Missouri 63965, telephone 314-323-4236.

Minutes of the meeting will be available for public inspection 4 weeks after the meeting at Ozark National Scenic Riverways' Headquarters in Van Buren, Missouri.

Dated: August 12, 1980.

**Randall R. Pope,**

*Acting Regional Director, Midwest Region.*

[FR Doc. 80-25857 Filed 8-22-80; 8:45 am]

BILLING CODE 4310-70-M

## INTERSTATE COMMERCE COMMISSION

**[Rule 19; Ex Parte No. 241; 13th Rev. Exemption No. 141]**

### Aberdeen & Rockfish Railroad Co. et al.; Exemption Under Provision of Mandatory Car Service Rules

It appearing, That the railroads named herein own numerous plain gondola cars less than 61-ft.; that under present conditions, there are surpluses of these cars on their lines; that return of these cars to the car owners would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

*It is ordered,* That, pursuant to the authority vested in me by Car Service Rule 19, plain gondola cars, less than 61-ft. in length, described in the Official Railway Equipment Register, ICC-RER No. 6410-F, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "GB," and which bear the reporting marks listed

below, may be used without regard to the requirements of Car Service Rules 1 and 2.

Aberdeen and Rockfish Railroad Company
Reporting Marks: AR
Atlantic and Western Railway Company
Reporting Marks: ATW
Bessemer and Lake Erie Railroad Company
Reporting Marks: BLE
Chicago, West Pullman & Southern Railroad Company
Reporting Marks: CWP
Columbus and Greenville Railway Company
Reporting Marks: CAGY
Consolidated Rail Corporation
Reporting Marks: BCK–CNJ–CR–DLW–EL–ERIE–LV–HY–HYC–PE–PAE–PC–PCA–PRR–RDG–TOC–RR
East St. Louis Junction Railroad Company
Reporting Marks: ESLJ
Illinois Terminal Railroad Company
Reporting Marks: ITC
The Lake Terminal Railroad Company*
Reporting Marks: LT
Louisiana Midland Railway Company
Reporting Marks: LOAM
Louisville and Nashville Railroad Company*
Reporting Marks: CIL–LN–MON–NC
Maryland and Delaware Railroad Company
Reporting Marks: MDDE
Octoraro Railway, Inc.
Reporting Marks: OCTR
The Pittsburgh and Lake Erie Railroad Company
Reporting Marks: PLE
Seaboard Coast Line Railroad Company*
Reporting Marks: ACL–SAL–SCL
Southern Railway Company
Reporting Marks: SOU
St. Louis-San Francisco Railway Company
Reporting Marks: SLSF
Wisconsin and Southern Railroad Company
Reporting Marks: WSOR
Upper Merion and Plymouth Railroad Company
Reporting Marks: UMP

Effective August 15, 1980, and continuing in effect until 11:59 p.m., August 24, 1980.

Issued at Washington, D.C., August 13, 1980.

Interstate Commerce Commission.

**Joel E. Burns,**

*Agent.*

[FR Doc. 80–25767 Filed 8–22–80; 8:45 am]

BILLING CODE 7035–01–M

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**[Rule 19, Ex Parte No. 241, 44th Rev. Exemption No. 129]**

## Atlanta & Saint Andrews Bay Railway Co. et al.; Exemption Under Provision of Mandatory Car Service Rules

It appearing, That the railroads named herein own numerous forty-foot plain boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffice offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

*It is ordered,* That, pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, ICC–RER 6410–F, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM," with inside length 44-ft. 6-in. or less, regardless of door width and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1(a), 2(a), and 2(b).

Atlanta & Saint Andrews Bay Railway Company
Reporting Marks: ASAB
Boston and Maine Corporation
Reporting Marks: BM
Chicago, Milwaukee, St. Paul and Pacific Railroad Company
Reporting Marks: MILW
Chicago, West Pullman & Southern Railroad Company
Reporting Marks: CWP
Columbus and Greenville Railway Company
Reporting Marks: CAGY
Delaware and Hudson Railway Company
Reporting Marks: DH
Green Mountain Railroad Corporation
Reporting Marks: GMRC
Illinois Terminal Railroad Company
Reporting Marks: ITC
Louisville and Nashville Railroad Company*
Reporting Marks: LN–CIL–MON–NC
Louisville, New Albany & Corydon Railroad Company
Reporting Marks: LNAC
Manufacturers Railway Company
Reporting Marks: MRS
Maryland Midland Railway Company
Reporting Marks: MMID
Missouri-Kansas-Texas Railroad Company
Reporting Marks: MKT
Missouri Pacific Railroad Company
Reporting Marks: CEI–MI–MP–TR
New Hope and Ivyland Railroad Company
Reporting Marks: NHIR
North Stratford Railroad Corporation
Reporting Marks: NSRC
Seaboard Coast Line Railroad Company*
Reporting Marks: ACL–SAL–SCL
St. Louis-San Francisco Railway Company
Reporting Marks: SLSF
St. Louis-Southwestern Railway Company
Reporting Marks: SSW
Southern Pacific Transportation Company
Reporting Marks: SP
Southern Railway System
Reporting Marks: SOU–CG–NS–SA

Effective August 15, 1980, and continuing in effect until 11:59 p.m., August 24, 1980.

Issued at Washington, D.C., August 13, 1980.

Interstate Commerce Commission.

**Joel E. Burns,**

*Agent.*

[FR Doc. 80–25765 Filed 8–22–80; 8:45 am]

BILLING CODE 7035–01–M

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**[Docket No. AB–167 (Sub-5F)]**

## Consolidated Rail Corp. Abandonment at River Junction and Cuba Junction in Livingston, Allegany, and Cattaraugus Counties, N.Y.; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided July 29, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, the public convenience and necessity permit the abandonment by the Consolidated Rail Corporation of a line of railroad known as the River Line extending from railroad milepost 358.1 at River Junction to milepost 390.7 at Cuba Junction, a distance of 32.6 miles in Livingston, Allegany and Cattaraugus Counties, NY, subject to the conditions for the protection of employees discussed in *Oregon Short Line R. Co.—Abandonment Goshen,* 360 I.C.C. 91 (197). A certificate of public convenience and necessity permitting abandonement was issued to Consolidated Rail Corporation. Since no investigation was instituted, the requirement of § 1121.38(a) of the regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than September 9, 1980. The offer, as filed, shall contain information required pursuant to § 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing

*Additions.

*Addition

abandonment shall become effective October 9, 1980.

**Agatha L. Mergenovich,**

*Secretary.*

[FR Doc. 80-25766 Filed 8-22-80; 8:45 am]

**BILLING CODE 7035-01-M**

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**[Ex Parte No. 311]**

## Expedited Procedures for Recovery of Fuel Costs

Decided: August 19, 1980.

In our decisions of May 13, 20, 27, June 3, 10, 17, 24, July 1, 8, 15, 22, and 29, and August 5, and 12, 1980, a 13-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 13.4 percent. We are authorizing that the 13-percent surcharge for this traffic remain in effect, and that all owner-operators are to receive compensation at this level.

No change is authorized in the 2.3-percent surcharge on less-than-truckload (LTL) traffic performed by carriers not utilizing owner operators, the 1.3-percent surcharge for United Parcel Service, nor in the 5.0-percent surcharge authorized 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. August 22, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis and Gilliam. Chairman Gaskins and 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)**

August 18, 1980 ..... 113.4¢

| | Transportation performed by— | | | |
|---|---|---|---|---|
| | Owner operator | Other | Bus carrier | UPS |
| | (1) | (2) | (3) | (4) |
| Average percent fuel expenses (including Taxes) of total revenue | 16.9 | 2.9 | 6.3 | 3.3 |
| Percent surcharge developed | 13.4 | 2.3 | 5.0 | [1] 2.1 |
| Percent surcharge allowed | 13.0 | 2.3 | 5.0 | [2] 1.3 |

[1] The percentage surcharge developed for UPS is calculated by applying 81 percent of the percentage increase in the current price per gallon over the base price per gallon to UPS average percent of fuel expense to revenue figure as of January 1, 1979 (3.3 percent).

[2] The developed surcharge figure is reduced 0.8 percent to reflect fuel related increases already included in UPS rates.

[FR Doc. 80-25764 Filed 8-22-80; 8:45 am]

**BILLING CODE 7035-01-M**

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## Motor Carrier Finance Applications Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's rules of practice (49 CFR 1100.240). These rules provide, among other things, that opposition to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. Opposition under these rules should comply with Rule 240(c) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, and specify with particularity the facts, matters and things relied upon, but shall not include issues or allegations phrased generally. Opposition not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of any protest shall be filed with the Commission, and a copy shall also be served upon applicant's representative or applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(c)(4) of the special rules and shall include the certification required.

Section 240(e) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request its dismissal.

Further processing steps will be by Commission notice or order which will be served on each party of record. Broadening amendments will not be accepted after August 25, 1980, except for good cause shown.

Any authority granted may reflect administratively acceptable restrictive amendments to the transaction proposed. Some of the applications may have been modified to conform with Commission policy.

We find with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environments nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930.

In the absence of legally sufficient protests as to the finance application *or* any application directly related thereto filed within 30 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or

the application of a non-complying applicant shall stand denied.

Decided July 29, 1980.

By the Commission, Review Board Number 5, Members Krock, Taylor, and Williams. (In MC–F–14388 Member Krock not participating).

(In MC–F–14425, Board Member Taylor dissented: The instant application should be rejected for two reasons. In the first instance the authority sought here is contrary to and prohibited by the order of the Commission, Division 3 in No. MC–F–12935, dated March 10, 1977, wherein the parties herein, among others, were ordered to take "such steps as may be necessary to insure that the operating rights and business activities of each of the carriers herein shall be under its sole dominion, control, and responsibility." Thus it is clear that any change in that order must be obtained by reopening the proceeding in No. MC–F–12935. In addition, the instant application fails to show how or by what method applicants would control Tiger Transportation, Inc. Obviously, ownership of 30% of the outstanding capital stock is not sufficient to give control through stock ownership, nor is there any evidence to show that the owners of the remaining 70% of Tiger's capital stock would be willing to permit applicants to assume control through management.)

JIM EDDLEMAN, an individual, d.b.a. J & J CATTLE CO., (J & J) (3395 Wright Street, Wheat Ridge, CO 800 3)—purchase (portion)—TOMAHAWK TRUCKING, INC., (Tomahawk) (Box ), Vernal, UT 84078). Representative: John H. Lewis, The 1650 Grant St. Bldg., Denver, CO 80203. J & J seeks authority to purchase that portion of the interstate operating rights of Tomahawk contained in Certificates No. MC–115092 (Sub-Nos. 30 and 77F), which authorize the transportation, as a motor common carrier, over irregular routes, of (1) *foodstuffs,* (except in bulk), from Delta, CO, to points in AR, AZ, CA, IL, IN, IA, KS, LA, MI, MN, MO, NE, OH, OK, TX, and WI, and (2)(a) *unfrozen canned foodstuffs,* from the facilities of Kuner Empson Co., at Brighton, CO, to points in AZ, and (b) *meats, meat products and meat byproducts and articles distributed by meat-packing* houses, as described in Sections A and C of Appendix I to the Report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Litvak Meat Packing Co., and Flavorland Industries, Inc., at Denver, CO, to points in AZ and CA, restricted in (2) above to the transportation of traffic originating at the named origin and destined to the named destinations. J & J is a motor common carrier pursuant to authority awarded in FC–78477. (Hearing site: Denver, CO, or Salt Lake City, UT.)

**Note.**—Applicantion for temporary authority has been filed.

MC–F–14425F, filed June 1, 1980. STANLEY L. WATKINS (P.O. Box 489, Shelby, MT 59474) and WARREN C. SHEPARD (P.O. Box 2730, Missoula, MT 49801) (Individuals)—CONTROL—TIGER TRANSPORTATION, INC. (Tiger) (P.O. Box 2248, Missoula, MT 59806). Representative: David A. Sutherlund, 1150 Connecticut Avenue, NW, Suite 400, Washington, DC 20036. Stanley L. Watkins and Warren C. Shepard own, respectively, 20 and 10 percent of the stock of Tiger. This Tiger stock is currently held in blind trust pursuant to Commission proceeding in MC–F–12935. Individuals seek authority to assume control over their Tiger stock. Individuals also own Eugene Tripp Trucking, a motor common carrier, operating under authority issued in Certificates in MC–143328 and sub-numbers thereunder. The operating rights to be controlled are contained in Tiger's certificate in MC–140196 (Sub-No. 28) which authorizes the transportation, as a motor common carrier, over irregular routes, of *flour,* from Billings, MT, to points in CA. (Hearing site: Missoula, MT.)

No. MC–F–14127, republication, filed August 15, 1979. Applicant WELCH TRUCKING INC. The application was originally published in the Federal Register in Volume 44, No. 108, page 54608, omitting the destination point of Houston, TX, from the authority acquired in No. MC–127668 (Sub-No. 2) for hides from Phoenix, AZ. In order to provide accurate notice of the commodities and territory involved in the application, the portion of the authority published incorrectly is being republished.

Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting hides from Denver, Pueblo, Colorado Springs, Montrose, Grand Junction, Durango, and Cortez, CO, Lubbock, El Paso, Dallas, Fort Worth, Amarillo, Hereford, Plainview, and Friona, TX, Gymon, OK, and Albuquerque and Clovis, NM, to Phoenix, AZ, and from Phoenix, AZ, to Laredo, Houston, Forth Worth, and Dallas, TX, for the account of Southwest Hide Co., Phoenix, AZ.

MC–F–14427F, filed June 18, 1980. CURLEY'S TRUCKING, INC. (CURLEY'S) (Box 1898, Monahans, TX 79756)—purchase—J. E. COX AND SONS, INC. (COX) (P.O. Box 1352, San Angelo, TX 76901). Representative: George L. Fowler, 115 West 5th Street, Odessa, TX 79761. Curley's seeks to purchase all of the operating rights of Cox, as set forth in No. MC–41610 and Sub-No. 12 thereunder. By the same application, Curley's Inspection Service, Inc. of Monahans, TX, and in turn, Willie Curley Beard, also of Monahans, TX, who controls Curley's Inspection Service, Inc. through stock ownership, seek authority under the same section to acquire control of the said operating rights and properties of Cox through the transaction. Cox is authorized to operate as a motor common carrier, in interstate or foreign commerce, pursuant to Certificate No. MC–41610 and Sub-No. 12 thereunder, which essentially authorize the transportation of machinery, materials, equipment, and supplies used in, or in connection with the discovery, development, processing, transmission and other activities concerning natural gas and petroleum, and their products and by-products, between certain Texas and New Mexico points. Curley's operates as a motor common carrier, in interstate or foreign commerce, pursuant to Certificate No. MC–98868 (Sub-No. 2), to transport various types of equipment, materials, and supplies used in the petroleum and other industries between all points in Texas. (Hearing sites: Odessa or San Angelo, TX.)

MC–F–14437F, filed June 27, 1980. GROSS & HECHT TRUCKING, INC. (Grosse) (35 Brunswick Avenue, Edison, NJ 08817)—Purchase—A & B EXPRESS CO., INC. (A & B) (P.O. Box 514, Edison, NJ 08817). Representative: R. Werner, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. Gross seeks to purchase the contract carrier operating rights and property of A & B, involving the permit in No. MC–141795 (Sub-No. 2). A & B's only remaining authority, in No. MC–141795 (Sub-No. 1), will be cancelled and A & B liquidated. Transco Group, Inc. and Arthur M. Goldberg seek authority to acquire control of said rights and property through the transaction. The permit is No. MC–141795 (Sub-No. 2) authorizes the transportation of *citrus products, non-alcoholic and beverage concentrates,* between the facilities of Tropicana Products, Inc., at Kearny, NJ, on the one hand, and, on the other, points in CT, DE, DC, ME, MD, MA, NH, NJ, NY, PA, RI, and VT, under contract with

Tropicana Products. (Hearing site: New York, NY.)

MC–F–14388, filed May 12, 1980. BI-RITE AUTO TRANSPORT, INC., (Bi-Rite) CONTROL-DEALERS AUTO TRANSPORT, INC. (Dealers) (both of 1902 West North Grand Avenue, Porterville, CA 93257) and in turn, Osco Hensley, Jr. acquiring control of such rights through the transaction. Representative: Miles L. Kavaller, 315 S. Beverly Drive, Suite 315, Beverly Hills, CA 90212. Bi-Rite is purchasing the stock of Dealers which holds interstate operating rights in Docket No. MC–136683 which authorize the transportation as a motor common carrier, over irregular routes, of (1) used motor vehicles which have been repossessed, embezzled, stolen, or damaged (a) from points in AR, CT, CO, FL, KY, IL, IN, ID, LA, MA, ME, MO, MI, MT, NE, NC, NY, OH, RI, SC, TN, and WY to points in CA; (b) from points in TX to points in AZ: (c) from points in AZ and WA to points in NV; (d) from points in UT to points in AZ; (e) between points in CA, on the one hand, and, on the other, points in AZ, NJ, ND, NV, NM, OK, OR, TX, UT and WA; (2) wrecked, embezzled, or stolen automobiles, by tow-away, or drive-away under the vehicles' own power, from points in the United States (except Alaska and Hawaii) to Los Angeles, CA; (3) used motor vehicles which have been repossessed, embezzled or stolen, in secondary movements, in truck-away service, from points in CA to points in CO, and (4) used automobiles, in truck-away service, between Phoenix, AZ, on the one hand, and, on the other, Los Angeles, and San Diego, CA. Bi-Rite operates as a motor common carrier, in interstate or foreign commerce, pursuant to a certificate issued June 12, 1980 in No. MC–144400, authorizing the transportation of used automobiles and trucks, in secondary movements, in truckaway service, between points in CA and NV, between CA and NV and AZ, CO and UT, Anaheim, Fresno, and Los Angeles, CA to Boise, Burley and Nampa, ID, and under temporary authority in No. MC–144400 (Sub-No. 1 TA) to transport used automobiles, with exceptions between named points in CA on the one hand, and, on the other points in AZ, CO, NV and UT. Impediments: (1) There are several duplications of authority involving the same commodities. These include Bi-Rites authority in MC–144400 between points in CA and NV and that of Dealers in MC–136683 between points in CA on the one hand, and, on the other points in NV; BI-Rites between points in CA and NV on the one hand, and, on the other points in AZ, CO and UT, and Dealers from points in CO to points in CA, between points in CA on the one hand, and, on the other points in AZ and UT, from points in CA to points in CO, between Phoenix, AZ, on the one hand, and, on the other Los Angeles, and San Diego, CA. (2) There is a fitness question relating to the issue of unauthorized and premature consummation and an issue of duplicating authority obtained by false pretenses by Bi-Rite in No. 144400 by failing in its request for authority to advise the Commission that is has prematurely acquired control of Dealers holding similar authority. In addition questions of fitness are raised where an applicant (Bi-Rite) acquires control of a protestant (Dealers) during the processing of a pending proceeding.

MC–F–14434, filed June 20, 1980. The O.K. Trucking Company (O.K.) (3000 East Cresentville Road, Cincinnati, OH)—Control and Merger—Anderson Motor Services, Inc. (Anderson) (Georgetown Walk Office Center, 7525 Revenridge Drive, St. Louis, MO 63119). Representatives: Jack B. Josselson, 700 Atlas Bank Building, 524 Walnut Street, Cincinnati, OH, 45202 and Frank W. Taylor, Jr., 1221 Baltimore Avenue, Kansas City, MO, 64105. O.K. seeks authority to acquire the capital stock of Anderson and to merge the operating rights and property of the latter into O.K. By the same application Harold L. Holmes, Arthur C. Litton II and Arthur C. Menne (each of whose address is listed as the same as O.K.'s), who controls O.K. through 100 percent ownership of O.K.'s voting stock, and 89.7 percent ownership of O.K.'s non-voting stock, seek authority to acquire control of the said motor carrier operating rights and properties of Anderson, through the transaction. O.K. proposes to purchase the stock for a total price of $4,500,000. Anderson is authorized to operate as a motor common carrier, in interstate or foreign commerce, pursuant to certificate issued in MC–109095 and sub-numbers thereunder, which authorize the transportation of general commodities with the usual exceptions, over the following routes: Regular Routes. (1) Between Indianapolis, IN and Cleveland, OH serving no intermediate points; (2) Between East Alton, IL and Indianapolis, IN serving no intermediate points; (3) Between St. Louis, MO and Akron, OH serving the intermediate and off-route of Indianapolis and Pendleton, IN., those in the St. Louis, MO-East St. Louis, IL Commercial Zone, as defined by the Commission in 1 M.C.C. 656, Robertson, MO, the site of the Ford Motor Company plant, near Robertson, the site of Lambert Airfield, and Ferguson, MO; (4) Between Pendleton, IN., and Akron, OH serving the intermediate points of Fort Wayne, IN, Toledo and Cleveland, OH and points in OH within ten miles of Cleveland; (5) Between Lodi, OH and Akron, OH for operating convenience only, with no service to or from Lodi, OH and serving no intermediate points; (6) Between Akron, OH and Cleveland, OH for operating convenience only serving no intermediate points; (7) Between Tiffin, OH and Junction U.S. Highway 20 and OH Highway 113, for operating convenience only, serving no intermediate points. Irregular Routes: (8) (a) Between Indianapolis, IN and points within 10 miles of Indianapolis; (b) Between Akron, OH and points within 10 miles of Akron; (9) Empty equipment only, over regular routes between St. Louis, MO. and East Alton, IL; (10) Alternate Routes for Operating Convenience Only in connection with operations held by carrier on May 1, 1952, between St. Louis, MO and Indianapolis, IN on the one hand, and, on the other, Cleveland and Akron, OH with service at the termini of each route for the purpose of joinder only, (a) between Junction OH Hwy 4 and U.S. 224 near Atica, OH on the one hand, and, on the other, Junction U.S. Hwys 224 and 42 at Lodi, OH; (b) Between Junction U.S. Hwy 30N and OH Hwy 19 near Bucyrus, OH, on the one hand, and, on the other, Junction U.S. Hwys 30S and 42 at Mansfield, OH; (c) Between Junction U.S. Hwys 30S and 25 near Lima, OH, on the one hand, and, on the other, Junction U.S. Hwys 30S and 42 at Mansfield, OH; (d) Between Junction U.S. Hwys 36 and 25 near Piqua, OH, on the one hand, and, on the other, Junction U.S. Hwys 30N and 42 at Mansfield, OH; (e) Between Junction IN Hwys 67 and U.S. Hwy 27 near Bryant, IN, on the one hand, and, on the other, Junction U.S. Hwys 67 and U.S. Hwy 27 near Bryant, IN, on the one hand, and, on the other, Junction U.S. Hwys 25 and 224 near Findlay, OH; (f) Between Junction U.S. Hwy 224 and OH Hwy 18 near Tiffin, OH, on the one hand, and, on the other, Junction U.S. Hwy 20 and OH Hwy 18 near Bellevue, OH; (11) Alternate Route for Operating Convenience Only Between East Alton, IL and St. Louis, MO, serving no intermediate points, and serving the termini for the purpose of joinder only; and subject to the restriction that such route shall not be used in the transportation of any shipment moving between St. Louis, and points in the St. Louis, MO.—East St. Louis, IL. Commercial Zone, 1 M.C.C. 656, on the one hand, and East Alton, or

any point on carrier's route east thereof to and including Mulberry Groove, IL, on the other. Regular Routes: (12) Serving the site of The B.F. Goodrich Company approximately 13 miles east of Fort Wayne, IN in Milan Township, Allen County, IN., as an off route point in connection with carrier's presently authorized regular route operations to and from Fort Wayne. (13) Between Junction U.S. Hwy 24 and IN Hwy 14, and Junction U.S. Hwy 224 and OH Hwy 15; (14) Alternate Routes for Operating Convenience Only: (a) Between Junction U.S. Hwys 20 and 250, at or near Norwalk, OH and Junction U.S. Hwys 250 and 24, in connection with carrier's presently authorized regular route operations between Fort Wayne, IN and Akron, OH, serving no Intermediate points, and serving Junction U.S. Hwys 20 and 224 for the purpose of joinder only;

(b) Between Junction U.S. Hwy 20 and OH Hwy 18, and Junction U.S. Hwy 42 and OH Hwy 18, at or near Medina, OH and U.S. Hwy 20, and Junction OH Hwy 18 and U.S. Hwy 42 for the purpose of joinder only. Irregular Routes: (15) Between points in the St. Louis, MO—East St. Louis, IL, Commercial Zone as defined by the Commission, on the one hand, and, on the other, points in St. Louis County, MO, beyond the said commercial zone, except Valley Park, MO. Regular Routes: (16) Serving the plant sites of Browning Arms Co., and Tenbrook Co., at or near Arnold, MO, as off-route points in connection with carrier's authorized regular route operations. (17) Service is authorized to and from points (a) in the Cincinnati, OH Commercial Zone, as defined by the Commission, and (b) points in Marion County, IN, all as intermediate and off route points in connection with carrier's regular route operations authorized herein. (18) Serving Letts and Westport, IN, as off route points in connection with carrier's regular route operations authorized herein. (19) Between points in IN, as follows: (a) From Junction U.S. Hwy 421 (formerly IN Hwy 29) and U.S. Hwy 50 over U.S. Hwy 50 to Holton, and return over the same route: (b) From Greensburg over IN Hwy 46 to Junction IN Hwy 101 (formerly portion IN Hwy 48), thence over IN Hwy 101 to Junction IN Hwy 48, thence over IN Hwy 48 to Lawrenceburg, and return over the same route; (c) From Junction IN Hwys 48 and 148 near Wrights Corner, N. over IN Hwy 148 to Aurora, and return over the same route: (d) From Shelbyville over IN Hwy 9 to Hope, and return over the same route. Service is authorized to and from all intermediate points; (e) From Indianapolis over U.S. Hwy 421 (formerly IN Hwy 29) to Junction U.S. Hwy 250 and Junction U.S. Hwys 250 and 50, thence over U.S. Hwy 50 to Aurora, and return over the same route. Service is authorized to and from all intermediate points, and the off-route points of Adams, St. Paul, Waldron, and Prescott, IN. (f) From Junction U.S. Hwy 421 (formerly IN Hwy 29) and IN Hwy 244 near Meltzer, IN, over IN Hwy 244 to Junction IN Hwy 3, and return over the same route. Service is authorized to and from all intermediate points and the off route point of Blue Ridge, IN. (g) From Osgood over IN Hwy 350 to Aurora, and return over the same route. Service is authorized to and from the intermediate points of Delaware, Pierceville, Milan, Moores Hill, Sparta, and Wilmington, IN. (h) From Oldenburg over IN Hwy 229 to Napoleon, and return over the same route. Service is authorized to and from the intermediate points of Batesville and Ballstown, IN. (i) From Junction IN Hwys 48 and 101 about 3 miles south of Sunman, IN, over IN Hwy 101 to Junction U.S. Hwy 50, and return over the same route. Service is authorized to and from the intermediate point of Milan, IN. (j) Between Aurora, IN, and Cincinnati, OH, serving the intermediate point of Lawrenceburg, IN. (20) Between Milan, IN, and Aurora, IN serving all intermediate points and off-route points within 7 miles of Milan. (21) Alternate Routes for Operating Convenience Only: Between Junction IN Hwys 244 and 3 near Milroy, IN, and Greensburg, IN, serving no intermediate points, in connection with carrier's regular routes authorized herein. (22) Between Junction IN Hwys 46 and 101 (near Penntown, IN), and Cincinnati, OH, serving no intermediate points, nor the Junction of IN Hwys 46 and 101. Regular Routes: Serving Pilot Grove, MO, as an off route point in connection with carrier's authorized regular operations. (24) Serving points in the St. Louis, MO–East St. Louis, IL Commercial Zones, as defined by the Commission, as of route points in connection with carrier's presently authorized regular operations. (25) Serving points in the Kansas City, MO–Kansas City, KS Commercial Zone as defined by the Commission, as off route points in connection with carrier's presently authorized regular route operations. (26) Between St. Louis, MO, and Weldon Springs, MO, serving no intermediate points; (27) Between Junction MO Hwy 94 and St. Charles County Hwy N and Junction St. Charles County Hwy N and U.S. Hwy 61, serving all intermediate points. (28) Between Augusta, MO, and St. Louis, MO, serving the intermediate points of Klondike, Matson, Defiance, Hamburg, Toonerville, Weldon Springs, Harvester, and St. Charles, MO. (29) Between East St. Louis, IL, and Kansas City, KS, serving all intermediate points (except points on U.S. Hwy 40 between Kansas City, MO, and Boonville, MO) and serving the off-route points of Rush Hill, New Franklin, Fulton, Manchester, Kirkwood, Webster Groves, Clayton, North Kansas City and Independence, MO, and Madison, Granite City, Alton, Wood River, and Belleville, IL. (30) Between Wentzville, MO, and St. Charles, MO, serving the intermediate point of the Weldon Spring Ordnance Plant site. (31) Between Blue Springs, MO, and Kansas City, MO, serving no intermediate points, and serving the off route points of Lake City, MO and the Lake City Ordinance Plant site. Irregular Routes: (32) Between the MO points specified in the two regular route descriptions immediately above, on the one hand, and, on the other, points authorized in the eighth and ninth regular route descriptions above. (33) Serving the facilities of Rimpull Corporation, located at or near Olathe, KS, as an off route point in connection with applicant's regular route operations to and from Kansas City, KS. O.K. is a motor common carrier operating, in interstate or foreign commerce, under authority issued in MC–2245 and subnumbers thereunder, in the States of Illinois, Indiana, Kentucky, Ohio, Pennsylvania, West Virginia and Wisconsin.

**Notes.**—(1) Application has not been filed for temporary authority under 49 U.S.C. 10928 or 11349.

(2) There is a directly related application filed the same date, by O.K. in Finance Docket No. 29395 by which, following approval of the application MC–F–14434, and merger, O.K. seeks authority to issue promissory notes to the sellers of Anderson's stock in a total principal amount not to exceed $3,500,000, payable in twenty equal quarterly installments with interest at the rate of ten percent per annum on the unpaid balance which will be secured by mortgages on equipment, real estate and the involved operating rights of Anderson. The mortgage is to be held in escrow by the Fifth Third Bank of Cincinnati, OH. In addition O.K. proposes to borrow not in excess of $2,000,000 from the latter Bank, represented by a mortgage on O.K.'s rolling stock, payable in equal monthly installments over a period of five years bearing interest at the rate of one-half percent per annum over prime rate of the Bank on the unpaid balance, the proceeds of which loan will be used to pay the Mercantile Trust Company approximately $1,350,000 representing the amount due by Anderson to Mercantile under a revolving credit

arrangement. (Hearing site: Washington, D.C.)

Agatha L. Mergenovich

*Secretary.*

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[Volume No. 26]

## Petitions, Applications, Finance Matters (Including Temporary Authorities), Alternate Route Deviations, Intrastate Applications, Gateways, and Pack, and Crate

### Petitions for Modification, Interpretation or Reinstatement of Motor Carrier Operating Rights Authority

*Notice*

The following petitions seek modification or interpretation of existing motor carrier operating rights authority, or reinstatement of terminated motor carrier operating rights authority.

All pleadings and documents must clearly specify the suffix numbers (e.g., M1 F, M2 F) where the docket is so identified in this notice.

The following petitions, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission within 30 days after the date of publication in the **Federal Register** with a copy being furnished the applicant. Protests to these applications will be rejected.

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that if (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 FR 50908, as modified at 43 FR 60277. Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 381 (Sub-16(M1F)) (Notice of Filing of Petition To Modify Certificate), filed May 9, 1980. Petitioner: GENOVA EXPRESS LINES, INC., P.O. Box 136, 484 Clayton Rd., Williamstown, NJ 08094. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Petitioner holds a motor *common carrier* certificate in MC-381 Sub 16, issued January 4, 1980 (pursuant to MCF-13063) authorizing transportation, over irregular routes, of (1) *agricultural commodities, canned goods, and packed fruits,* from Hammonton, NJ, to New York, NY, Philadelphia, PA, and Baltimore, MD, (2) *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), from New York, NY, Philadelphia, PA, and Baltimore, MD, to Hammonton, NJ, (3) *lime and limestone,* from Norristown, Plymouth Meeting, Malvern, and Cedar Hollow, PA, to points in that part of NJ bounded by a line beginning at Glassboro and extending in a northeasterly direction to Berlin, NJ, then in an easterly direction through Indian Mills, NJ, to Chatsworth, NJ, then in a southeasterly direction to Manahawkin, NY, then in a southwesterly direction through Oceanville to Somers Point, NJ, then in a northwesterly direction through Mays Landing and Malaga, NJ, to Glassboro, (4) *canned and processed foods and bakery products,* from Bridgeton and Cedarville, NJ, and points in Atlantic County, NJ, to points in DE, MD, NY, PA, and DC, (5) *tin cans, glass bottles, cartons and packing materials,* used in or incidental to the packaging of the commodities specified above, from points in DE, MD, NY, PA, and DC, to Bridgeton and Cedarville, NJ, and points in Atlantic County, NJ. By the instant petition, petitioner seeks to modify the above authority to read: (1) *such commodities* as are used in and dealt by chain, grocery, and food business houses, and (2) *materials, equipment, and supplies* used in the distribution and sale of the commodities in (1) above, between points in NJ, DE, MD, NY, PA, and DC.

MC 2260 (Sub-3(M1F)) (Notice of Filing of Petition To Modify Certificate), filed September 28, 1979. Petitioner: O. MITCHELL BELT, d.b.a. M. J. BELT & SON, 525 4th St., P.O. Box 479, Parkersburg, WV 26101. Representative: J. M. Friedman, 2930 Putnam Ave., Hurricane, WV 25526. Petitioner holds a motor *common carrier* certificate in MC-2260 Sub 3 issued November 20, 1975, authorizing transportation, over irregular routes, transporting, as pertinent, *general commodities,* (except those of unusual value, classes A and B explosives, paper, paper products, and waste paper, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), from Parkersburg, South Parkersburg and Vienna, WV, to points within 25 miles of Parkersburg, WV. By the instant petition, petitioner seeks to modify the above territorial description to read between Parkersburg, South Parkersburg, Vienna, and points in Wood County, WV, on the one hand, and, on the other, points in OH and WV within 25 miles of Parkersburg.

MC 12850 (Sub-1 (M2F)) (Notice of Filing of Petition To Modify License), filed June 26, 1980. Petitioner: DOMENICO TOURS, INC., 751 Broadway, Bayonne, NJ 07002. Representative: Charles J. Williams, 1815 Front St., Scotch Plains, NJ 07076. Petitioner holds a brokerage license in MC 12850 Sub-1 authorizing petitioner to engage in operations as a *broker,* as pertinent, of *passengers and their baggage,* in special and charter operations, between points in the U.S. (except AK and HI). Petitioner is authorized to engage in the specified operations as a broker at Bayonne, NJ. By the instant petition, petitioner seeks to modify its license to include brokerage operations located at Philadelphia, PA.

MC 40640 (Sub-2 (M1F)) (Notice of Filing of Petition To Modify Certificate), filed April 9, 1980. Petitioner: NEALON TRUCKING, INC., 26 Alice St., Binghamton, NY 13901. Representative: Robert J. Nealon (same address as petitioner). Peititoner holds a motor *common carrier* certificate in MC 40640 Sub-2 issued August 1, 1967, authorizing transportation, over irregular routes, of *iron and steel articles,* as described in Groups I, II, and III of Appendix V in Descriptions in Motor Carrier

Certificates, 61 M.C.C. 209, from Conklin, NY, to points in ME, NH, VT, MA, RI, CT, NJ, PA, DE, and MD. By the instant petition, petitioner seeks to modify the above authority to read: *iron and steel articles,* between points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, and VT.

MC 44801 (Sub-12F (M1F)) (Notice of Filing of Petition To Modify Certificate), filed January 8, 1980. Petitioner: DICK HARRIS & SON TRUCKING CO., INC., 4000 Harris Lane, Lynchburg, VA 24501. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Petitioner holds a motor *common carrier* certificate in MC 44801 Sub-12F issued December 3, 1979, authorizing transportation, over irregular routes, of *such commodities* as are produced or used by a printing plant (except ink and ink ingredients, in bulk), between Lynchburg, VA, Hickory, NC, and Des Moines, IA. By the instant petition, petitioner seeks to modify the above authority by substituting the language "the facilities of Meredith/Burda, Inc. near Newton, NC," for Hickory, NC.

MC 55822 (Sub-15 (M1F)) (Notice of Petition for Modifcation of Permit), filed May 15, 1980. Petitioner: VICTORY EXPRESS, INC., P.O. Box 26189, Trotwood, Ohio 45426. Representative: Richard Schaefer (same as applicant). Petitioner holds a contract carrier permit in MC 55822 (Sub-15), issued June 14, 1976, transporting by motor vehicle, in interstate or foreign commerce, over irregular routes *Paper* and *paper articles,* and *material, supplies, and equipment* used in connection with the manufacture, distribution or sale of the aforementioned articles, except in bulk, between Riegelsville, Milford, Warren Glen, and Hughesville, N.J., on the one hand, and, on the other, points in OH, IL, IN, MT, WI, KY, TN, MO, IA, and MN. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Riegel Products Corporation, of Milford, NJ. By the instant petition, petitioner seeks to modify the above authority by amending the permit to read as follows: "To operate as a *contract carrier* by motor vehicle, in interstate of foreign commerce, over irregular routes transporting *General Commodities* (except Classes A & B explosives, commodities in bulk, household goods and commodities requiring special equipment) between points in the U.S. (except AK and HI) restricted to traffic originating at or destined to the facilities of James River Corporation, including its affiliates and subsidiaries under a continuing contract(s) with the James River Corporation of Richmond, VA."

MC 71593 (Subs-17 and 18 (M1F)) (Notice of Filing of Petition To Modify Certificates), filed April 29, 1980. Petitioner: FORWARDERS TRANSPORT, INC., 1608 E. Second St., Scotch Plains, NJ 07076. Representative: David W. Swenson (same as applicant). Petitioner holds motor *common carrier* certificates in (1) MC–71593 Sub 17F, issued February 1, 1980, and (2) MC–71593 Sub 18F, issued February 1, 1980, authorizing transportation in interstate or foreign commerce, over irregular routes, (Sub 17) *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), between Baltimore, MD, Harrisburg, PA, and Washington, DC, on the one hand, and, on the other, Chicago, IL, Milwaukee, WI, and St. Louis, MO, restricted to the transportation of traffic moving on freight forwarder bills of lading. (Sub 18) *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), between Cincinnati, Cleveland, Columbus, and Toledo, OH, Detroit, MI, Indianapolis, IN, and Harrisburg, PA, on the one hand, and, on the other, Chicago, IL, Milwaukee, WI, and St. Louis, MO, restricted to the transportation of traffic moving on Freight Forwarder bills of lading. By the instant petition, petitioner seeks to modify the authority as follows: (Sub 17) (as modified) between Washington, DC, and points in MD AND PA, on the one hand, and, on the other, points in IL, WI, and MO. (Sub 18) (as modified) between points in OH, MI, IN, and PA, on the one hand, and, on the other, points in IL, WI, and MO. Both Subs will retain the restriction . . . moving on Freight Forwarder bills of lading.

MC 85130 (M1F) (Notice of Filing of Petition To Modify Certificate), filed June 23, 1980. Petitioner: BRADLEY'S EXPRESS, INC., 130 Bodwell St., Avon, MA 02322. Representative: Michael R. Werner, P.O. Box 1409, 167 Fairfield Rd., Fairfield, NJ 07066. Petitioner holds a motor *common carrier* certificate in MC–85130 issued April 18, 1967, authorizing transportation, over regular routes, as pertinent, of (1) *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 Thompsonville, CT, as an off-route point in connection with carrier's regular-route operations authorized herein to and from Hartford, CT, service at Thompsonville, CT, shall be restricted to the delivery to or receipt from connecting carriers of interline traffic which has originated at or is destined to points beyond Thompsonville, CT, (2) *general commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between Middletown, CT, and New York, NY, serving the intermediate point of New Haven, CT, the off-route points of East Hampton, Portland, Moodus, and Higganum, CT, and Newark, NJ, and the intermediate and off-route points in the New York, NY, Commercial Zone, as defined by the Commission in 1 M.C.C. 665: (a) from Middletown over Alternate U.S. Hwy 6 (formerly CT Hwy 14) to Meriden, CT, then over U.S. Hwy 5 to New Haven, CT, and then over U.S. Hwy 1 to New York, and return over the same route, and (b) from Middletown over CT Hwy 17 (formerly CT Hwy 15) to New Haven, CT, then as specified above to New York, and return over the same route, (3) *general commodities,* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), (a) between Middletown and Hartford, CT, serving the intermediate points of Cromwell, Rocky Hill and Weathersfield, CT, over CT Hwy 9, and (b) between Bridgeport, and Middletown, CT, serving the intermediate and off-route points of Stratford, Milford, West Haven, New Haven, North Haven, Wallingford, and Meriden, CT, from Bridgeport over U.S. Hwy 1 to New Haven, CT, then over Alternate U.S. Hwy 5 to junction U.S. Hwy 5, then over U.S. Hwy 5 to junction Alternative U.S. Hwy 5, then over Alternate U.S. Hwy 5 to Meriden, CT, then over Alternate U.S. Hwy 6 to Middletown, and return over the same route. By the instant petition, petitioner seeks to modify the above authorities to read as follows: *general commodities,* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment), (1) between Middletown, CT, and New York, NY, serving all intermediate points and points in Connecticut as off-route points, (a) from Middletown over Alternate U.S. Highway 6 (formerly CT Hwy 14) to Meriden, CT, then over U.S.

Highway 5 to New Haven, CT, and then over U.S. Highway 1 to New York, and return over the same route, (b) from Middletown over Connecticut Highway 17 (formerly CT Hwy 15) to New Haven, CT, then as specified above to New York, and return over the same route, (2) between Middletown, and Hartford, CT, serving all intermediate points and points in CT as off-route points, over CT Hwy 9, and (3) between Bridgeport and Middletown, CT, serving all intermediate points and points in CT as off-route points, from Bridgeport over U.S. Hwy 1 to New Haven, CT, then over Alternate U.S. Hwy 5 to junction U.S. Hwy 5, then over U.S. Hwy 5 to junction Alternate U.S. Hwy 5, then over Alternate U.S. Hwy 5 to Meriden, CT then over Alternate U.S. Hwy 6 to Middletown, and return over the same route.

MC 85530 (Sub-3 (M1F)) (Notice of Filing of Petition To Modify Certificate) filed May 9, 1980. Petitioner: BLALOCK TRUCK LINE, INC., 318 Nassau St., P.O. Box 734, Charleston, SC 29402. Representative: Wilmer B. Hill, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, DC 20001. Petitioner holds a motor *common carrier* certificate in MC–85530 Sub 3 issued March 5, 1979, authorizing transportation, over irregular routes, as pertinent, of (A) *general commodities* (except commodities in bulk, classes A and B explosives and other dangerous commodities, household goods as defined by the Commission, automobiles, trucks, buses, and motor homes), between points in Charleston County, SC, on the one hand, and, on the other, points in SC, and (B) *general commodities* (except commodities in bulk, explosives, automobiles, trucks, buses, and mobile homes), between points in Charleston County, SC. By the instant petition, petitioner seeks to modify the exceptions by (1) substituting in (A) "liquid petroleum products in bulk in tank trucks" for "commodities in bulk", and (2) substituting in (B) "petroleum products in bulk" for "commodities in bulk."

MC 85970 (Sub-12F (M1F)) (Notice of Filing of Petition To Modify Certificate) filed June 30, 1980. Petitioner: SARTAIN TRUCK LINE, INC., 1625 Hornbrook St., Dyersburg, TN 38024. Representative: Warren A. Goff, 2008 Clark Tower, 6100 Poplar Ave., Memphis, TN 38137. Petitioner holds a motor *common carrier* certificate in MC–85970 Sub 12F, issued July 30, 1979, authorizing transportation, over irregular routes, of *carpet cushion, rubber compound, molded rubber products and products relating thereto, and materials, equipment, and supplies* used in the manufacture of all of the above commodities (except commodities in bulk), between Dyersburg, TN, on the one hand, and, on the other, points in the U.S. (except those in AK, HI, and TN), restricted to traffic originating at or destined to the facilities of Colonial Rubber Works, Inc., at Dyersburg, TN, and Newbern Rubber, Inc., at Newbern, TN. By the instant petition, petitioner seeks to modify the above territorial description to read: "between points in the U.S. (except AK and HI)".

MC 85970 (Sub-18F (M1F)) (Notice of Filing of Petition To Modify Certificate) filed June 30, 1980. Petitioner: SARTAIN TRUCK LINE, INC., 1624 Hornbrook St., Dyersburg, TN 38024. Representative: Warren A. Goff, 915 Pennsylvania Bldg., 425 13th St. NW, Washington, DC 20004. Petitioner holds a motor *common carrier* certificate in MC–85970 Sub 18F, June 16, 1980, authorizing transportation, over irregular routes, transporting *printed matter, and materials, equipment, and supplies* (except commodities in bulk) used in the manufacture of printed matter, between the facilities of W.F. Hall Printing Company, at or near Dresden, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI). By the instant petition, petitioner seeks to modify the above territorial description to read "between points in the U.S. (except AK and HI).

MC 95540 (Sub-567 (M1F)) (Notice of Filing of Petition To Modify Certificate) filed September 27, 1979. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Lakeland, FL 33802. Representative: K. Edward Wolcott, P.O. Box 56387, Atlanta, GA 30343. Petitioner holds a *common carrier* certificate in No. MC–95540 (Sub No. 567) issued January 20, 1966 authorizing transportation over irregular routes of: (1) *Canned goods* in mixed loads with frozen foods or agricultural commodities as defined in Section 203(b)(6) of the Act, as amended; and *frozen foods* in mixed loads with canned goods or agricultural commodities as defined in Section 203(b)(6) of the Act, as amended, from points in CA to points in AL, AR, CO, FL, GA, IA, KS, KY, LA, MN, MS, MO, NE, ND, OK, SD, TN, WI, and WY, and (2) *Agricultural commodities* as defined in Section 203(b)(6) of the Act, as amended, when transported at the same time and in the same vehicle with canned goods or frozen foods (otherwise authorized), from points in AZ and CA, to points in AL, AR, CO, FL, GA, IA, KS, KY, LA, MN, MS, MO, NE, ND, OK, SD, TN, WI, and WY. By the instant petition. Petitioner seeks to substitute in the first paragraph the description "Foodstuffs" in lieu of canned goods and frozen foods moving in mixed loads with agricultural commodities as defined in Section 203(b)(6) of the Act and to substitute in the second paragraph the description "Foodstuffs" in lieu of canned goods or frozen foods.

MC 95540 (Sub-1109F (M1F)) (Notice of Filing of Petition to Modify Certificate), filed May 23, 1980. Petitioner: WATKINS MOTOR LINES, INC., P.O. Box 1636, Lakeland, Florida 33802. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street, Northwest, Washington, DC 20004. Petitioner holds motor *common carrier* Certificate in MC–95540 (Sub 1109F) issued January 18, 1980, authorizing transportation, over irregular routes, of *chemicals* (except commodities in bulk), between points in NC on the one hand, and, on the other, points in the United States (except AK and HI). By the instant Petition. Petitioner seeks to modify the authority so as to delete the bulk commodities exception.

MC 103490 (Sub-75F (M1F)) (Notice of Filing of Petition to Modify Certificate), filed April 28, 1980. Petitioner: PROVAN TRANSPORT CORP., 210 Mill St., Newburgh, NY 12550. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Petitioner holds motor *common carrier* certificate in MC–103490 (Sub 75F) issued February 26, 1980, authorizing transportation, over irregular routes, of *chemicals*, in bulk, in tank vehicles, from Stony Point, NY, to points in the U.S. (except AK and HI). By the instant petition, petitioner seeks to modify the above authority by adding the provision that MC–103490 Sub 75F may be joined with Certificate MC–103490 Sub 36, issued January 25, 1972. NOTE: Petitioner would request to tack as follows: (1) at Stony Point, NY (NY east of U.S. Hwy 11 and south of U.S. Hwy 20) to provide service from New York NY and points in Essex, Hudson, Passaic, Somerset and Union Counties, NJ (Sub 36) to points in the U.S. (except AK and HI) (Sub 75F); (2) at Stony Point (points in NY within 200 miles of Stamford, CT), to provide service from Stamford, CT, (Sub 36) to points in U.S. (except AK and HI) (Sub 75F); (3) at Stony Point (Rockland County, NY) to provide service from New York, NY, points in Rockland, Orange, Putnam, Dutchess, Westchester, Tioga, Broome, Portland, Chenango, Herkimer, Fulton, Montgomery, Otsego, Schoharie, Delaware, Albany, Rensselaer, Schenectady, Saratoga, Washington, Columbia, Greene, Ulster, Dutchess, Sullivan, Nassau, and Suffolk Counties, NY, and Fairfield County, CT (Sub 36) to

points in the U.S. (except AK and HI) (Sub 75F).

MC 107012 (M1F) (Notice of Filing of Petition for Modification of Certificate), filed May 12, 1980. Petitioner: NORTH AMERICAN VAN LINES, P.O. Box 988, Fort Wayne, IN. Representative: David D. Bishop (same address as applicant). Petitioner holds a motor *common carrier* certificate in MC–107012 issued December 27, 1971, authorizing transportation in interstate or foreign commerce, over irregular routes, in part, (para 23a) *new furniture, new commercial and institutional fixtures, and new store and office equipment,* all uncrated (except new office and business machines), from points in TX to points in the U.S. (including AK but excluding points in HI, CT, DE, IL (other than Chicago, IL), IN, ME, MA, MD, MI, MO, NH, NJ, NY, OH, PA, RI, VT, WV, WI, and DC, with no transportation for compensation on return except as otherwise authorized. By the instant petition, petitioner seeks to modify the authority above by removing the "uncrated" restriction.

MC 111545 (Sub-Nos. 54 and 75) M1F (Notice of Filing of Petition to Modify Certificate), filed June 2, 1980. Petitioner: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, GA 30065. Representative: J. Michael May (same address as petitioner). Petitioner holds a motor *common carrier* certificate in MC–111545 (Sub-No. 54), issued October 5, 1967, authorizing transportation over irregular routes, as pertinent, of *Self-propelled articles, each weighing 15,000 pounds or more, and related machinery, tools, parts, and supplies moving in connection therewith* (restricted to commodities which are transported on trailers), between Chattanooga, TN, and points within 175 miles thereof. Petitioner also holds a motor *common carrier* certificate in MC–111545 (Sub-No. 75), issued January 28, 1970, authorizing transportation over irregular routes, of *Commodities, the transportation of which because of size or weight requires the use of special equipment,* between Chattanooga, TN, and points within 175 miles of Chattanooga, TN, except points in MS. By the instant petition, petitioner seeks to modify (1) the territory in Sub-No. 54 to read "between points in VA, TN, SC, NC, MS, KY, GA, and those points in AL within 175 miles of Chattanooga, TN," and (2) the territory in Sub-No. 75 to read "between points in VA, TN, SC, NC, GA, KY, and those points in AL within 175 miles of Chattanooga, TN."

MC 113265 (Sub-4 (M1F)) (Notice of filing of petition to modify certificate), filed November 19, 1979. Petitioner: ATLANTA-ASHEVILLE MOTOR EXPRESS, INC., P.O. Box 345, Conley, GA 30027. Representative: Paul M. Daniell, P.O. Box 56387, Atlanta, GA 30343. Petitioner holds *common carrier* certificate MC 113265 (Sub 4) issued March 5, 1968, authorizing transportation, over regular routes of, *General commodities* (except classes A and B explosives, household goods as defined by the Commission, and liquid commodities, in bulk, in tank vehicles). Between Lake Junaluska, NC, and Franklin, NC, serving the intermediate points of Copperhill, TN, and Blue Ridge, GA: From Lake Junaluska over U.S. Highway 19 to Ranger, NC, then over U.S. Highway 64 to Ducktown, TN, then over TN Highway 68 to the TN–GA State line, then over GA Highway 5 to Blue Ridge, GA, then over U.S. Highway 76 to junction GA Highway 69, then over GA Highway 69 to the GA–NC State line, then over NC Highway 69 to Hayesville, NC, then over U.S. Highway 64 to Franklin, NC, and return over the same route. Restriction: The service authorized herein is subject to the following conditions: No transportation shall be performed between Blue Ridge, GA, and Copperhill, TN, on the one hand, and on the other, Atlanta, GA. The authority granted herein is restricted against interline or tacking, by carrier, with Atlanta Motor Lines, at Blue Ridge, GA, or Copperhill, TN, for through service between Asheville, NC, and Chattanooga, TN. By the instant petition, Petitioner seeks to modify the authority as follows: Serving all intermediate points on the described route and the elimination of the restrictions stated above.

MC 116280 (Sub-20F (M1F)) (Notice of filing of petition to modify certificate), filed June 9, 1980. Petitioner: W. C. MCQUAIDE, INC., 153 Macridge Ave., Johnstown, PA 15904. Representative: Robert E. McFarland, 999 West Big Beaver Rd., Suite 1002, Troy, MI 48084. Petitioner holds a motor *common carrier* certificate in MC 116280 Sub 20F, issued August 9, 1979, authorizing transportation, over irregular routes, of *general commodities* limited to individual articles not exceeding 100 pounds in weight, moving in shipments not exceeding 500 pounds in weight from one consignor to one consignee in a single day, on bills of lading of freight forwarders regulated under Title 49 U.S.C. Section 10561, between points in Pennsylvania, Jefferson, Ashtabula, Trumbull, Mahoning, and Cuyahoga Counties, OH; Chautauqua, Chemung, Broome, and Orange Counties, NY; Warren, Mercer, and Camden Counties, NJ; New Castle County, DE; Baltimore and Washington Counties, MD; and Hancock, Brooke, Ohio, and Monongalia Counties, WV, restricted against the transportation of shipments having an immediately prior or subsequent movement by air. By the instant petition, seeks to modify the above authority by deleting the restriction which limits transportation to traffic moving "on bills of lading of freight forwarders regulated under Title 49 U.S.C. Section 10561."

MC 118610 (Sub-30F (M1F) (Notice of filing of Petition to Modify Certificate), filed May 30, 1980. Petitioner: GEORGE PARR TRUCKING SERVICE, INC., 829 Alsop Lane, Owensboro, KY 42301. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. Petitoner holds a motor *common carrier* certificate in MC 118610 (Sub 30F), issued March 28, 1980, which authorizes transportation, over irregular routes, of *(1) contractors' equipment the transportation of which requires by reason of size or weight the use of special equipment, and (2) tools, parts, and supplies for the commodities named in (1),* between the facilities of (a) Rimpull Corporation, at or near Olathe, KS, and (b) Modern Welding Company at Bowling Green, KY, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to the transportation of traffic originating at or destined to the named facilities. By the instant petition, petitioner seeks removal of the restriction and modification of the territorial description so as to read: "Between Olathe, KS, Bowling Green, KY, and Owensboro, KY, on the one hand, and, on the other, points in the U.S. (except AK and HI)".

MC 124151 (Sub-8 (M1F)) (Notice of Filing of Petition to Modify Territorial Description), filed June 17, 1980. Petitioner: VANGUARD TRANSPORTATION, INC., Lafayette St., Carteret, NJ 07008. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, D.C. 20001. Petitioner hold motor *common carrier* certificate in MC–124151 (Sub-8F) served June 12, 1980. MC–124151 (Sub-8F) authorizes the transportation over irregular routes, as pertinent, *liquid chemicals* and *petroleum products* in bulk, in tank vehicles, from points in Bergen, Essex, Hudson, Middlesex and Union Counties, NJ, to points in MA, CT, RI, NY, NJ, PA, DE, and MD. By the instant petition, petitioner seeks to modify the territorial description, authorizing round trip movements, so to read as follows: *Liquid chemicals and petroleum products,* in bulk, in tank vehicles,

between points in Bergen, Hudson, Essex, Middlesex and Union counties, NJ, on the one hand, and, on the other, points in MA, CT, RI, NY, NJ, DE, and MD.

MC 125416 (M1F), MC 125416 (Sub-1) (M1F), and MC 125416 (Sub-2) (M1F), (notice of filing of petition to modify certificates), filed August 20, 1979, previously noticed in the **Federal Register** issue of March 7, 1980, and republished this issue. Petitioner: FLORA SERVICE, INC., 817 Flora St., Elizabeth, NJ 07201. Representative: Arthur R. Jones (same address as applicant). Petitioner holds motor *common carrier* authority in certificates (A) in MC–125416, issued September 1, 1965, authorizing, as pertinent, transportation over irregular routes, of (1) *wrecked and disabled motor vehicles* (except mobile homes and house trailers designed to be drawn by passenger automobiles), by use of wrecker equipment only, and (2) *replacement vehicles* for the wrecked or disabled motor vehicles specified in (1) above, by use of wrecker equipment only, between specfied points; (B) in MC–125416 Sub 1, issued September 1, 1965, authorizing, as pertinent, transportation over irregular routes, of *stolen and repossessed motor vehicles* (except mobile homes or house trailers designed to be drawn by passenger automobiles), by the use of wrecker equipment only, between specified points; and (C) in MC–125416 Sub 2, issued April 30, 1970, authorizing, as pertinent, transportation over irregular routes, of *wrecked, disabled, stolen, and repossessed motor vehicles* (except mobile homes or house trailers designed to be drawn by passenger automobiles), by use of wrecker equipment only, between specified points. By the instant petition, petitioner seeks to remove the restriction in (A)(1) and (2), (B), and (C) above which reads "by use of wrecker equipment only" and replace in lieu thereof "in truckaway service".

**Note.**—The purpose of this republication is to include MC–125416 Sub 1 and MC–125416 Sub 2 as part of the petition for modification.

MC 125844 (Sub-23(M1F) (notice of filing of petition to modify certificate), filed June 2, 1980. Petitioner: BIO-MED-HU, INC., 1901 Outer Loop, Louisville, KY 40219. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. Petitioner holds a motor *common carrier* certificate in MC–125844 Sub 23, issued December 27, 1971, authorizing transportation, over irregular routes, of (1) *placentae, derivatives of placentae, placentae compounds, blood, derivatives of blood, cells, tissues, organs, cellular secretions, tissue and cellular culture and media, interferon, enzymes, antiserum, immunosuppressants, immunovaccine, antigens, and antibodies,* between points in the U.S. (except AK and HI). (2) *materials, equipment and supplies* used with the commodities set forth in (1) above when moving in the same vehicle and with such commodities, and at the same time, between points in UT, TX, OK, NM, NE, AZ, CO, IL, IN, IA, KS, CT, DE, MD, MA, MO, NJ, NY, OH, PA, RI, WI, MI, WV, and DC, and (3) *materials, equipment and supplies* used in the commodities set forth in (1) above, between points in the U.S. (except points in UT, TX, OK, NM, NE, AZ, CO, IL, IN, IA, KS, CT, DE, MD, MA, MO, NJ, NY, OH, PA, RI, WI, MI, WV, and DC). Restriction: The authority granted in (3) above is restricted against the transportation of traffic between Memphis, TN, and Little Rock, AR, on the one hand, and, on the other points in TN, AR, MO, AL, KY, and MS. Restriction: The authority granted in (1) (2) and (3) herein is restricted against the transportation of traffic between Weir-Cook Municipal Airport, at or near Indianapolis, IN, on the one hand, and, on the other, points in Bartholomew, Blackford, Boone, Brown, Carroll, Cass, Clay, Clinton, Decatur, Delaware, Fayette, Grant, Greene, Hamilton, Hancock, Hendricks, Henry, Howard, Jackson, Jay, Jennings, Johnson, Lawrence, Madison, Martin, Miami, Monroe, Montgomery, Morgan, Owen, Parke, Putnam, Randolph, Rush, Shelby, Tippecanoe, Tipton, Vigo, Wabash, White, Allen, Whitley, Huntington, Kosciusko, Wells, Jefferson, Fulton, Adams, Ripley, Vanderburgh, Gibson, Pile, and Knox Counties, IN. By the instant petition, petitioner seeks to modify the authority by eliminating paragraph (2) and (3) and substituting a new paragraph (2), as follows: (2) *materials, equipment, and supplies* used with the commodities set forth in (1) above, between points in the U.S. (including AK and HI).

MC 127974 (Sub-1)(M1F) (notice of filing of petition to modify certificate), filed June 2, 1980. Petitioner: P. LIEDTKA TRUCKING, INC., 110 Patterson Ave., Trenton, NJ 08610. Representative: Alan Kahn, 14th Floor, Land Title Building, 100 S. Broad Street, Philadelphia, PA 19110. Petitioner holds a motor *common carrier* Certificate in MC–127974 Sub 1, issued June 30, 1969, authorizing transportation, over regular routes, of *General commodities,* except those of unusual value, and except dangerous explosives, household goods as defined by the Commission, and commodities in bulk, from New York, NY, to Washington, D.C.: From New York over U.S. Highway 1 to Washington. From New York, NY, to points in Massachusetts and Connecticut, as follows: From New York over U.S. Highway 1 to New London, CT, thence over Connecticut Highway 84 to the Connecticut-Rhode Island State Line, thence over Rhode Island Highway 3 to Providence, RI, and thence over U.S. Highway 1 to Boston, MA. From New York to Providence, RI, as described above, thence over U.S. Highway 7 to New Bedford, MA. From New York over U.S. Highway 1 to New Haven, CT, thence over U.S. Highway 5 to Hartford, CT (also from New York over U.S. Highway 1 to junction U.S. Highway 7, thence over U.S. Highway 7 to Danbury, CT, and thence over U.S. Highway 6 to Hartford), thence over U.S. Highway 5 to Springfield, MA, thence over U.S. Highway 20 to junction Massachusetts Highway 9, and thence over Massachusetts Highway 9 to Boston, MA. From New York to Springfield, as described above, thence over U.S. Highway 5 to Holyoke, MA. Service is authorized to all intermediate points restricted to delivery only, and from all off-route points in the New York, NY, Commercial Zone, as defined by the Commission in 1 M.C.C. 655, restricted to pickup only. Return over the above routes to the above-specified origin points with no transportation for compensation except as otherwise authorized. By the instant Petition, petitioner seeks to modify the above-described regular route operations to convert the same to two-way operations, in lieu of the existing one-way service, and to change the service authorizing paragraph so that it will read: Service is authorized to and from all intermediate points on the above-described routes.

MC 133841 (Sub-3)(M1F) (notice of filing of petition to modify certificate) filed June 23, 1980. Petitioner: DAN BARCLAY, INC., 362—Main St., P.O. Box 426, Lincoln Park, NJ 07035. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Petitioner holds a motor *common carrier* certificate in MC–133841 Sub 3 issued January 3, 1979 authorizing transportation, over irregular routes, transporting (1) *machinery, environmental and solar equipment,* and (2) *materials, equipment, and supplies* used in the manufacture or sale of the above-described commodities (except commodities in bulk), between the facilities of Curtiss Wright Corp., located at or near Wood-Ridge, NJ, on the one hand, and, on the other, points in NJ, NY, CT, PA, OH, DE, MD, VA, and NC, restricted to shipments originating

at or destined to the above-named points. By the instant petition, petitioner seeks to modify the above authority by adding engines to the commodity description.

MC 134922 (Sub-184)(M1F) (notice of filing of petition to modify certificate), filed June 9, 1980.Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Diane Price, Route 6, Box 15, North Little Rock, AR 72118. Petitioner holds motor common carrier Certificate in MC 134922 Sub 184 issued on June 23, 1977, authorizing operation as a common carrier, by motor vehicle, over irregular routes transporting: *General commodities* (except commodities in bulk, household goods as defined by the Commission, articles of unusual value, Classes A and B explosives, foodstuffs, paper and paper products, alcoholic and malt beverages, motor vehicle parts, supplies and accessories, commodities having a subsequent or prior movement by water and commodities requiring special equipment) Between the Yellow Creek Port Terminal and Industrial area, located in Tishomingo County, MS, on the one hand, and, on the other, points in the U.S. (except TN, NC, MS, AL, GA, SC, FL, HI, IL, IN, KY, MO, OH, NE, points in Dallas, Grayson and Tarrant Counties, TX; Minneapolis and St. Paul, MN and their Commercial Zones, Kansas City, KS and points in its Commercial Zone; Little Rock, AR and Monroe, LA). By the instant petition, Petitioner seeks to modify the above authority by removing the commodity exceptions of foodstuffs, paper and paper products, alcoholic and malt beverages, motor vehicle parts, supplies and accessories, and commodities having a subsequent or prior movement by water. And also, the territorial exceptions of TN, NC, MS, AL, GA, SC, FL, IL, IN, KY, MO, OH, NE, points in Dallas, Grayson and Tarrant Counties, TX; Minneapolis and St. Paul, MN and their Commercial Zones; Kansas City, KS and points in its Commercial Zone; Little Rock, AR; and Monroe, LA.

MC 134922 (Sub-203) (MIF) (notice of petition for modification of certificate), filed April 28, 1980. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Diane Price (same as applicant). Petitioner holds a motor *common carrier* certificate in MC 134922 (Sub-203), issued on August 23, 1977, authorizing operation to engage in the transportation of interstate or foreign commerce as a common carrier, by motor vehicle, over irregular routes, transporting: *General commodities* (except in bulk, those described in Mercer Extension Oil Field Commodities, 74 M.C.C. 459, those requiring the use of special equipment, foodstuffs, and alcoholic and malt beverages), between Searcy, LA, on the one hand, and, on the other, those points in the U.S. in and west of LA, AR, MO, IA and MN (except (a) AK and HI, and (b) from the plantsite of Nalco Chemical Company, at Garyville, LA, to points in NM, AZ, CO, UT, NV, CA, WY, MT, ID, OR and WA). *Restriction:* The authority granted herein is restricted to the following conditions: The authority granted herein is restricted to the transportation of traffic having a prior or subsequent movement by rail. Said authority is restricted to the extent it authorizes the transportation of Classes A and B Explosives shall be limited to point of time to a period expiring August 23, 1982. By the instant Petition, Petitioner seeks to modify the above authority by removing the commodity exceptions of foodstuffs and alcoholic and malt beverages; the territorial exceptions (b) from the plantsite of Nalco Chemical Company, at Garyville, LA, to points in NM, AZ, CO, UT, NV, CA, WY, MT, ID, OR and WA; and the Restriction pertaining to the transportation of traffic having a prior or subsequent movement by rail.

MC 135283 (Sub-56) (MIF) (notice of petition for modification of certificate), filed June 6, 1980. Petitioner: GRAND ISLAND MOVING & STORAGE CO., INC., 432 South Stuhr Road, Grand Island, NE 68801. Representative: Lavern R. Holdeman, 521 South 14th St., Suite 500, P.O. Box 81849, Lincoln, NE 68501. Petitioner holds a motor *common carrier* certificate in MC 135283 (Sub-56), issued May 16, 1980, authorizing transportation in interstate or foreign commerce, over irregular routes, transporting: *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and foodstuffs), between the facilities of Howland Manufacturing Corp., Ag Tronic, Inc., and Caldwell Manufacturing Company, at or near Kearney, NE, on the one hand, and, on the other, points in the U.S. (except AK, HI, and NE), restricted to the transportation of traffic originating at or destined to the named facilities. By the instant petition, petitioner seeks to modify the authority by removing the foodstuffs restriction and also the restriction * * * to traffic originating at or destined to the named facilities.

MC 138510 (Sub-8) (MIF) (notice of filing of petition to modify permit), filed July 1, 1980. Petitioner: RICCI TRANSPORTATION CO., INC., Odessa Ave. and Aloe St., Pomona, NJ 08240. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. Petitioner holds a motor *contract carrier* permit in MC 138510 (Sub-8), issued May 31, 1978, authorizing transportation, over irregular routes, of (1) *laminated furniture and laminated furniture parts, uncrated,* from Pleasantville, NJ, to points in AZ, FL, GA, IL, KY, MD, NY, NC, PA, TN, TX, and DC, and (2) *materials and supplies* used in the manufacture of laminated furniture and laminated furniture parts, from the destination points named in (1) above to Pleasantville, NJ, under a continuing contract(s) with International Wood Products, Inc., restricted in (2) above against the transportation of commodities in bulk, and further restricted in (2) above against the transportation of lumber, lumber products, and composition board from points in TX to Pleasantville, NJ. By the instant petition, petitioner seeks to modify the above authorities by substituting Milmay, NJ for Pleasantville, NJ as an origin in (1), as a destination in (2) and as a reference in the restriction.

MC 139021 (Sub-4), (MIF) (notice of filing of petition to modify certificate), filed May 13, 1980. Petitioner: INTERSTATE AUTO TRANSPORT, INC., 325 U.S. 20, P.O. Box 251, Michigan City, IN 46360. Representative: Robert W. Loser II, 320 North Meridian St., Chamber of Commerce Bldg., Indianapolis, In 46204. Petitioner holds a motor *common carrier* certificate in MC 139021 (Sub-4), issued August 31, 1977, authorizing transportation, over irregular routes, of *used cars and used pick-up trucks,* in truckaway service, between points in MI, OH, MN, WI, IL, and IN, restricted to the handling of shipments originating at or destined to an automobile auction site. By the instant petition, petitioner seeks to modify the above authority by deleting the above restriction.

MC 139151 (MIF) (notice of filing of petition to modify certificate), filed November 20, 1979. Petitioner: CANUS TRUCKING LTD.,150 Sutherland Ave., Winnipeg, Manitoba, CD R2W–5K4. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030Fifteenth St. N.W., Washington, DC 20005. Petitioner holds a motor *common carrier* certificate in MC 139151 issued August 26, 1975 authorizing transportation, over irregular routes, as pertinent, of *waste paper,* from the ports of entry on the U.S.-Canada Boundary line, between the U.S. and Canada, at or near Noyes, MN, to points in ND, MN, WI, IA, and IL. By

the instant petition, petitioner seeks to modify the above commodity description to read "paper."

MC 139193 (Sub-40) (MIF) notice of filing of petition to modify permit, filed May 8, 1980. Petitioner: ROBERT & OAKE, INC., 4240 Blue Ridge Boulevard, Blue Ridge Tower, Suite 820, Kansas City, MO 64133. Representative: Terrence D. Jones, 2033 K Street, N.W., Suite 300, Washington, D.C. 20006. Petitioner holds *contract carrier* authority in MC 139193 (Sub-40), issued April 20, 1978, to operate in interstate or foreign commerce, by motor vehicle, over irregular routes, transporting: (1) *beverage bases, syrups, canned and preserved fruits, ice cream and desert toppings, sauces, flavoring extracts and compounds, and salad dressings* (except commodities in bulk, in tank vehicles), from the facilities of J. Hungerford Smith Co., Inc., at Humboldt, TN to points in that part of the United States in and east of ND, SD, NE, KS, OK, and TX (except TN), and (2) *frozen, canned and preserved fruits, salad dressings, flavoring extracts and compounds and equipment, materials, and supplies* used in the manufacture and distribution of the commodities set forth in (1) above (except commodities in bulk, in tank vehicles), (a) from points in that part of the United States in and east of ND, SD, NE, KS, OK, and TX (except TN), to the facilities of J. Hungerford Smith Co., Inc., at Humboldt, TN, and (b) from the facilities of J. Hungerford Smith Co., Inc., at Humboldt, TN, to the facilities of J. Hungerford Smith Co., Inc., at Modesto, CA. By the instant petition, petitioner seeks to modify the authority by adding to part (2)(b) "and Hayward, CA" to the named destination.

MC 140389 (M2F) and (Subs-9(M1F), 19(M1F), 21(M1F), and 32F(M1F)), and MC 20783 (MIF) (notice of petition to modify certificates), filed June 6, 1980. Petitioner: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O. Box 304, Conley, GA 30027. Petitioner holds motor *common carrier* Certificates (I) in MC 140389, issued September 1, 1977, authorizing, as pertinent, transportation over irregular routes, of (a) *rugs, carpets and textile products,* from Dalton, Archer, Calhoun, Rossville, LaGrange, Summerville, Athens, Ringgold, Columbus, Cartersville, LaFayette and Chamblee, GA, and Memphis, Chattanooga, Knoxville, Sweetwater, and Rockwood, TN, to points in CO, MT, and WY, restricted to traffic originating at the named origin points, (b) *textile and textile products,* from points in TN, to points in WA, OR, ID, and UT, (c) *carpeting and rugs,* from Calhoun, Dalton, LaFayette, Tennille, La Grange, Lyerly, White, Rome, Ringgold, Cartersville, Rabun Gap, Rossville, and Archer, GA, Scottsboro, AL and Chattanooga, Memphis, Nashville, and Sweetwater, TN, to points in ID, OR, UT, and WA, (d) *rugs, carpets, carpeting and textile products,* from Knoxville, TN and points in GA, to points in NV, and (e) *textile products,* from points in GA, to points in CO, WY, MT, ID, UT, NV, OR, and WA; (II) in MC–140389 (Sub-9) issued May 31, 1978, authorizing transportation over irregular routes, of *rugs, carpets, and textile products,* from points in GA to points in AZ, CA, and NM; (III) in MC 140389 (Sub-19), issued August 3, 1978, authorizing transportation over irregular routes, of *rugs, carpets, and carpeting,* from Winchester, TN, to points in AZ, CA, CO, MT, NV, NM, and WY; (IV) in MC–140389 (Sub-21), issued April 5, 1979, authorizing transportation over irregular routes, of *cotton factory products,* from points in GA (except Atlanta), NC (except Greensboro), SC, and those points in that part of AL on and east of U.S. Hwy 31, to points in WA, OR, ID, and UT; (V) in MC 140389 (Sub-32F), issued August 6, 1979, authorizing transportation over irregular routes, of *rugs, carpets, and textile products,* (except tire cord yarn), from points in GA to points in AL, LA, MS, and points in TN on and west of U.S. Hwy 31 and 31W; and (VI) in MC 20783, issued July 26, 1967 to Tompkins Motor Lines, Inc. which petitioner currently operates pursuant to MC–F 13069, authorizing, as pertinent, transportation over irregular routes, of *cotton-factory products,* from points in GA (except Atlanta), NC (except Greensboro), SC, and those points in that part of AL on and east of U.S. Hwy 31, to Nashville, TN. By the instant petition, petitioner seeks to consolidate and modify the above authorities to authorize transportation over irregular routes, of *rugs, carpets, carpeting, textiles, and textile products,* from points in AL, GA, NC, SC, and TN, to points in AL, LA, and MS, those points in TN on and west of U.S. Hwys 31 and 31W, and those points in the U.S. in and west of MT, WY, CO, and NM (except AK and HI).

MC 141932 (Sub-12) (M1F) (notice of petiton for modification of certificate), filed April 28, 1980. Petitioner: POLAR TRANSPORT, INC., 176 King Street, Hanover, MA 02339. Representative: A. C. Gardner (same address as applicant). Petitioner holds a motor *common carrier* Certificate in MC 141932 (Sub-12F), issued February 1, 1980, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic articles and corrugated boxes,* (except commodities in bulk), and (2) materials, equipment, and supplies used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between the facilities of Borden Chemical Co., Division of Borden, Inc., at or near (a) Charlotte, NC, (b) Cleveland, OH, (c) Cockeysville, MD, (d) Dallas, TX, (e) Elizabeth and Gloucester City, NJ, (f) Elk Grove Village and Illiopolis, IL, (g) Griffin, GA, (h) Memphis, TN, (i) Minneapolis, MN, (j) North Andover, MA, (k) Tampa, FL, and (l) Yonkers, NY, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, restricted to the transportation of traffic originating at or destined to the named facilities. By the instant petition, petitioner seeks to modify the authority as follows: Add (m) Carson and Oakland, CA, (n) Denver, CO and (o) Seattle, WA on the one hand, and, on the other, points in the U.S. (except AK and HI) in lieu of the last part of the authority stated in the Sub-12, enlarging to all points in U.S. (except AK and HI) and eliminating present restriction.

MC 145829 (Sub-12) (M1F), filed April 21, 1980, (M2F) and (M3F) and (M3F), filed June 23, 1980 (notice of petitions to modify permit). Petitioner: ETI CORP., P.O. Box 549, Linden, NJ 07036. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Petitioner holds a motor *contract carrier* Permit in MC 145829 (Sub-12), issued August 5, 1980, authorizing transportation over irregular routes, of *such merchandise* as is dealt in by wholesale, retail, chain, grocery, department stores, and food business houses (except glass containers and commodities in bulk), and in connection therewith *equipment, materials, and supplies* used in the conduct of such business (except glass containers and commodities in bulk), between points in CT, DE, MD, MA, NH, NJ, NY, PA, RI, VA, NC, SC, WV, GA FL, AL, LA, MS, TN, and DC, under a continuing contract(s) with J. M. Fields, Inc. By the instant petition, petitioner seeks to modify its permit (1) in M1F by adding Purex Corporation, Ltd. as an additional contracting shipper, (2) in M2F by adding Ragu Foods, Inc. as an additional contracting shipper, and (3) in M3F by deleting the exception of glass containers from the above commodity description.

MC 146422 (Sub-3) (M1F) (notice of filing of petition to modify permit) filed June 19, 1980. Petitioner: Delbert F. Johnston, 2601 Gore Road, Pueblo, CO 81006. Representative: Jack B. Wolfe, 350 Capitol Life Center, 1600 Sherman

Street, Denver, CO 80203. Petitioner holds a motor *contract* carrier permit in MC 146422 (Sub-3F), issued May 20, 1980, authorizing transportation, over irregular routes, of: (1) *brick and building materials,* from the facilities of Summit Pressed Brick and Tile Co., at or near Pueblo, and Trinidad, CO, to points in ID, IL, KS, NE, NM, OK, TX, UT, WI, and WY under continuing contract(s) with Summit Pressed Brick and Tile Co., of Pueblo, CO; and (2) *refractories, materials, equipment, and supplies used in the manufacture and installation of refractories* between the facilities of A. P. Green Refractories Co., at or near Pueblo, CO, on the one hand, and, on the other, points in AZ, CA, CO, ID, IL, IA, KS, MO, MT, NE, NM, OR, TX, UT, WA and WY, under continuing contract(s) with A. P. Green Refractories Company, of Mexico, MO. Petitioner seeks to modify the above authority by adding California as a destination state under Part (1) of the application.

**Republications of Grants of Operating Rights Authority Prior to Certification Notice**

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission on or before September 24, 1980. Such pleading shall comply with Special Rule 247(e) of the Commission's *general rules of practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 138420 (Sub-35F) (republication), filed April 13, 1979, previously noticed in the **Federal Register** issue of August 28, 1979. Applicant: CHIZEK ELEVATOR & TRANSPORT, INC., P.O. Box 147, Cleveland, WI 53063. Representative: Wayne W. Wilson, 150 East Gilman St., Madison, WI 53063. A Decision by the Commission, Review Board Number 2, decided June 2, 1980, and served June 19, 1980, finds that the present and future public convenience and necessity require operation by applicant in interstate or foreign commerce, as a *common carrier,* by motor vehicle, over irregular routes transporting *paper and paper products, and plastic products,* from Ashland, Green Bay, Menasha, Neenah, and Wausau, WI, to points in IN, KY, MI, MN, MO, OH, and those in Illinois on and south of U.S. Hwy. 136 restricted to the transportation of traffic originating at the facilities of American Can Company. Applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code and the Commission's regulations. The purpose of this republication is to broaden the commodity description.

MC 141532 (Sub-32F) (republication), filed July 24, 1978, published in the **Federal Register** issue of October 12, 1978, and republished this issue. Applicant: PACIFIC STATES TRANSPORT, INC., 35433 16th Avenue South, Federal Way, WA 98003. Representative: Miles L. Kavaller, 315 South Beverly Drive, Suite 315, Beverly Hills, CA 90212. A Decision of the Commission, *Review Board 2,* decided June 22, 1979, and served July 11, 1979, finds that the present and future public convenience and necessity require operations by applicant, in interstate or foreign commerce, as a *common carrier,* by motor vehicle, over irregular routes, transporting, *asbestos cement, plastic pipe, asphalt roofing, asphalt shingles, and asphalt rolls,* from the facilities of Johns-Manville Sales Corporation in California to points in Idaho and Montana; that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. The purpose of this republication is to broaden the scope of authority.

**Motor Carrier Operating Rights Applications Notice**

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission within 30 days after the date of publication in the **Federal Register** with a copy being furnished the applicant. Protests to these applications *will be rejected.*

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 FR 50908, as modified at 43 FR 60277. Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to suppplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 133655 (Sub-226F), filed June 25, 1980. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 402535, Dallas, TX 75240. Representative: Matthew J. Reid, Jr., P.O. Box 2298, Green Bay, WI 54306. Authority sought to operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *Paper and paper produsts;* and (2) *Equipment, materials, and supplies* used in the manufacture and distribution of paper and paper products, between points in AR, CO, KS, LA, OK, and TX on the one hand, and, on the other, points in AL, CT, DE, FL, GA, ME, MD, MA, NH, NJ, NY, NC, PA, RI, SC, TN, VT, BA, WV, and DC.

**Note.**—Applicant states the purpose of this application is to eliminate an interline in connection with applicant's affiliate.

**Permanent Authority Decisions Volume; Decision-Notice**

Decided: August 5, 1980.

The following broker, freight forwarder or water carrier applications are governed by Special Rule 247 of the Commission's *rules of practice* (49 CFR

1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is Published in the **Federal Register.** Failure to file a protest within 30 days will be considered as a waiver of opposition to the application. A protest under these rules shall comply with Rule 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, as specifically noted below), and specify with particularity the facts, matters, and things relied upon. The protest shall not include issues or allegations phrased generally. A protestant shall include a copy of the specific portion of its authority which it believes to be in conflict with that sought in the application, and described in detail the method—whether by joinder, interline, or other means—by which protestant would use this authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission. A copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after August 25, 1980.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

*Findings:* With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is either (a) required by the public convenience and necessity, or, (b) will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protest, filed on or before September 24, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 2, Members Chandler, Liverman, and Eaton. Member Liberman not participating.

MC 12769 (Sub-1F), filed April 1, 1980. Applicant: MRS. ROBERTA A. ADAMS, d.b.a. ADAMS TOURS, 125 N. Hill St., P.O. Box 217, Itasca, TX 76055. Representative: Bobby Adams (same address as applicant). To engage in operations, in interstate or foreign commerce, as a broker at Ft. Worth and Amarillo, TX, in arranging for the transportation by motor vehicle, of *passengers and their baggage,* in special and charter operations, between points in the United States, including AK and HI.

MC 12948 (Sub-2F), filed June 6, 1980. Applicant: AMITY TRAVEL SERVICE, INC., 2827 Brownsville Rd., Pittsburgh, PA 15227. Represntative: Peter Dixon (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker,* at Pittsburgh, PA, in arranging for the transportation by motor vehicle, of *passengers and their baggage,* in special and charter operations, beginning and ending at points in Ohio, Brook, Hancock and Marshall Counties, WV, and extending to points in the United States and Canada, including AK and HI.

MC 130405F, filed May 9, 1980. Applicant: COSMO TRAVEL SERVICE, LTD., 2020 Memorial Ave., Lynchburg, VA 24501. Representative: Mark Pestronk, 117 N. Fairfax St., Alexandria, VA 22314. To engage in operations, in interstate or foreign commerce, as a *broker,* at Lynchburg, VA, in arranging for the transportation of *passengers and their baggage,* in charter operations, beginning and ending at points in VA, and extending to points in the U.S. (including AK but excluding HI).

MC 130879F, filed April 25, 1980. Applicant: LUCKY TOURS, INCORPORATED, 1616 Pacific Ave., Suite 301, Atlantic City, NJ 08401. Representative: Robert E. Goldstein, 370 Lexington Ave., New York, NY 10017. To engage in operations, in interstae or foreign commerce, as a *broker* at Atlantic City, NJ, in arranging for the transportation by motor vehicle, of *passengers and their baggage,* in special and charter operations, in round-trip sightseeing and pleasure tours, beginning and ending at points in the U.S. and extending to Atlantic City, NJ.

MC 130889F, filed May 6, 1980. Applicant: CITIZENS BROKERAGE AGENCY, INC., 17 North Payne St., Elmsford, NY 10523. Representative: John Catterson, 6 East 43rd St., New York, NY 10017. To engage in operations, in interstate or foreign commerce, as a *broker,* at Elmsford, NY, in arranging for the transportation, by motor vehicle, of *passengers and their baggage,* including sporting team equipment, in special and charter operations, between points in Rockland and Westchester Counties, NY, on the one hand, and, on the other, points in the U.S. (including AK and HI).

MC 130902F, filed May 9, 1980. Applicant: DONNA POLOVOY, d.b.a. POLOVOY TOURS, 3107 Northbrook Road, Baltimore, MD 21208. Representative: Donna Polovoy (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker,* at Baltimore, MD, and points in Baltimore County, MD, in arranging for the transportation, by motor vehicle, of passengers and their baggage in the same vehicle with passengers, in round-trip special and charter operations, beginning and ending in Baltimore, MD, and points in Baltimore County, MD, and extending to points in the U.S. (including AK and HI).

MC 130911, filed May 19, 1980. Applicant's name and address are TRAFFIC MANAGEMENT, INC., 3101–D Asbury Avenue, Charlotte, NC 28206. The name under which operations will be performed is TMI DISTRIBUTION SYSTEMS. Applicant is represented by

Jim Huddleston in this proceeding whose address is 3101–D Asbury Avenue, Charlotte, NC 28206. Following are the names and business address for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Jim Huddleston, President and shareholder, Harold Barkley, Sec/Treasurer and shareholder, Wayne Bradbury, shareholder, Marc Agulla, shareholder, Gilbert Glassburg, shareholder, (same address as applicant). The daily operations will be managed by Jim Huddleston whose business address is 3101–D Asbury Avenue, Charlotte, NC 28206. Applicant is affiliated with the following shipper or warehouse: None.

MC 130930, filed June 2, 1980. Applicant's name and address are CARMICHAEL INTERNATIONAL SERVICE, 1282 West Second Street, Los Angeles, CA 90026. The name under which operations will be performed is CARMICHAEL INTERNATIONAL SERVICE/CIS OCEANAIR SERVICES. Applicant is represented by ENRICO SALVO in this proceeding, whose address is 1282 West Second Street, Los Angeles, CA 90026. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Enrico Salvo, President and shareholder, Herbert S. Fischer, Vice President, Anita Salvo, Sec/Treasurer (same addres as applicant), Bernard Rochman, Vice President—air import, 477 North Oak Street, Inglewood, CA 90301, and Lawrence Gray, Vice President—air export, 1614 West Temple Street, Los Angeles, Ca 90026.The daily operations will be managed by Enrico Salvo whose business address is 1282 West Second Street, Los Angeles, CA 90026. Applicant is affiliated with the following shipper or warehouse: None.

MC 130935F, filed June 5, 1980. Applicant: JAMES L. MALTESE, d.b.a. LYNDALE GROUP TRAVEL AND ENTERTAINMENT SERVICES, 96 South Turnpike Rd., Wallingford, CT 06492. Representative: Robert E. Wnek, 420 Highland Ave., P.O. Box 520, Cheshire, CT 06410. To engage in operations, in interstate or foreign commerce, as a *broker,* at Wallingford, CT and Wantagh, NY, in arranging for the transportation by motor vehicle, of *passengers and their baggage,* in special and charter operations, beginning and ending at New York, NY, points in CT, and points in Nassau and Suffolk Counties NY, and extending to points in the U.S. (except AK and HI).

MC 130937F, filed May 6, 1980. Applicant's name and address are IVORY FORWARDING, INC., 1356 N.W. Second Ave., Boca Raton, FL 33432. The name under which operations will be performed is IVORY FORWARDING, INC. Applicant is represented by Martin J. Leavitt in this proceeding whose address is 22375 Haggerty Rd., P.O. Box 400, Northville, MI 48167. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: A. P. Little, President, Lyle D. Fox, Vice President, Ronald Field, Vice President, A. P. Little, Director, all the above have the same address as applicant, D. Russell Wagstaff, Director, 20225 Goddard Rd., Taylor, MI 48180, Gene E. Gann, Director, 300 So. Livernois, Detroit, MI 48209, W. John Roberts, Director, 300 So. Livernois, Detroit, MI 48209, and Ivory Van Lines, Inc., Shareholder. The daily operations will be managed by A. P. Little, whose business address is 1356 N.W. Second Ave., Boca Raton, FL 33432. Applicant is affiliated with the following shipper or warehouse: McLouth Steel Corporation Service Warehouse Corporation.

MC 130948F, filed June 13, 1980. Applicant: WORLD GUIDE TRAVEL AGENCY, 301 Brookline Ave., Cherry Hill, NJ 08002. Representative: Thomas D. Hart, 1079 Van Hook St., Camden, NJ 08104. To engage in operations, in interstate or foreign commerce, as a *broker,* at Cherry Hill and Camden, NJ, in arranging for the transportation, by motor vehicle, of *passengers and their baggage,* in charter operations, beginning and ending at Camden, NJ, and extending to points in the U.S.

MC 130951F, filed May 27, 1980. Applicant: OLYMPIC TRAILS BUS CO., INC., 50 South 20th St., Irvington, NJ 07111. Representative: John T. Hildemann, P.O. Box D, Newark, NJ 07105. To engage in operations, in interstate or foreign commerce, as a *broker,* at Irvington, NJ, in arranging for the transportation of *passengers and their baggage,* in special and charter operations, beginning and ending at points in Essex and Union Counties, NJ, and New York, NY, and extending to points in the U.S. (except AK and HI).

MC 130968F, filed June 27, 1980. Applicant's name and address are TRANSPORTATION MANAGEMENT CONSULTANT'S INC., 22 South Holmdel Rd., Holmdel, NJ 07733. The name under which operations will be performed is TRANSPORTATION MANAGEMENT CONSULTANT's INC. Applicant is represented by Rick A. Rude in this proceeding whose business address is Suite 611, 1730 Rhode Island Ave., NW, Washington, DC 20036. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners) and the first five principal shareholders, with their appropriate titles: Paul A. Dexter, V. President, Director, and shareholder, One the Circle, Passaic, NJ 07094, and Vincent Guariglia, President, Director and shareholder, 218 Cashel Dr., Aberdeen, NJ. 07733. The daily operations will be managed by Paul A. Dexter whose business address is 22 South Holmdel Rd., Holmdel, NJ. 07733. Applicant is affiliated with the following shipper or warehouse: Northeast Distribution Services, Inc.

MC 130969F, filed June 30, 1980. Applicant's name and address are FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA, 70526. The name under which operations will be performed is FTLI TRUCK BROKERS. Applicant is represented by Austin L. Hatchell in this proceeding whose business address is P.O. Box 2165, Austin, TX 78768. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners) and the first five principal shareholders, with their appropriate titles: Byron Fogleman, President, Director, and shareholder, P.O. Box 1504, Crowley, LA 70526; Rudy Fogleman, 1st Vice-President, Director, and shareholder, P.O. Box 1504, Crowley, LA 70526; E. R. Fogleman, Jr., 2nd Vice-President, P.O. Box 1504, Crowley, LA 70526; Thelma Chappius, Secretary/Treasurer, P.O. Box 1504, Crowley, LA 70526; and Larry E. Fogleman, shareholder. The daily operations will be managed by Larry Fogleman whose address is P.O. Box 1504, Crowley, LA 70526. Applicant is affiliated with the following shippers or warehouses: None.

MC 130970F, filed June 26, 1980. Applicant: WILLIAM GULICK, d.b.a. AMERICA BUS TOURS, 463 Selby Boulevard North, Worthington, OH 43085. Representative: Lewis S. Witherspoon, 88 East Broad Street, Columbus, OH 43215. To engage in operations, in interstate or foreign commerce, as a *broker* at Worthington, OH, in arranging for the transportation of *passengers and their baggage,* in special or charter operations, beginning and ending at points in Delaware, Fairfield, Fayette, Franklin, Knox, Licking, Madison, Marion, Perry,

Pickaway, Ross, and Union Counties, OH, and extending to points in the U.S. (except AK and HI).

FF–528F, filed July 1, 1980. Applicant: HEARTLAND FORWARDING CO., P.O. Box 129, St. Clair, MO 63077. Representative: William H. Shawn, 1730 M St. N.W., Suite 501, Washington, DC 20036. To operate as a freight forwarder, in interstate commerce, in the transportation of *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), between points in AL, AR, CO, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NC, OH, OK, SC, TN, TX, VA, WV, and WI.

**Motor Carrier Alternate Route Deviations—Notice**

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed on or before September 24, 1980.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

**Motor Carriers of Property**

MC 730 (Deviation 44), filed August 11, 1980. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., 25 North Via Monte, Walnut Creek, CA 94598. Representative: Alfred G. Krebs (same address as applicant). Carrier proposes to operate as a common carrier by motor vehicle, of general commodities, with certain exceptions, over a deviation route as follows: From Kansas City, MO over U.S. Hwy 50 to junction U.S. Hwy 65, then over U.S. Hwy 65 to junction U.S. Hwy 60, then over U.S. Hwy 60 to junction U.S. Hwy 63, then over U.S. Hwy 63 to junction U.S. Hwy 61, and then over U.S. Hwy 61 to Memphis, TN and return over the same route for operating convenience only. The notice indicates the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Kansas City, MO over U.S. Hwy 40 to Wentzville, MO, then over By-pass U.S. Hwy 40 to St. Louis, and then over Interstate Hwy 55 to Memphis, TN, and return over the same route.

MC 2229 (Deviation 35), RED BALL MOTOR FREIGHT, INC., 3177 Irving Blvd., Dallas, TX 75247, filed August 8, 1980. Carrier proposes to operate as a common carrier by motor vehicle in interstate or foreign commerce, transporting general commodities, with certain exceptions, over a deviation route as follows: From: El Paso, TX over IS Hwy to its junction with IS Hwy 15 near San Bernardino, CA and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From El Paso, TX over IS Hwy 10 to its junction with IS Hwy 25, then over IS Hwy 25 to its junction with IS Hwy 40, then over IS Hwy 40 to its junction with IS Hwy 15, then over IS Hwy 15 to its junction with IS Hwy 10 near San Bernardino, CA and return over the same route.

MC 29910 (Deviation 48), ARKANSAS-BEST FREIGHT SYSTEM, INC., P.O. Box 48, Ft. Smith, AR 72902, filed July 14, 1980, as amended July 31, 1980. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over a deviation route as follows: From Kernersville, NC over NC Hwy 68 to junction U.S. Hwy 158, then over U.S. Hwy 158 to junction U.S. Hwy 220, then over U.S. Hwy 220 to Roanoke, VA, then over U.S. Hwy 11 to Harrisburg, PA, then over Interstate Hwy 78 to junction U.S. Hwy 22 near Scotch Plains, NJ, then over U.S. Hwy 22 to junction U.S. Hwy 1 at Newark, NJ, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Kernersville, NC over U.S. Hwy 70 to junction U.S. Hwy 1 at Raleigh, NC, then over U.S. Hwy 1 to Newark, NJ and return over the same route.

MC 111231 (Deviation 69), JONES TRUCK LINES, INC., 610 E. Emma Ave., Springdale, AR 72764, filed August 1, 1980. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over a deviation route as follows: From Springfield, IL over US Hwy 36 to junction US Hwy 24, then over US Hwy 24 to Kansas City, MO and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Springfield, IL over US Hwy 66 to junction unnumbered Hwy near Mt. Olive, IL, then over unnumbered Hwy to junction US Hwy 66, then over US Hwy 66 to junction IL Hwy 3, then over IL Hwy 3 to junction US Hwy 66, then over US Hwy 66 to junction US Hwy 71 near Carthage, MO, then over US Hwy 71 to Kansas City, MO and return over the same route.

MC 111231 (Deviation 70), JONES TRUCK LINES, INC., 610 E. Emma Ave., Springdale, AR 72764, filed August 4, 1980. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over a deviation route as follows: From Denver, CO over Interstate Hwy 70 to junction US Hwy 287, then over US Hwy 287 to junction TX Hwy 183, then over TX Hwy 183 to Dallas, TX and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Denver, CO over Interstate Hwy 70 to junction US Hwy 69 near Kansas City, KS, then over US Hwy 69 to junction US Hwy 75, then over US Hwy 75 to Dallas, TX and return over the same route.

**Motor Carrier Alternate Route Deviations Notice**

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Passengers (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed on or before September 24, 1980.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

**Motor Carriers of Passengers**

MC 1427 (Deviation 1), NEW MEXICO TRANSPORTATION COMPANY, INC., 515 N. Main St., P.O. Box 1494, Roswell, NM 88201, filed August 4, 1980. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *passengers and their baggage,* and *express* and *newspapers* in the same vehicle with passengers, over a deviation route as follows: From Las Cruces, NM over Interstate Hwy 10 to El Paso, TX and return over the same route for operating convenience only. The notice indicates

that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From El Paso, TX over US Hwy 54 to Alamogordo, NM, then over US Hwy 70 to Las Cruces, NM and return over the same route.

**Motor Carrier Intrastate Application(s) Notice**

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *general rules of practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

Montana Docket T–5052 filed May 15, 1980. Applicant: MOLERWAY FREIGHT LINES, INC., 2707 Beartooth Drive, Billings, MT 59102. Representative: John L. Mohr, 111 West Main Street, P.O. Box 217, Laurel, MT 59044. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities, except those of unusual value, dangerous expolosives, commodities in bulk, and those injurious or contaminating to other lading from and to or between the following points or areas: Serving all points and places from Lewistown, MT, along US Hwy No. 87 to Great Falls, MT, the serving all points and places along interstate 87 from Great Falls, MT, to Havre; MT, serving all points and places along US Interstate No. 91 from Great Falls, MT, to Shelby, MT, then serving all points and places from Shelby, MT, over US Hwy No. 2 to Browning, MT, then serving all points and places from Browning, MT, to Great Falls, MT, over US Hwy No. 89; serving Belgrade, MT, from Bozeman, MT, over US Interstate No. 90; and serving all points and places along Road No. 384 from Hardin, MT. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to Montana Public Service Commission, 1227 11th Avenue, Helena, MT 59601, and should not be directed to the Interstate Commerce Commission.

Montana Docket T–5090 filed June 19, 1980. Applicant: MERCHANTS DELIVERY & STORAGE, 1410 North 1st Street, Hamilton, MT 59840. Representative: John R. Davidson, Suite 805, First Bank Bldg., Billings, MT 59101. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: Property (except ashes, trash, waste, refuse, rubbish and garbage) between Darby, MT and Sula, MT over US Hwy 93 and between Darby, MT and the West Fork Ranger Station over US Hwy 93 to junction with Montana Hwy 473, then over Montana Hwy 473 to the West Fork Ranger Station, and return over the same routes, serving all intermediate points and The Trapper Sreek Job Corps Camp. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to Montana Public Service Commission, 1227 11th Avenue, Helena, MT 59601, and should not be directed to the Interstate Commerce Commission.

New York Docket T–9783 filed July 18, 1980. Applicant: HENRIETTA W. VAGELE, d.b.a. CEDAR HILL TRUCKING, Cedar Hill, Selkirk, NY 12158. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: Lumber, Building materials, and cast iron stoves—between Albany, Rensselaer and Schenectady Counties on the one hand, and, on the other, all points in the State. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to New York State, Department of Transportation, 1220 Washington Ave., State Campus Bldg. #4, Room G–21, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

South Carolina Docket 77–223–T filed June 25, 1980. Applicant: BENSON B. BROOKS d.b.a. WAREHOUSE ASSOCIATES, P.O. Box 18284, Spartanburg, SC 29318. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities (usual exceptions): between the Warehouse Associates warehouse operations in South Carolina and points and places in South Carolina. Restricted: To shipments owned by customers of Warehouse Associates. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to Public Service Commission of South Carolina, P.O. Drawer 11649, Columbia, SC 29211, and should not be directed to the Interstate Commerce Commission.

**Permanent Authority Notices Substitution Applications: Single-Line Service for Existing Joint-Line Service**

The following applications, filed on or after April 1, 1979, are governed by the special procedures set forth in § 1062.2 of Title 49 of the Code of Federal Regulations (49 CFR 1062.2). These proposals are published as "service sought", (as opposed to decision-notices), because in each case it appears questionable as to whether all or part of the authority sought should be issued, weighing applicant's evidence under 49 CFR 1062.2. (For example, questions may be raised relating to applicant's contentions concerning why the involved joint-line service has been cancelled or is in a state of deterioration which warrant a decision on the merits, regardless of whether the application is opposed.)

The rules provide, in part, that carriers may file petitions with this Commission for the pupose of seeking intervention in these proceedings. Such petitions may seek intervention either with or without leave as discussed below. However, all such petitions must be filed in the form of verified statements, and contain all of the information offered by the submitting party in opposition. Petitions must be filed with the Commission on or before September 24, 1980.

Petitions for intervention without leave (i.e., automatic intervention), may be filed only by carriers which are, or have been, participating in the joint-line service sought to be replaced by applicant's single-line proposal, and then only if such participation has occurred within the one-year period immediately proceeding the application's filing. Only carriers which fall within this filing category can base their opposition upon the issue of the public need for the proposed service.

Petitions for intervention with leave may be filed by any carrier. The nature of the opposition, however, must be limited to issues other than the public need for the proposed service. The appropriate basis for opposition, i.e., applicant's fitness, may include challenges concerning the veracity of the applicant's supporting information, and the bona-fides of the joint-line service sought to be replaced (including

the issue of its substantiality). Petitions containing only unsupported and undocumented allegations will be rejected.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after August 25, 1980.*

MC 2229 (Sub-240F), filed May 5, 1980. Applicant: RED BALL MOTOR FREIGHT, INC., 3177 Irving Blvd., Dallas, TX 75247. Representative: Jackie Hill (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities,* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, (1) between Denver, CO, and Seattle, WA, serving the intermediate and off-route points of Portland, OR, Centralia, Chehalis, Everett, Longview, Olympia, Tacoma and Van Couver, WA and serving the junction of IS Hwy 80N) and IS Hwy 15 for the purpose of joinder only: From Denver, CO over IS Hwy 25 to junction US Hwy 30, then over US Hwy 30 (or IS Hwy 80 and 80N to Portland, OR, then over IS Hwy 5 to Seattle, WA (also from Denver, CO over the above route to junction IS Hwy 80N and US Hwy 395, then over US Hwy 395 to junction US Hwy 12, then over US Hwy 12 to junction IS Hwy 82, then over IS Hwy 82 to junction IS Hwy 90, then over IS Hwy 90 to Seattle, WA) and return over the same route, (2) between Denver, CO and seattle, WA serving no intermediate points: From Denver, CO over IS Hwy 25 and US Hwy 87 to junction IS Hwy 90, then over IS Hwy 90 (or Hwy 10) to Seattle, WA and return over the same route, and (3) between the junction of IS Hwy 80N and IS Hwy 15 (or US 91) and the junction of IS Hwy 15 (or US 91) and IS Hwy 90 serving no intermediate points and serving the junction of IS Hwy 80N and IS Hwy 15 (or US 91) and the junction of IS Hwy 15 (or US 91) and IS Hwy 90 for the purpose of joinder only: From the junction of IS Hwy 80N and IS Hwy 15 (or US 91) over IS Hwy 15 (or US 91) to the junction of IS Hwy 90 and return over the same route. Applicant intends to tack this authority with its otherwise authorized operations. *The sole purpose of this application is to substitute single-line for joint-line operations.*

MC 43038 (Sub-494F), filed May 2, 1980. Applicant: COMMERCIAL CARRIERS, INC., 20300 Civic Center Drive, 4th Floor, Box CS 5027, Southfield, MI 48037. Representative: Paul H. Jones (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *motor vehicles* (except trailers), in secondary movements, in truckway service, between points in FL, on the one hand, and, on the other, points in DE, MD, NJ, NY, PA, and DC. (Hearing site: Detroit, MI, or Washington, DC.)

**Note.**—The sole purpose of this application is to substitute single line for joint line operations.

MC 110988 (Sub-29F), filed June 16, 1980. Applicant: SCHNEIDER TANK LINES, INC., 4321 W. College Ave., Appleton, WI 54911. Representative: Patrick M. Byrne (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals,* (1) from points in DE, MD, MA, NJ, NY, OH, PA, and WV, to points in CO, IL, IN, IA, KS, MI, MN, MO, NE, OR, TX, UT, and WI, and (2) from points in IL and WI to points in CT, MD, and MA. (Hearing site: Chicago, IL.)

**Note.**—The sole purpose of this application is to substitute single line for joint line operations.

MC 118318 (Sub-52F), filed May 22, 1980. Applicant: IDA–CAL FREIGHT IN LINES, INC., P.O. Drawer M, Nampa, ID 83651. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. Authority sought to operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by grocery and food business houses, between points in CA, ID, OR, and WA. (Hearing site: Boise, ID.)

**Note.**—The sole purpose of this application is to substitute single line for joint line operations.

MC 121699 (Sub-8F), filed June 26, 1980. Applicant: VOLUNTEER EXPRESS, INC., 1220 Faydur Court, Nashville, TN 37211. Representative: Walter Harwood, Attorney, P.O. Box 15214, Nashville, TN 37215. Authority sought to operate as a common carrier, by motor vehicle (A) transporting *general commodities* (except Classes A and B explosives, household goods, commodities in bulk, and articles requiring special equipment). 1. (a) From Nashville, TN, via I–40 to junction with TN Hwy 22, thence via TN Hwy 22 to Weakley County Line, thence via any and all highways and roads in Weakley and Obion Counties, TN, serving all points in said counties, and return over the same route, (b) From Nashville, TN via U.S. Hwy 70 to Huntingdon, TN, thence via TN Hwy 22 to Weakley County Line, thence via any and all highways and roads in Weakley and Obion Counties, TN, serving all points in said counties and return over the same route, and (c) Via any and all connecting roads and Highways between I–40 and U.S. Hwy 70 between Nashville, TN and TN Hwy 22, for operating convenience only in connection with routes (a) and (b) above. 2. (a) From Memphis, TN via U.S. Hwy 51 to the Obion County Line, thence via any and all highways and roads in Obion and Weakley Counties, TN, serving all points in said counties (but serving no intermediate points between Memphis and the said Obion County line) and return over the same route, (b) From Memphis, TN via I–40 to junction with U.S. Hwy 45 near Jackson, TN, thence via U.S. Hwy 45 to its junction with U.S. Hwy 45E, thence via U.S. Hwy 45E to the Weakley County Line, thence via any and all highways and roads in Weakley and Obion Counties, serving all points in said counties (but serving no intermediate points between Memphis and the said Weakley County Line) and return over the same route. *Restriction:* Restricted against tacking with carrier's authority held as of August 17, 1977. Routes (a) and (b) above shall be construed as conferring a single grant of authority and shall not be severable by sale or otherwise. 3. (a) From Jackson, TN via U.S. Hwy 45 to its junction with U.S. Hwy 45W, thence via U.S. Hwy 45W to the Obion County Line, thence via any and all highways and roads in Obion and Weakley Counties, TN, serving all points in said Counties (but not serving intermediate points between Jackson and the said Obion County Line), and return over the same route;(b) From Jackson, TN via U.S. Hwy 45 to its junction with U.S. Hwy 45E, thence via U.S. Hwy 45E to the Weakley County Line, thence via any and all highways and roads in Weakley and Obion Counties, serving all points in said Counties (but serving no intermediate points between Jackson and the said Weakley County Line) and return over the same route. *Restriction:* The authority in routes (a) and (b) above is restricted against the handling of traffic which originates at, is destined to, or interlined at Jackson, TN and points in

its commercial zone, on the one hand, and, on the other, that which originates at, is destined to, or interlined at Nashville, TN and Memphis, TN and points in their respective commercial zones. The two routes granted herein shall be construed as conferring a single grant of authority and shall not be severable by sale or otherwise. (B) Transporting *Boxes or crates, wood or wood and wire combined, materials equipment and supplies* used in the manufacture and distribution thereof, over irregular routes, (a) between Martin, TN and Toledo, OH, and (b) between Martin, TN and Toledo, OH, on the one hand, and, on the other, points in the United States in and east of TX, AR, MO, KS, IA, and MN.

**Note.**—Authority sought in (A) above involves conversion of carrier's presently held certificates of registration.

MC 121699 (Sub-9F), filed June 26, 1980. Applicant: VOLUNTEER EXPRESS, INC., 1220 Faydur Court, Nashville, TN 37211. Representative: Walter Harwood, Attorney, P.O. Box 15214, Nashville, TN 37215. Authority sought to operate as a common carrier, by motor vehicle (A) transporting *general commodities,* (except Classes A and B explosives, household goods, commodities in bulk, and articles requiring special equipment). 1. (a) From Nashville, TN, via I–40 to junction with TN Hwy 22, thence via TN Hwy 22 to Weakley County Line, thence via any and all highways and roads in Weakley and Obion Counties, TN, serving all points in said counties, and return over the same route, (b) From Nashville, TN via U.S. Hwy 70 to Huntingdon, TN, thence via TN Hwy 22 to Weakley County Line, thence via any and all highways and roads in Weakley and Obion Counties, TN, serving all points in said counties and return over the same route, and (c) Via any and all connecting roads and highways between I–40 and U.S. Hwy 70 between Nashville, TN and TN Hwy 22, for operating convenience only in connection with routes (a) and (b) above. 2. (a) From Memphis, TN via U.S. Hwy 51 to the Obion County Line, thence via any and all highways and roads in Obion and Weakley Counties, TN, serving all points in said counties (but serving no intermediate points between Memphis and the said Obion County line) and return over the same route, (b) From Memphis, TN via I–40 to junction with U.S. Hwy 45 near Jackson, TN, thence via U.S. Hwy 45 to its junction with U.S. Hwy 45E, thence via U.S. Hwy 45E to the Weakley County Line, thence via any and all highways and roads in Weakley and Obion Counties, serving all points in said counties (but serving no intermediate points between Memphis and the said Weakley County Line) and return over the same route. *Restriction:* Restricted against tacking with carrier's authority held as of August 17, 1977. Routes (a) and (b) above shall be construed as conferring a single grant of authority and shall not be severable by sale or otherwise. 3. (a) From Jackson, TN via U.S. Hwy 45 to its junction with U.S. Hwy 45W, thence via U.S. Hwy 45W to the Obion County Line, thence via any and all highways and roads in Obion and Weakley Counties, TN, serving all points in said Counties (but not serving, intermediate points between Jackson and the said Obion County Line), and return over the same route; (b) From Jackson, TN via U.S. Hwy 45 to its junction with U.S. Hwy 45E, thence via U.S. Hwy 45E to the Weakley County Line, thence via any and all highways and roads in Weakley and Obion Counties, serving all points in said Counties (but serving no intermediate points between Jackson and the said Weakley County Line) and return over the same route. *Restriction:* The authority in routes (a) and (b) above is restricted against the handling of traffic which originates at, is destined to, or interlined at Jackson, TN and points in its commercial zone, on the one hand, and, on the other, that which originates at, is destined to, or interlined at Nashville, TN and Memphis, TN and points in their respective commercial zones. The two routes granted herein shall be construed as conferring a single grant of authority and shall not be severable by sale or otherwise. (B) Transporting *wheels, hubs, tires, brakes, brake parts, spindles, chemicals, paint, equipment, materials and supplies* used in the manufacture thereof (except commodities in bulk), over irregular routes, (a) between Dresden, TN and Des Moines, IA, and (b) between Dresden, TN and Des Moines, IA, on the one hand, and, on the other, points in the United States in and east of TX, AR, MO, KS, IA, and MN.

**Note.**—Authority sought in (A) above, involves conversion of carrier's presently held certificates of registration.

MC 123048 (Sub-483F), filed June 5, 1980. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st St., Racine, WI 53406. Representative: John L. Bruemmer, 121 West Doty St., Madison, WI 53703. Authority sought to operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *aluminum and aluminum products* (except commodities in bulk), betwen Alcoa, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Knoxville, TN, or Washington, DC.)

**Note.**—The sole purpose of this application is to substitute single line for joint line operations.

**Permanent Authority Decisions Decision-Notice Substitution Applications: Single-Line Service for Existing Joint-Line Service**

Decided: August 4, 1980.

The following applications, filed on or after April 1, 1979, are governed by the special procedures set forth in § 1062.2 of Title 49 of the Code of Federal Regulations (49 CFR 1062.2).

The rules provide, in part, that carriers may file petitions with this Commission for the purpose of seeking intervention in these proceedings. Such petitions may seek intervention either with or without leave as discussed below. However, all such petitions must be filed in the form of verified statements, and contain all of the information offered by the submitting party in opposition. Petitions must be filed with the Commission on or before September 24, 1980.

Petitions for intervention without leave (i.e. automatic intervention), may be filed only by carriers which are, or have been, participating in the joint-line service sought to be replaced by applicant's single-line proposal, and then only if such participation has occured within the one-year period immediately proceeding the application's filing. Only carriers which fall within this filing category can base their opposition upon the issue of the public need for the proposed service.

Petitions for intervention with leave may be filed by any carrier. The nature of the opposition; however, must be limited to issues other than the public need for the proposed service. The appropriate basis for opposition, i.e. applicant's fitness, may include challenges concerning the veracity of the applicant's supporting information, and the bona-fides of the joint-line service sought to be replaced (including the issue of its substantially). Petitions containing only unsupported and undocumented allegations will be rejected.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after August 25, 1980.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

*Findings:*

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity. Each applicant if fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930 (a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient petitions for intervention, filed on or before September 24, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 4, Members Fitzpatrick, Fisher, and Dowell.

MC 36556 (Sub-46F), filed May 28, 1980. Applicant: BLACKMON TRUCKING, INC., P.O. Box 186, Somers, WI 53171. Representative: Howard E. Blackmon (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned and prepared foodstuffs* (except in bulk, in tank vehicles), from Cedar Grove, Clyman, Fond du Lac, Fort Atkinson, and Ripon, WI, to points in IL (except Boone, Cook, DuPage, Kane Lake, McHenry, Will and Winnebago Counties), IN, MI, and OH, and Louisville KY, and St. Louis, MO. (Hearing site: Chicago, IL.)

**Note.**—The sole purpose of this application is to substitute single-line for joint-line operation.

MC 57697 (Sub-23F), filed May 14, 1980. Applicant: LESTER SMITH TRUCKING, INC., 2645 East 51st Avenue, Denver, CO 80216. Representative: David J. Lister, P.O. Box 17039, Portland, OR 97217. Authority sought to operate as a *common carrier*, by motor vehicle in interstate or foreign commerce, over irregular routes, transporting: (1) *Building materials when also construction materials*, (a) between points in UT, on the one hand, and, on the other, points in WY and MO. (b) Between points in WY, NE, IA, MO and KS, on the one hand, and, on the other, points in ID, MT, AZ, NV, other than Mineral County, WA and OR north of the 44th parallel. (2) *Building materials when also iron and steel articles as described in ExParte No. MC–45, Descriptions in Motor Carrier Certificates, Appendix V, 61 M.C.C. 276*, between points in OR on the south of the 44th parallel, on the one hand, and, on the other, points in WY, KS, NE, MO and IA. (3) *(A) Construction, telephone and power line materials when also iron and steel articles as decribed in ExParte No. MC–45, Descriptions in Motor Carrier Certificates, Appendix V, 61 M.C.C. 276 and (B) Construction, telephone and power line materials when also structural steel, pipe or commodities, the transportation of which by reason of size and weight requires the use of special equipment*, between points in WA, OR, north of the 44th parallel, MT, ID, NV, UT and AZ, on the one hand, and, on the other, points in IA, KS, NE, except North Platte, Ogallala and Chappell, and SD. (4) *Building, construction, telephone and powerline materials*, between points in WY, on the one hand, and, on the other, points in IA, KS, SD and NE (except North Platte, Ogallala and Chappell, NE). (5) *Construction materials*, between points in CA, on the one hand, and, on the other, points in IA, KS, SD and NE). (except North Platte, Ogallala and Chappell, NE). (6) *Building materials*, between CA, on the one hand, and, on the other, points in WY and MO. (7) *Construction materials*, except in bulk, between UT, on the one hand, and, on the other, points in SD, NE (except North Platte, Ogallala and Chappell, NE), IA and KS. (8) *Machines, other than farm, maximum 5,000 pounds each, when also commodities which by reason of size or weight require special handling or the use of special equipment and commodities which do not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading as commodities which by reason of size or weight require special handling or the use of special equipment*, between UT, on the one hand, and, on the other, points in WY, IA, KS, NE and MO. (9) *Machines, other than farm, maximum 5,000 pounds each, when commodities which by reason of size or weight, requires special handling or the use of special equipment, and commoodites (except commodities in bulk, motor vehicles, motor vehicle cabs and bodies, class A and B explosives and boats), which do not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading as commodities which by reason of size or weight require special handling of the use of special equipment*, between points in OR, WA, AZ (except Cochise County), NV (except points in Mineral County), and ID, on the one hand, and, on the other, points in MO, IA, NE, KS and WY. (10) *Machines, other than farm, maximum 5,000 pounds each when also machinery, (except in bulk) which by reason of size or weight, require special handling or the use of special equipment and machinery which does not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading, as machinery, which by reason of size or weight requires special handling or the use of special equipment*, between points in CA, on the one hand, and, on the other, points in WY, NE, IA, MO and KS. (11) *Irrigation supplies when also (A) commodities which by reason of size or weight require special handling or the use of special equipment and commodities which do not require special handling or the use of special*

*equipment when moving in the same shipment on the same bill of lading as commodities which by reason or size or weight require special handling or the use of special equipment or (B) iron and steel articles as described in Appendix V to the Commission's Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766; or (C) pipe and pipe fittings (except iron and steel) and or (D) construction materials,* between points in UT, on the one hand, and, on the other, points in WY, NE, IA, MO and KS. (12) *Irrigation supplies when also (A) commodities (except commodities in bulk), which by reason of size or weight, require special handling or machinery, boilers, storage tanks and parts therefor; structural steel, and contractor's outfits, and supplies requiring special equipment or rigging which do not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading as commodities which by reason of size or weight require special handling or the use of special equipment; or (B) pipe, (except commodities in bulk, and iron and steel), and for (C) iron and steel articles as described in Appendix V to the Commission's Report in Descriptions in Motor Carriers Certificates, 61 M.C.C. 209 and 766 (except commodites in bulk,* between points in ID, NV (except points in Mineral County), and AZ (except points in Cochise County), on the one hand, and, on the other, points in WY, KS, NE, IA and MO. (13) *Bulk and service station equipment, each article to weigh a maximum of 5,000 pounds when also commodities, the transportation of which because of size or weight requires the use of special equipment,* between points in OR and WA, on the one hand, and, on the other, points in KS, NE, SD, and IA. (14) *Bulk and service station equipment, each article to weigh a maximum of 5,000 pounds, when also machinery, the transportation of which by reason of size or weight requires the use of special equipment,* between points in MT, ID, NV, UT and AZ, on the one hand, and, on the other, points in NE, KS, SD, and IA. (15) *Bulk and service station equipment, when also machines, other than farms, maximum 5,000 pounds, each,* between points in WY, on the one hand, and, on the other, points in IA, KS, MO and NE. (16) *(1) Irrigation and sprinkling systems and (2) parts and accessories for the commodities named in (1) above, when also pipe and pipe fittings (except iron and steel commodities in bulk) which are also construction materials, or supplies,* between points in CA, on the one hand, and, on the other, AR, IL, IN, IA, KS, MN, MO, NE, ND, OK, SD, WI, WY and points in TX in and north of Palmer, Castro, Swisher, Brisco, Hall and Childress, TX. (17) *(1) Irrigation and sprinkling systems, and (2) parts and accessories for commodities in (1) above when also (A) pipe and pipe fittings and (B) iron and steel articles as described in Appendix V to the Commission's Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766,* between points in UT, ID, AZ (except points in Cochise County, AZ) and NV (except Mineral County, NV), on the one hand, and, on the other, AR, IL, IN, IA, KS, MN, MO, NE, ND, OK, SD, WI, WY and points in TX in and north of Palmer, Castro, Swisher, Brisco, Hall and Childress Counties, TX. (18) *(1) Irrigation and sprinkling systems, and (2) parts and accessories for the commodities named in (1) above when also (A) commodities which by reason of size or weight, require special handling or the use of special equipment, and commodities (except commodities in bulk, motor vehicles, motor vehicle cabs and bodies, class A and B explosives and boarts), which do not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading as commmodities which by reason of size or weight require special handling or the use of special equipment, and (B) iron and steel articles as described in Appendix V to the Commission's Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk),* between WA and OR, on the one hand, and, on the other, points in AR, IL, IN, IA, KS, MN, MO, NE, ND, OK, SD, WI and points in TX in and north of Palmer, Castro, Swisher, Brisco, Hall and Childress Counties, TX. (19) *Oil-well casings, pipe and supplies when also construction materials (except commodites in bulk) and iron and steel articles, as described in Appendix V to the Commission's Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except mining and construction materials, equipment and supplies, and commodities in bulk)* between points in CA, on the one hand, and, on the other, points in WY.

(20) *Oil-well casings, pipe, and supplies when also (A) commodities which by reason of size or weight, require special handling or the use of special equipment when moving in the same shipment on the same bill of lading as commodities which by reason of size or weight require special handling or the use of special equipment; (B) iron and steel articles as described in Appendix V to the Commission's Report in Descriptions in Motor Carriers Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk),* between OR, WA, ID, AZ (except points in Cochise County) and NV (except points in Mineral County), on the one hand, and, on the other, points in WY. (21) *Oil-well casings, pipe, and supplies when also pipe (except commodities in bulk, and iron and steel),* between points in ID, AZ, (except Cochise County), and NV (except Mineral County), on the one hand, and, on the other, points in WY. (22) *Oil-well casings, pipe, and supplies when also (A) iron and steel articles as described in Appendix V to the Commission's Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766; (B) pipe and pipe fittings (except iron and steel); and (C) construction materials, except commodities in bulk,* between points in UT, on the one hand, and, on the other, points in WY. Restriction: All of the above authorities are restricted against (1) being used (a) for interlining or interchanging traffic involving the transportation of building and construction equipment having any prior or subsequent movement by F–B Truck Line Company, or any successor thereof, or (b) in the event F–B Truck Line Company and Lester Smith Trucking, Inc. or their successors should merge their operations, as a basis for performing any through operations with respect to the commodities described in (a) above and (2) the transportation of commodities in bulk, in tank vehicles, and coal. The sole purpose of this application is to substitute single line for joint-line operations. (Hearing site: Denver, CO or Salt Lake City, UT.)

MC 106644 (Sub-288F), filed May 7, 1980. Applicant: SUPERIOR TRUCKING COMPANY, INC., P.O. Box 916, Atlanta, GA 30301. Representative: Louis C. Parker, III, P.O. Box 916, Atlanta, GA 30301. Authority sought to operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *commodities* the transportation of which because of size or weight require the use of special equipment, and (2) *self-propelled articles* each weighing 15,000 pounds or more, between points in GA, FL, AL, and SC on the one hand, and, on the other, points in ME, NH, VT, KS, and MN.

**Note.**—The sole purpose of this application is to substitute single-line for joint-line operations.

MC 111496 (Sub-36F), filed May 21, 1980. Applicant: TWIN CITY FREIGHT,

INC., 2550 Long Lake Rd., Roseville, MN 55113. Representative: Alan Foss, 502 First National Bank Bldg., Fargo, ND 58126. To operate as a common carrier by motor vehicle in interstate or foreign commerce over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Shelby, MT and the international boundary line between the U.S. and Canada at or near Sweetgrass, MT, serving all intermediate points: from Shelby over U.S. Hwy 2 to junction U.S. Hwy 91, then over U.S. Hwy 91 to the international boundary line between the U.S. and Canada. Note: The sole purpose of this application is to substitute single line for joint line operations.

Note.—Applicant states it intends to tack and interline the authority sought with its presently authorized routes.

MC 145606 (Sub-3F), filed March 11, 1980. Applicant: JUNIUS ELMORE, JR., 815 East 2nd St., Cheyenne, WY 82001. Representative: Junius Elmore, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities* as are used in or dealt in by wholesale, retail, dealers, repair and distribution business of automotive vehicles, motor vehicles, and machinery including farming, construction and mining machinery, from points in CO to points in WY, and (2) *general commodities*, from Cheyenne, Wheatland and Green River, WY, to points in WY; restricted to traffic having an immediate or subsequent movement in piggy back service.

**Irregular-Route Motor Common Carriers of Property—Elimination of Gateway Letter Notices**

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR Part 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before September 4, 1980. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier*, by motor vehicles, over irregular routes.

MC 55898 (Sub-Nos. E7, E16, E18, E20), filed December 9, 1975. Applicant: DECATO BROS, INC., Heater Road, Lebanon, NH 03766. Representative: David M. Marshall, 135 State St., Suite 200, Springfield, MA 01103. MC 55898 (E7): *Lumber*, from points in Caledonia, Orange, and Windsor Counties, VT, to points in NY. (Gateway eliminated: points in VT and NH). MC 55898 (E16): *Lumber*, from points in MA to points in VT on and north of U.S. Hwy 4. (Gateway eliminated: points in NH). MC 55898 (E18): *Lumber*, from points in MA on and east of I Hwy 91 to Walton, NY. (Gateway eliminated: points in NH).

MC 55898 (E20): *Forest products*, between points in VT, on the one hand, and, on the other, points in MA in and east of Worcester County. (Gateway eliminated: points in NH). MC 55898 (E21): *Pre-fabricated wood buildings*, complete or in sections, (except in sections mounted on wheeled undercarriages equipped with hitchball connector), from points in VT to points in the U.S. (except points in MA and points in NY east of I Hwy 81). (Gateway eliminated: points in NH).

MC 83539 (Sub-E133), filed May 29, 1975. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Representative: Kenneth Weeks (same as above). (1) *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment, and *parts* thereof when moving in connection with such commodities; (2) *such self-propelled articles* each weighing 15,000 pounds or more, which may be included in heavy machinery and *related machinery, tools, and supplies* moving in connection therewith, restricted in (2) to commodities transported on trailers, between points in NM and north of Valencia, Torrance, Guadalupe, Curry, DeBoca and Roosevelt Counties, on the one hand, and, on the other, points in ID in and north of Idaho County. (Gateway eliminated: points in CO and MT).

MC 83539 (Sub-Nos. E610, 612, 616, 617, 618) filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Representative: Kenneth Weeks (same as above). (1) *Commodities*, the transportation of which because of the size or weight, require the use of special equipment, and, parts thereof when moving in connection with such commodities; (2) *self-propelled* articles, each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith restricted in (2) to commodities which are transported on trailers: (E610) between points in CO, on the one hand, and, on the other, points in VA (Wichita, KS, and points in TN within 50 miles of Nashville*); (E612)(a) between points in AL, on the one hand, and, on the other, points in AL in and east of Limestone, Morgan, Cullman, Blount, Jefferson, Shelby, Chilton, Autauga, Montgomery, Bullock, Barbour and Henry Counties, and (b) between points in AL, on the one hand, and, on the other, points in MO in and north of St. Louis, Franklin, Gasconade, Osage, Cole, Moniteau, Morgan, Pettis, Johnson, and Jackson Counties (points in TN within 50 miles of Nashville*); (E616) (a) between points in VA in and north of Giles, Montgomery, Roanoke, Bedford, Campbell, Appomattax, Buckingham, Fluvannah, Goochland, Henrico, Hanover, King William, King and Queen, Gloucester, Matthews, Middlesex, Essex, Westmoreland, Richmond, Northumberland and Lancaster Counties, on the one hand, and, on the other, points in AL in and west of Madison, Morgan, Cullman, Jefferson Bibb, Perry, Dallas, Wilcox, Monroe, and Baldwin Counties; and (b) between points in VA, on the one hand, and, on the other, points in AL in west and north of Madison, Morgan, Winston, Marion and Larmar Counties (points in TN within 50 miles of Nashville*); (E617) between points in LA, on the one hand, and, on the other, points in WY (Wichita, KS, and points in CO*); and (E618) between points in AZ, on the one hand, and, on the other, points in CT (points in CO and UT*). (Gateway eliminated: asterisked).

MC 107403 (Sub-E747) filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Dry chemicals* (except fly ash), in bulk, in tank vehicles, from points in OH within 150 miles of Monongahela, PA, to points in NV, UT, NM, CO, ID, MT, WA, OB and CA. (Gateway eliminated: Charleston, WV.)

MC 118831 (Sub-E155) filed April 19, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263.

Representative: E. Stephen Heisley, Suite 805, 666 Eleventh Street, NW, Washington, DC 20001. *Liquid petrochemicals,* in bulk, in tank vehicles, between Orangeburg, SC on the one hand, and, on the other, points in SC on and west of a line beginning at North Augusta extending along US Hwy 25 to Greenwood, then along US Hwy 178 to the NC–SC State line. (Gateway eliminated: Richmond County, GA.)

By the Commission.

**Agatha L. Mergenovich,**

*Secretary.*

[FR Doc. 80–25769 Filed 8–22–80; 8:45 am]

BILLING CODED 7035–01–M

## NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

### Meeting

Pursuant to Sec. 10(a)(2), of the Federal Advisory Committee Act, 5 U.S.C. (App. 1976), notice is hereby given that the Marine Transportation Sub-group of the Independent Area Task Force (IATF) of the National Advisory Committee on Oceans and Atmosphere (NACOA) will meet Friday, September 12, 1980. The Sub-group will meet in the B–100 conference room of Page Building #1, 2001 Wisconsin Avenue, NW., Washington, D.C.

The session, which will be open to the public, will convene at 9:00 a.m. and adjourn at 3:00 p.m.

NACOA has initiated a study to formulate national goals and objectives for the oceans in the decade of the 1980's and beyond. To support the conduct of this study, the Secretary of Commerce has established the IATF and NACOA. The IATF will be responsible for the preparation of preliminary recommendations in the areas of energy, fisheries, marine transportation, ocean minerals, ocean operations and services, pollution, and waste management.

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairperson of the Sub-group on Marine Transportation, Dr. Don Walsh, in advance of the meeting. The Chairperson retains the prerogative to impose limits on the duration of oral statements and discusssion. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the NACOA Executive Director, Mr. Steven N. Anastasion, or Mr. Ed Cannon, the Staff Member for the Marine Transportation Sub-group. The mailing address is: NACOA, 3300 Whitehaven Street, NW. (Suite 436, Page Building #1), Washington, DC 20235. The telephone number is (202) 653–7818.

**Steven N. Anastasion,**

*Executive Director.*

[FR Doc. 80–25853 Filed 8–22–80; 8:45 am]

BILLING CODE 3510–12–M

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### Humanities Panel; Meetings

**AGENCY:** National Endowment for the Humanities.

**ACTION:** Notice of meetings.

**SUMMARY:** Pursuant to the provision of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506:

DATE: September 18, 1980
TIME: 9:00 a.m. to 5:00 p.m.
ROOM: 314
PROGRAM: This meeting will review applications submitted for the Libraries Humanities Projects Programs, Division of Public Programs for projects beginning after January 15, 1981.

DATE: September 19, 1980
TIME: 9:00 a.m. to 12:00 noon
ROOM: 314
PROGRAM: This meeting will review applications submitted for the Libraries Humanities Projects Programs, Division of Public Programs for projects beginning after January 15, 1981

DATE: September 22, 1980
TIME: 9:00 a.m. to 5:30 p.m.
ROOM: 1134
PROGRAM: This meeting will review applications submitted to the General Research Programs for Basic Research: Cultural Studies projects, Division of Research Programs, for projects beginning after December 1, 1980.

DATE: September 23, 1980
TIME: 9:00 a.m. to 5:30 p.m.
ROOM: 1134
PROGRAM: This meeting will review applications submitted to the General Research Programs for Basic Research; Cultural Studies projects, Division of Research Programs, for projects beginning after December 1, 1980.

DATE: September 29, 1980
TIME: 9:00 a.m. to 5:30 p.m.
ROOM: 1023
PROGRAM: This meeting will review applications submitted for Museums and Historical Organizations Humanities Projects, Division of Public Programs, for projects beginning after January 1, 1981.

DATE: September 30, 1980
TIME: 9:00 a.m. to 5:30 p.m.
ROOM: 1023
PROGRAM: This meeting will review applications submitted for Museums and Historical Organizations Humanities Projects, Division of Public Programs, for projects beginning after January 1, 1981.

DATE: October 1, 1980
TIME: 9:00 a.m. to 5:30 p.m.
ROOM: 1023
PROGRAM: This meeting will review applications submitted for Museums and Historical Organizations Humanities Projects, Division of Public Programs, for projects beginning after January 1, 1981.

The proposed meetings are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose:

(1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(2) Information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and

(3) Information the disclosure of which would significantly frustrate implementation of proposed agency action;

pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 724–0367.

**Stephen J. McCleary,**

*Advisory Committee Management Officer.*

[FR Doc. 80–25792 Filed 8–22–80; 8:45 am]

BILLING CODE 7536–01–M

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 50–155]**

### Consumers Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 33 to Facility Operating License No. DPR–6, issued to Consumers Power Company (the licensee), which revised the Technical Specifications for operation of the Big Rock Point Plant (the facility) located in

Charlevoix County, Michigan. The amendment is effective as of its date of issuance.

The amendment changes the surveillance requirements for verifying the operability of the power operated valves in the containment spray system.

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 July 7, 1980 (NRC #8007110204), (2) Amendment No. 33 to License No. DPR-6, 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. 20555, and at the Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720. 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 Licensing.

Dated at Bethesda, Maryland, this 11th day of August, 1980.

For the Nuclear Regulatory Commission.

**Walter A. Paulson,**

*Acting Chief, Operating Reactors Branch No. 5, Division of Licensing.*

[FR Doc. 25847 Filed 8-22-80; 8:45 am]

BILLING CODE 7590-01-M

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**[Dockets Nos. 50-458, 50-459]**

## Gulf States Utilities (River Bend Units 1 and 2); Request for Action Under 10 CFR 2.206

Notice is hereby given that, by petition dated July 21, 1980, the Union of Concerned Scientists (UCS) requested that construction at the River Bend Units of the Gulf States Utilities Company be halted. Allegations of questionable practices relative to plant construction form the basis for the request. This petition is being treated as a request for action under 10 CFR 2.206 of the Commission's regulations and, accordingly, action will be taken on the petition within a reasonable time.

Copies of the petition are available for inspection in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 and in the local public document room at the Audubon Library, West Feliciana Branch, Ferdinand Street, St. Francisville, LA 70775.

Dated at Bethesda, Maryland, this 18th day of August 1980.

For the Nuclear Regulatory Commission.

**R. C. DeYoung,**

*Deputy Director, Office of Inspection and Enforcement.*

[FR Doc. 80-25848 Filed 8-22-80; 8:45 am]

BILLING CODE 7590-01-M

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**[Docket No. 50-339]**

## Virginia Electric & Power Co.; Issuance of Amendment to License NPF-7

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 2 to License NPF-7 for Fuel Loading and Low Power Testing, issued to the Virginia Electric and Power Company (licensee), which allowed certain exceptions to Appendix A of the Technical Specifications for operation of the North Anna Powe Station, Unit No. 2 (the facility) located in Louisa County, Virginia. The amendment is effective as of its date of issuance.

The amendment permits the licensee to conduct the water hammer demonstration test as presented in our Safety Evaluation, dated August 1980.

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 regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. The activity authorized by the amendment is encompassed by the overall action involving the proposed issuance of an operating license for which prior public notice was issued in the **Federal Register** on May 25, 1973 (38 FR 13772).

The Commission has determined that the issuance of this amendment will not result in any environmental impacts other than those evaluated in the Final Environmental Statement since the activity authorized by the amendment is encompassed by the overall action evaluated in the Final Environmental Statement.

For further details with respect to this action, see (1) the application for amendment, dated July 9, 1980, (2) Amendment No. 2 to NPF-7, and (3) the Commission's related Safety Evaluation concerning the water hammer demonstration test.

All of the items are available for public inspection at the Commission's Public Document Room 1717 H Street, NW., Washington, D.C. and at the local public document rooms in the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901 and at the Office of the Board of Supervisors, Louisa County Courthouse, P.O. Box 27, Louisa, Virginia 23093. 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 Licensing, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Maryland, this 18th day of August, 1980.

For the Nuclear Regulatory Commission.

**B. J. Youngblood,**

*Chief, Licensing Branch No. 1, Division of Licensing.*

[FR Doc. 80-25846 Filed 8-22-80; 8:45 am]

BILLING CODE 7590-01-M

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**[Docket No. 50-10]**

## Commonwealth Edison Co. (Dresden Nuclear Power Station Unit No. 1); Issuance of Director's Decision Under 10 CFR 2.206

On April 16, 1979, notice was published in the **Federal Register** (44 FR 22529) that Ms. Kay Drey had requested by petition dated March 19, 1979, that the Nuclear Regulatory Commission (the Commission) prepare an Environmental Impact Statement on Commonwealth Edison Company's proposed chemical decontamination of its Dresden Nuclear Power Station Unit No. 1. The Director has treated this request as a request for action under 10 CFR 2.206.

By petition dated September 20, 1979, Ms. Marilyn Shineflug, on behalf of the Illinois Safe Energy Alliance, requested public hearings on the decontamination based on the the lack of assurance that the NRC would issue an environmental impact statement. Notice of receipt of the petition was published in the **Federal Register** November 7, 1979 (44 FR 64577). By petition dated March 13, 1980, Mr. Robert Goldsmith, on behalf of Citizens for Better Environment and Prairie Alliance supported Ms. Drey's

petition requesting the preparation of an environmental impact statement.

Although the results of the Commission's staff review indicate that the chemical decontamination proposed for Dresden 1 will not significantly affect the quality of the human environment, I have concluded that an environmental impact statement should be prepared because of significant interest and concern expressed by members of the public. The staff has by separate action issued a Draft Environmental Statement. The requests of Ms. Drey and Mr. Goldsmith are, therefore, granted. The public hearings requested by Ms. Shineflug were predicated on the lack of assurance that the NRC would issue an environmental impact statement. Since the NRC has issued the statement, such hearings will not be necessary.

Copies of the Director's Decision, and the staff's response to the petition (Appendix A) enclosed thereto are available for inspection in the Commission's Public Document Room, 1717 H Street, N.W., Washington, D. C. 20555 and at the Morris Public Library, 604 Liberty Street, Morris, Illinois 60451. The Draft Environmental Statement may be examined in these locations. A copy of the decision and Appendix A will also be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c) of the Commission's regulations.

In accordance with 10 CFR 2.206(c) of the Commission's regulations the decision will constitute the final action of the Commission twenty (20) days after the date of issuance, unless the Commission on its own motion institutes a review of this decision within that time.

Dated at Bethesda, Maryland this 26th day of June 1980.

**Harold R. Denton,**

*Director, Office of Nuclear Reactor Regulation.*

[FR Doc. 80-25869 Filed 8-22-80; 8:45 am]

BILLING CODE 7590-01-M

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**[Byproduct Material License No. 48-04585-01]**

## Lakeview Hospital, Order To Show Cause and Order Suspending License (Effective Immediately)

I

Lakeview Hospital, 10010 West Blue Mound Road, Wauwatosa, Wisconsin (the "Licensee") is the holder of Byproduct Material License No. 48-04585-01 (the "License") issued by the Nuclear Regulatory Commission (the "Commission"). The License authorizes the possession of byproduct material and its use for medical diagnostic purposes. The License was originally issued on January 19, 1959 and has been amended periodically since. The present expiration date of the License is January 31, 1985.

II

In response to an allegation of improper use of radioactive materials at Lakeview Hospital, an investigation was conducted by representatives of the NRC Region III (Glen Ellyn, Illinois) Office on August 1, 6, and 7, 1980 into the Licensee's activities. The results of this investigation indicated that:

1. License Condition 12 states that licensed material shall be used by or under the supervision of D. E. Lindley, M.D., J. A. Thurow, M.D., or N. Barber, M.D. (the authorized users).

Contrary to the above, inadequate supervision has been exercised over the use of licensed material, in that, since 1976, patients were routinely given approximately twice the dose prescribed by the licensee's procedures without the consent or supervision of the authorized users.

2. 10 CFR 30.51(a) requires that "Each person who receives byproduct material pursuant to a license issued pursuant to the regulations in this part and Parts 31-35 of this chapter shall keep records showing the receipt, transfer, and disposal of such byproduct material."

Contrary to the above, since 1976, the Licensee has failed to maintain accurate records with regard to the transfer and disposal of licensed material. The licensee routinely recorded the administration of licensed material to patients in amounts which reflected adherence with the quantity prescribed by the licensee's procedures. In fact, the licensee administered approximately twice the prescribed dosage to some patients and the records of the licensee did not reflect this fact.

3. License Condition 18 states that licensed material shall be possessed and used in accordance with statements, representations and procedures contained in the application dated March 22, 1979, and the letter dated April 20, 1979. The application states that calibration of the dose calibrator will be in accordance with procedures specified in Regulatory Guide 10.8, "Guide for the Preparation of Applications for Medical Programs," January 1979, Appendix D, which requires, in part, quarterly linearity tests and annual accuracy tests.

Contrary to the above, no quarterly linearity or annual accuracy tests had been performed between May 1, 1979 and August 7, 1980.

4. License Condition 18 states that licensed material shall be possessed and used in accordance with statements, representations and procedures listed in the application dated March 22, 1979 and the letter dated April 20, 1979. The application states that calibration of the GM survey meter will be in accordance with procedures specified in Regulatory Guide 10.8, "Guide for the Preparation of Applications for Medical Programs," January 1979, Appendix D, which requires, in part, an annual calibration of survey instruments.

Contrary to the above, the Eberline E-120 GM survey meter had not been calibrated between May 1, 1979 and August 7, 1980.

5. License Condition 18 states that all licensed material shall be possessed and used in accordance with the statements, representations and procedures contained in the application dated March 22, 1979 and the letter dated April 20, 1979. The application states that area surveys will be performed in accordance with procedures specified in Regulatory Guide 10.8, "Guide for the Preparation of Applications for Medical Programs," January 1979, Appendix I, which requires in part: (1) that daily radiation area GM surveys be performed in generator elution, dose preparation and patient injection areas; and (2) that weekly radiation area GM and wipe test surveys be performed in all other lab areas.

Contrary to the above, daily radiation area GM surveys required in the generator elution, dose preparation and patient injection areas and the weekly radiation area GM surveys required in all other laboratory areas had not been performed between May 1, 1979 and August 7, 1980, and weekly wipe tests were not conducted between April and October 1979.

6. 10 CFR 20.401(c)(3) requires that records of disposal of licensed material made pursuant to 10 CFR 20.303, "Disposal by Release to Sanitary Sewer Systems," shall be maintained until the Commission authorizes their disposition.

Contrary to the above, on July 28, 1980 approximately 16 millicuries of Tc-99m DTPA were released to the sanitary sewer, and no record of this release was maintained.

III

From the foregoing, it is apparent that the Licensee has demonstrated inadequate management of its program. Accordingly, the Director, Office of Inspection and Enforcement, has determined that License No. 48-04585-01 should be revoked. The Director has also determined that, because of the public health, safety, and interest, no

prior notice is required and, pursuant to 10 CFR 2.202(f), License No. 48–04585–01 should be suspended immediately pending further Order.

IV

In view of the foregoing, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2, 20, 30, and 35, it is hereby ordered that:

1. Effective immediately, License No. 48–04585–01 is suspended, and accordingly the License shall forthwith cease and desist from any further use of byproduct material in its possession; and

2. The Licensee shall immediately place all byproduct material in its possession in locked storage and, with respect to such storage, shall comply with the applicable provisions of 10 CFR Part 20, "Standards for Protection Against Radiation," or transfer such material to a person authorized to possess such material; and

3. The Licensee shall show cause, in the manner hereinafter provided, why License No. 48–04585–01 should not be revoked.

V

The Licensee may, within twenty-five days of the date of this Order, show cause by filing a written answer to this Order under oath or affirmation. The Licensee may also request a hearing within the said twenty-five day period. A request for a hearing shall be addressed to the Secretary to the Commission, U.S.N.R.C., Washington, D.C. 20555. A copy of the hearing request shall also be sent to the Executive Legal Director, U.S.N.R.C., Washington, D.C. 20555. Any answer filed shall specifically admit or deny each allegation made in section II, above, and may set forth the matters of fact and law upon which the Licensee relies. If a hearing is requested, the Commission will issue an order designating the time and place of hearing. An answer or request for hearing shall not stay the temporary effectiveness of this order. Upon failure of the Licensee to file an answer within the time specified, the Director, Office of Inspection and Enforcement, will without further notice, issue an Order revoking License No. 48–04585–01.

VI

In the event a hearing is held, the issues to be considered at such a hearing shall be:

(a) whether the Licensee was in noncompliance with the Commission's regulations and the conditions of its License No. 48–04585–01 as specified in section II, and

(b) whether License No. 48–04585–01 should be revoked.

Dated at Bethesda, Md. this 11th day of August, 1980.

For the Nuclear Regulatory Commission

**Victor Stello, Jr.,**

*Director, Office of Inspection and Enforcement.*

[FR Doc. 80–25865 Filed 8–22–80; 8:45 am]

BILLING CODE 7590–01–M

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**[Docket No. 50–309]**

## Maine Yankee Atomic Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 49 to Facility Operating License No. DPR–36, issued to Maine Yankee Atomic Power Company, which revised Technical Specifications for operation of the Maine Yankee Atomic Power Station (the facility) located in Lincoln County, Maine. The amendment is effective as of its date of issuance.

The amendment consists of revised TS figure 3.10–3, which specifies the excore monitor symmetric offset alarm band for the LOCA limiting conditions for operation. The change accounts for the potential increase in power peaking due to the four-step insertion of the control element assemblies, allowed by TS 3.10.A.1, to reduce the guide tube wear.

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 July 16, 1980, (2) Amendment No. 49 to License No. DPR–36, 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 Wiscasset Public Library Association, High Street, Wiscasset, Maine. 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 Licensing.

Dated at Bethesda, Maryland, this 14th day of August, 1980.

For the Nuclear Regulatory Commission

**Leon B. Engle,**

*Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.*

[FR Doc. 80–25866 Filed 8–22–80; 8:45 am]

BILLING CODE 7590–01–M

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**[Docket No. 50–285]**

## Omaha Public Power District; Issuance of Amendment to Facility; Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 50 to Facility Operating License No. DPR–40, issued to Omaha Public Power District, which revised a license condition and the Technical Specifications for operation of the Ft. Calhoun Station, Unit No. 1 (the facility) located in Washington County, Nebraska. The amendment is effective as of its date of issuance.

The amendment changes License Condition 3.A and the Technical Specifications to authorize operation at 1500 Megawatts thermal power.

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. Notice of Proposed Issuance of Amendment to Facility Operating License in connection with this action was published in the **Federal Register** on September 7, 1979 (44 FR 52389). On October 8, 1979 a petition was filed by H. Kirshen and the Natural Resources Committee of the Citizens Advisory Board of the Metropolitan Area Planning Agency. No other petition or request for a hearing was filed. The petition was subsequently withdrawn and the proceeding dismissed on February 8, 1980 by Order of the Atomic Safety and Licensing Board (45 FR 10495, February 15, 1980).

The Commission has prepared an environmental impact appraisal for the

revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility dated August 1972.

For further details with respect to this action, see (1) the application for amendment dated July 17, 1979, as supplemented by letters dated October 30, and December 4, 1979, January 30, February 12 and 25, March 12, May 21, and June 26, 1980, (2) Amendment Nos. 47 and 50 to License No. DPR–40, (3) the memorandum from the ACRS dated August 11, 1980, and (4) the Commission's related Safety Evaluation and Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska. A copy of items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 15th day of August, 1980.

For the Nuclear Regulatory Commission.

**Leon B. Engle,**

*Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.*

[FR Doc. 80–25868 Filed 8–22–80; 8:45 am]

BILLING CODE 7590–01–M

## Petitions for Rulemaking; Issuance of Quarterly Report

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Issuance of Quarterly Report.

**SUMMARY:** The Nuclear Regulatory Commission has issued the June 30, 1980, Quarterly Report on Petitions for Rulemaking. This report is issued in accordance with 10 CFR 2.802 and is a quarterly summary of petitions for rulemaking that are pending final action.

**ADDRESSES:** A copy of this report, designated NRC Petitions for Rulemaking—June 30, 1980, is available for inspection and copying at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC.

Requests for single copies of this report, or a request to be placed on an automatic distribution list for single copies of future reports, should be made in writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

**FOR FURTHER INFORMATION CONTACT:** John Philips, Chief, Rules and Procedures Branch, Office of Administration, Telephone 301–492–7086.

Dated at Bethesda, Maryland this 15th day of August, 1980.

For the Nuclear Regulatory Commission.

**J. M. Felton,**

*Director, Division of Rules and Records, Office of Administration.*

[FR Doc. 80–25923 Filed 8–22–80; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–346]

## The Toledo Edison Co. and the Cleveland Electric Illuminating Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 29 to Facility Operating License No. NPF–3, issued to The Toledo Edison Company and The Cleveland Electric Illuminating Company (the licensees), which revised the license for operation of the Davis-Besse Nuclear Power Station, Unit No. 1 (the facility) located in Ottawa County, Ohio. The amendment is effective as of its date of issuance.

This amendment deletes satisfied License Condition 2.C.(3)(p) regarding the decay heat removal system suction bypass valves.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended, 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 licensees' filing dated January 11, 1979, (2) Amendment No. 29 to License No. NPF–3, 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 Ida Rupp Public Library, 310 Madison Street, Port Clinton, Ohio.

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 Licensing.

Dated at Bethesda, Maryland, this 11th day of August 1980.

For the Nuclear Regulatory Commission.

**Robert W. Reid,**

*Chief, Operating Reactors Branch No. 4, Division of Licensing.*

[FR Doc. 80–25867 Filed 8–22–80; 8:45 am]

BILLING CODE 7590–01–M

## OFFICE OF MANAGEMENT AND BUDGET

### Agency Forms Under Review

August 20, 1980.

#### Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

#### List of Forms Under Review

Every Monday and Thursday OMB published 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 forms;

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 and Questions**

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. 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 reviwer of your intent as early as possible.

The timing and format of this notice have been changed to make the publiciation 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 Managemeant and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503

**DEPARTMENT OF AGRICULTURE**

**Agency Clearance Officer—Richard J. Schrimper—447–6201**

*New Forms*

Economic, Statistics, and Cooperatives Service
Honey survey
Annually
Honey producers, 12,000 responses, 2,000 hours
Off. of Federal Statistical Policy & Standard, 673–7974

Food and Nutrition Service
Food stamp redemption certificate FNS 278,278–3, 4, & 5
Other (see SF–83)
Retail food stores and wholesale food concerns, 23,722,951 responses, 395,382 hours
Charles A. Ellett, 395–7340

Science and Education Administration
24 forms for conducting assessment of conduct of expanded food and nutrition education program in selected sites
Single time
EFNEP participants, 2,100 responses, 2,100 hours
Charles A. Ellett, 395–7340

*Reinstatements*

Food and Nutrition Service
Annual report of participation by Charitaele institutions
Semi-annually
State agencies responsible for USDA distribution, 56 responses, 56 hours
Charles A. Ellett, 395–7340

**DEPARTMENT OF COMMERCE**

**Agency Clearance Officer—Edward Michals—377–3627**

*New Forms*

Bureau of the Census
IRS income tax forms for sole proprietors, partnerships, and small corporations
IRS 1040,1065, & 1120S
Single time
Sole proprietors, partners, and small corporations, 10,000,000 responses, 83,333 hours
Off. of Federal Statistical Policy & Standard, 673–7974

National Bureau of Standards
Survey: NBS update
NBS–1159
Single time
Editors, reporters on select mailing list, 2,800 responses, 280 hours
William T. Adams, 395–4814

*Reinstatements*

Economic Development Administration
Current and projected permanent employee and payroll
Data
ED–612
Annually
Employers, 1,400 responses, 1,400 hours
William T. Adams, 395–4814

**DEPARTMENT OF ENERGY**

**Agency Clearance Officer—Diane W. Lique—633–8526**

*Revisions*

DOE Uniform Contractor Reporting System—Volume I
EIA–188
On occasion
DOE Contractors 213,706 responses, 1,695,330 hours
Jefferson B. Hill, 395–7340

Prime Supplier's Monthly Report
FIA–25
Monthly
Prime suppliers of petroleum products, 3,600 responses, 34,200 hours
Jefferson B. Hill, 395–7340

Weekly Refinery Report
EIA–161
Weekly
Petroleum refineries, 9,152 responses, 12,356 hours
Jefferson B. Hill, 395–7340

Weekly Bulk Terminal Stocks of Industrial Products
EIA–162
Weekly
Bulk Terminal operators, 4,316 responses, 15,106 hours
Jefferson B. Hill, 395–7340

Weekly Pipeline Stocks of Finished Products
EIA–163
Weekly
Pipeline operators products, 4,004 responses, 15,616 hours
Jefferson B. Hill, 395–7340

Weekly Import Report
EIA–165
Weekly
Petroleum importers, 2,860 responses, 8,008 hours
Jefferson B. Hill, 395–7340

Weekly Total Stocks of Crude Oil
EIA–164
Weekly
Crude oil refiners, 9,152 responses, 17,389 hours
Jefferson B. Hill, 395–7340

Survey of Surplus Natural Gas Supplies
ERA–400
Quarterly
Pipeline producers and distributors of natural gas, 1,200 responses, 100 hours
Jefferson B. Hill, 395–7340

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Agency Clearance Officer—Joseph J. Strnad—245–7488**

*New Forms*

Office of the Secretary
Data Form for Consumer Publications Bibliography
OS–15–80
Single time
State, county and city government consumer offices, 2,250 responses, 143 hours
Barbara F. Young, 395–6880

*Revisions*

Social Security Administration

Annual report of earnings
SA–777, 7770
Annually
Beneficiaries who had earnings during taxable year, 1,500,000 responses, 250,000 hours
Barbara F. Young, 395–6880

Social Security Administration
Application for parent's insurance benefits
SSA–7–F6
On occasion
Dependent parent of a deceased worker, 1,400 responses, 210 hours
Barbara F. Young, 395–6880

Social Security Administration
Application for child's insurance benefits
SSA–4–F6
On occasion
Comp. by or on behalf of child liv. wage earner ent. social security, 925,000 responses, 77,083 hours
Barbara F. Young, 395–6880

Social Security Administration
Statement of claimant or other person
SSA–795
On occasion
Claimant for benefits under titles II and XVI, 505,500 responses, 126,375 hours
Barbara F. Young, 395–6880

Social Security Administration
Application for mother's and father's insurance benefits
SSA–5–F6
On occasion
Spouses of deceased workers with children in their care, 180,000 responses, 27,000 hours
Barbara F. Young, 395–6880

Social Security Administration
Statement for redetermining continuing eligibility for SSI payments
SSA–8200–F4
Annually
Aged, blind and disabled SSI recipients, 1,533,000 responses, 766,500 hours
Barbara F. Young, 395–6880

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**Agency Clearance Officer—Robert G. Masarsky—755–5184**

*Revisions*

Policy development and research
Annual housing survey—SMSA sample group DD–1 questionnaire and control card
AHS–51, 52, 53, 54LA, 54L2, 54L(SP), and 56L
On occasion
Households in 15 SMSA's, 112,000 responses, 70,560 hours
Off. of Federal Statistical Policy & Standard, 673–7974

**OFFICE OF PERSONNEL MANAGEMENT**

**Agency Clearance Officer—John P. Weld—632–7737**

*Revisions*

Change form—Recognitions and agreements
OPM 913–B
On occasion
Federal agencies, 1,625 responses, 406 hours
Edward C. Springer 395–4814

**SMALL BUSINESS ADMINISTRATION**

**Agency Clearance Officer—John Anderson—653–6890**

*New Forms*

Client and field interviewer questionnaires
Single time
Small business clients, 300 Responses, 150 hours
Edward C. Springer, 395–4814

**VETERANS ADMINISTRATION**

**Agency Clearance Officer—R. C. Whitt—389–2146**

*Revisions*

VA application for home loan guaranty
26–1802A
On occasion
Lenders and veterans, 301,000 responses, 150,500 hours
Laverne V. Collins, 395–6880

*Reinstatements*

Comprehensive evaluation of health services
10–1465 A&B
On occasion
VA patients, 40,000 responses, 8,000 hours
Laverne V. Collins 395–6880

**C. Louis Kincannon,**

*Acting Deputy Assistant Director for Reports Management.*

[FR Doc. 80–25861 Filed 8–22–80; 8:45 am]

**BILLING CODE 3110–01–M**

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## Privacy Act; New Systems

The purpose of this notice it to give members of the public an opportunity to comment on Federal agency proposals to establish or alter personal data systems subject to the Privacy Act of 1974.

The Act states that "each agency shall provide adequate advance notice to Congress and the Office of Management and Budget of any proposal to establish or alter any system of records in order to permit an evaluation of the probable or potential effects on such proposal on the privacy and other personal or property rights of individuals * * *"

OMB policies implementing this provision require agencies to submit reports on proposed new or altered systems to Congress and OMB 60 days prior to the issuance of any data collection forms or instructions, 60 days before entering any personal information into the new or altered systems, or 60 days prior to the issuance of any requests for proposals for computer and communications systems or services to support such systems—whichever is earlier.

The following reports on new or altered systems were received by OMB between August 8, and August 15, 1980. Inquiries or comments on the proposed new systems or changes to existing systems should be directed to the designated agency point-of-contact and a copy of any written comments provided to OMB. The 60 day advance notice period begins on the report date indicated.

**Department of Defense**

*System Name:*

Uniformed Services University of the Health Sciences Personnel Files.

*Report Date:*

July 31, 1980.

*Point of Contact:*

Mr. William T. Cavaney, Executive Secretary, Defense Privacy Board, Pomponio Plaza Bldg., Room 818, 1735 North Lynn Street, Arlington, VA 22209.

*Summary:*

The Uniformed Services University of the Health Sciences proposes to fully automate a system of records which consists of the personnel files of the University. The system will be used for documenting the work experience of applicants and USUHS personnel and for notification of key personnel in case of emergency during non-working hours. Biographical data will be used for providing background information on University students to lecturers.

*System Name:*

Personal Property Program.

*Report Date:*

July 29, 1980.

*Point of Contact:*

Mr. William T. Cavaney, Executive Secretary, Defense Privacy Board, Pomponio Plaza Bldg., Room 818, 1735 North Lynn Street, Arlington, VA 22209.

*Summary:*

The Department of the Navy Proposes a new system of records to provide a record of personal property, shipping

and storage data and to facilitate accurate delivery and payment. The file contains individuals' applications for shipment and/or storage related shipping documents and records of payment, delivery and inspection of personal property.

**Department of Housing and Urban Development**

*System Name:*

HUD Child Care Center Files.

*Report Date:*

July 28, 1980.

*Point of Contract:*

Mr. William A. Medina, Assistant Secretary for Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

*Summary:*

The Department of Housing and Urban Development proposes to amend an existing system of records to more accurately reflect the categories of individuals covered by the system. The current published system description is written in such a way that only data on current enrollees appears to be contained in the system. The amendment is proposed to accurately identify the fact that information pertaining to applicants, current enrollees, and former enrollees is maintained. The HUD Child Care Center Files is a manual system of records consisting of applications both of perspective children and Center personnel; enrollment forms of the children; health records of children and staff; evaluation forms of children and staff; and progress and other pertinent data relating to current and former enrollees.

**Veterans Administration**

*Matching Program Report:*

Compensation/Pension and Education Match.

*Report Date:*

July 31, 1980.

*Point of Contact:*

Mr. Donald J. Nelson, Director, Risk Analysis (53), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420.

*Summary:*

The Veterans Administration pursuant to Section 5 of the Office of Management and Budget's Matching Guidelines proposes to conduct a matching program. The program will identify Federal Government employees who owe the Veterans Administration money from benefits overpaid, provided erroneously, or who have defaulted on education or home loans. The VA intends to match records on these individuals with the personnel records on Federal employees maintained by the Office of Personnel Management to identify those debtors who are also Federal employees. The objectives of the match are to eliminate from the pension rolls those Federal employees whose Federal salary makes them ineligible for the program; to reduce the amount of benefit overpayments and loan defaults by referring cases to the Federal employer agencies so that appropriate administrative action can be taken; to refer cases to the United States Attorneys or District Counsels for enforced collection where appropriate. The Veterans Administration estimates that potential recoveries will range from $1.2 million to $1.5 million versus $1,000 to $5,000 to acquire the data files needed to conduct the match.

**Brenda A. Mayberry,**

*Acting Budget and Management Officer.*

[FR Doc. 80-25828 Filed 8-22-80; 8:45 am]

BILLING CODE 3110-01-M

## POSTAL SERVICE

### Privacy Act of 1974; System of Records Modification

**AGENCY:** U.S. Postal Service.

**ACTION:** Advance notice of proposed changes to records system description.

**SUMMARY:** The primary purpose of this document is to provide notice of the Postal Service's proposal to automate leave usage records of those employees who participate in the Program for Alcoholic Recovery (PAR), USPS 120.140.

**DATE:** Comments must be received by September 24, 1980.

**ADDRESS:** Comments may be mailed to Records Officer, U.S. Postal Service, 475 L'Enfant Plaza, W., S.W., Washington, D.C. 20260, or delivered to Room 3321 at the above address between 8:15 a.m. and 4:45 p.m. Comments received may also be inspected at Room 3321 between 8:15 a.m. and 4:45 p.m.

**FOR FURTHER INFORMATION CONTACT:** Mr. A. Scott Hamel, (202) 245-4142.

**SUPPLEMENTARY INFORMATION:** The Postal Service is proposing to keep automated leave usage records on employees who participate in the Program for Alcoholic Recovery (PAR). This information would help individual PAR counselors track leave usage by program participants thereby aiding the counseling process. Also, it would provide the Postal Service with the ability to evaluate the success of the program in specific geographic areas.

Several security techniques would be implemented to protect the privacy of PAR participants: (a) personal identifiers within the system would be encoded; (b) minimal retention periods would be established for working documents; (c) the flow of the information between the field and the Postal Data Centers would be channeled through specific points; and (d) Postal Data Center personnel would not be included in any automated records.

It is important to note that counseling or medical information from PAR case files would not be automated. This proposed tracking and reporting system would merely extract leave hours from existing automated records, i.e., the Postal Service Payroll System which is already defined as a Privacy Act system of records.

**System Modification Due to Implementation of Automation**

The Postal Service proposes to extract and report leave usage information about PAR program participants from its payroll processing system (USPS 050.020). Reports would be distributed to PAR program personnel in order to improve the ability to assess the success of the PAR program. Accordingly, the Postal Service proposes to revise the affected records system, Personnel Records—Program for Alcoholic Recovery (PAR), USPS 120.140, as follows:

**USPS 120.140**

**SYSTEM NAME:**

Personnel Records—Program for Alcoholic Recovery (PAR), USPS 120.140.

**SYSTEM LOCATION:**

Change to read, "PAR offices, regional headquarters and Postal Data Centers."

**CATEGORIES OF INDIVIDUALS:**

Change to read, "USPS employees who volunteer for or are referred to the Program."

* * * * *

**STORAGE:**

Change to read: "Printed forms and paper files. Sick Leave and Leave Without Pay information is stored on computer media."

* * * * *

**SAFEGUARDS:**

Change to read: "These restricted files are maintained in locked file cabinets

with limited access to PAR personnel and in secured facilities. Automated records are protected through computer password security and encoding of personal identifiers."

**RETENTION AND DISPOSAL:**

Change to read: "1. Case card is destroyed six years following close of case file. 2. Correspondence and reports are destroyed three years (field) or ten years (Headquarters) after close of case file. 3. Historical case records card is destroyed six years after close of case file. 4. Case files are destroyed three years after recovery or one year after participant terminates enrollment. Paper records are destroyed by shredding and computer tape/disk records are destroyed by erasing."

* * * * *

**W. Allen Sanders,**

*Associate General Counsel, General Law and Administration.*

[FR Doc. 80-25790 Filed 8-22-80; 8:45 am]

BILLING CODE 7710-12-M

## SECURITIES AND EXCHANGE COMMISSION

**[Rel. No. 11310; 812-4701]**

### Bankers Life Co., and Bankers Life Co. Separate Account B; Application

August 19, 1980.

Notice is hereby given that Bankers Life Company ("Bankers Life"), a stock life insurance company organized under the laws of the state of Iowa and Bankers Life Company Separate Account B (the "Variable Account"), 711 High Street, Des Moines, IA 50307, a separate account of Bankers Life registered under the Investment Company Act of 1940 ("Act") as a unit investment trust (collectively "Applicants"), filed an application on July 10, 1980, pursuant to Section 6(c) of the Act for an order exempting Applicants from the provisions of Sections 22(e), 27(c)(1) and 27(d) of the Act to the extent necessary to permit compliance by Applicants with certain provisions of the Education Code of the State of Texas. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

The Variable Account was established by Bankers Life's Board of Directors pursuant to Iowa law for the purpose of investing contributions received under certain variable annuity contracts issued in conjunction with plans which may or may not qualify for special tax treatment under Section 403(b) of the Internal Revenue Code of 1954, as amended.

In 1967, the State of Texas directed the governing boards of all Texas institutions of higher education to make available to certain employees an Optional Retirement Program (the "Program"), codified as Subchapter G of Chapter 51 of the Texas Education Code. The statute provides as the funding media for the Program fixed or variable annuity contracts purchased from any insurance or annuity company qualified to do business in Texas. In 1973, the Texas legislature made two amendments in the Program legislation, which amendments became effective on June 14, 1973. The statutory definition of the Program was amended to provide that the benefits of such annuities are to be available only upon termination of employment in Texas public institutions of higher education, retirement, death or total disability of the participant. The other amendment added a new Section 51.358 to Subchapter G which also provides that the benefits of such annuities will be available only if the participant dies, terminates his employment due to total disability, accepts retirement, or terminates employment in the Texas public institutions of higher education.

Because of uncertainty regarding the effect of these amendments, the University of Texas System (the "System") requested the opinion of the Attorney General of Texas with respect to several questions concerning such amendments. The Attorney General rendered an opinion dated February 18, 1975, in response to the System's letter. The Attorney General interpreted Section 51.358 to prohibit provisions in a variable annuity contract issued in connection with the Program on or after June 14, 1973, which provide for making available the redemption value of such contract prior to the occurrence of one of the conditions specified in the statute, i.e., termination of employment, retirement, death or total disability. Moreover, the opinion further stated that the prohibitions of Section 51.358 were impliedly in effect upon the establishment of the Program (in 1967) and that notwithstanding any language which may be contained in existing contracts, a participant in the Program has never had the right to redeem his annuity contract otherwise than in accordance with the limitations described above. The opinion did not affect the right of a participant to transfer the redemption value of his annuity contract from one carrier to another; accordingly, the granting of the relief requested in the application would not affect such right.

*Sections 27(c)(1), 22(e), and 27(d)*

Section 27(c)(1) of the Act makes it unlawful for any registered investing company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless such certificate is a redeemable security. Section 2(a)(32) of the Act defines "redeemable security" to mean any security under the terms of which the holder upon its presentation to the issuer or to a person designated by the issuer is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof.

Section 22(e) of the Act provides that no registered investment company shall suspend the right of redemption or postpone the date of payment or satisfaction upon redemption of any redeemable security in accordance with its terms for more than seven days after the tender of such security to the company or its agent designated for that purpose for redemption except in certain prescribed circumstances.

Section 27(d) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless the certificate provides that the holder thereof may surrender the certificate at any time within the first eighteen months after the issuance of the certificate and receive in payment thereof, in cash, the sum of (1) the value of his account, and (2) an amount, from such underwriter or depositor, equal to that part of the excess paid for sales loading which is over 15 per centum of the gross payments made by the certificate holder.

Applicants request exemptions from the provisions of Sections 22(e), 27(c)(1) and 27(d) of the Act to the extent necessary to permit compliance with Section 51.358 as it pertains to redemption values under Contracts issued to participants in the Program subsequent to the date of such exemptive order.

Applicants assert that if such exemptions are not granted, persons participating in the Program effectively will be denied an opportunity to select as a funding medium for their retirement benefits one of two funding media (the other being fixed annuity contracts) specifically provided in the Texas statute for such purpose. Additionally, participants will be unable to obtain the state's matching contributions for the

purchase of an equity-based retirement vehicle. In this respect, the Attorney General's opinion indicated that these matching contributions will encourage participation in the retirement plan but that unrestricted withdrawals prior to retirement might be detrimental to an effective retirement vehicle. In view of the foregoing, Applicants assert that the Commission should grant the requested exemptions because: (1) the limited restriction on redemption would be voluntarily assumed by participants, i.e., eligible employees are not required to participate in the Program; (2) the restrictions were not formulated nor suggested by Applicants; and (3) participants' relinquishment of the full right of redemption is a reasonable requirement in exchange for the benefits bestowed by the matching contributions of the State of Texas.

Applicants will ensure that appropriate disclosure is made to persons who consider participation in the Program, informing them of the restriction on the availability of redemption values under Contracts to be issued to them. This disclosure will take the form of an appropriate reference in each prospectus to the restrictions on redemption of these Contracts, as well as requiring each participant, as a part of the determination that the sale of these Contracts is suitable for that participant, to sign a statement indicating that he/she is aware that these restrictions will be placed on his/her Contract when it is issued. In addition, Bankers Life will review all sales literature that is to be used in conjunction with the sales of these contracts for the existence of material representations that are inconsistent with the restrictions to be placed on these contracts and will instruct the salespeople involved in soliciting in this market specifically to bring this restriction to the attention of the potential participants.

Section 6(c) authorizes the Commission to exempt any person, security or transaction or any class or classes of persons, securities or transactions, from the provisions of the Act and Rules promulgated thereunder 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.

Notice Is Further Given that any interested person may, not later than September 15, 1980 at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following September 15, 1980, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**George A. Fitzsimmons,**

*Secretary.*

[FR Doc. 80–25744 Filed 8–22–80; 8:45 am]

BILLING CODE 8010–01–M

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**[Release No. 21679; 70–6348]**

## Georgia Power Co.; Application

August 15, 1980.

Notice is hereby given that Georgia Power Company ("Georgia"), 270 Peachtree Street, N.W., Atlanta, Georgia 30303, an electric utility subsidiary of The Southern Company, a registered holding company, has filed an application-declaration and amendments thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6 and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transaction.

Georgia proposes to issue and sell up to $125,000,000 aggregate principal amount of its First Mortgage Bonds having a term or not less than five nor more than 30 years ("new Bonds"), and to sell the same at competitive bidding for the best price obtainable but for a price to Georgia of not less than 98% nor more than 101¾% of the principle amount thereof, plus accured interest. The new Bonds will be issued under the Indenture dated as of March 1, 1941, between Georgia and Chemical Bank, as Trustee, as heretofore supplemented by various Indentures supplemental thereto, and as to be further supplemented by a Supplemental Indenture to be dated as of October 1, 1980.

It is difficult to determine, under present bond market conditions, whether it would be more advantageous to Georgia to sell the new Bonds having a 30-year or some shorter term. It is proposed, therefore, that Georgia decide on the term of the new Bonds after the date of the public invitation for proposals and then notify prospective bidders by telephone, confirmed in writing, of its decision, not less than 72 hours prior to the time of the bidding. For such reasons, it is also proposed that Georgia may designate a lesser aggregate principal amount of the new Bonds to be issued and sold than that previously specified in the public invitation for proposals, and that Georgia reserve the right in its discretion to designate a principal amount or term for the new Bonds different from that theretofore specified by notice to prospective bidders not less than 24 hours prior to the time of the bidding.

Georgia will provide that none of the new Bonds will be redeemed for a five year period commencing with the first day of the month of issuance at a regular redemption price if such redemption is for the purpose or in anticipation of refunding such new Bond through the use, directly or indirectly, of funds borrowed by Georgia at an effective interest cost to Georgia of less than the effective interest cost to Georgia of the new Bonds. Such limitation will not apply to redemption at a special redemption price by operation of the sinking or improvement fund or the maintenance and replacement provisions of the Indenture or by the use of proceeds of released property. Georgia also will convenant that it will not redeem any of th new Bonds, in any year prior to the fifth year after the issuance of the new Bonds, through the operation of the sinking or improvement fund provisions in a principal amount which would exceed the improvement fund requirement attributable to the new Bonds.

Georgia also proposes to issue up to $75,000,000 of Preferred Stock, without par value, but with a stated value of up to $100 per share ("new Preferred Stock"), and to sell such securities at

competitive bidding for the best price obtainable but for a price to Georgia of not less than 100% nor more than 102% of the stated value per share, which shall also be the public offering price per share. In addition, Georgia proposes to pay to the purchasers of the new Preferred Stock compensation for their services in pruchasing and making a public offering of such shares, which compensation shall be included as a part of the competitive bidding of the new Preferred Stock.

The terms of the new Preferred Stock will be established by amendment to the charter of Georgia. Georgia may also make provision for a cumulative sinking fund for the benefit of the new Preferred Stock which would retire not more than 5% annually of the number of shares initially issued, commencing five years or later after the sale, with the non-cumulative option on any sinking fund date, commencing five years or later after the sale, of redeeming an additional like number of shares. Georgia will provide that no share of the new Preferred Stock will be redeemed for a year period commencing with the first day of the month of issuance, if such redemption is for the purpose or in anticipation of refunding such share directly or indirectly through the incurring of debt, or through the issuance of stock ranking equally with or prior to the new Preferred Stock as to dividends or assets, if such debt has an effective interest cost to Georgia or such stock has an effective dividend cost to Georgia of less than the effective dividend cost to Georgia of the new Preferred Stock.

Georgia states that it may request that either sale be excepted from the competitive bidding requirements of Rule 50. Georgia proposes to use the proceeds from the sales of the new Bonds and the new Preferred Stock primarily for the repayment of outstanding short-term indebtedness, if any, and the payment of costs incurred in its on-going construction program, estimated for 1980 at $806.7 million.

Statement of the fees, commissions and expenses to be incurred in connection with each transaction will be filed by amendment. The proposed transactions are subject to the jurisdiction of the Georgia Public Service Commission. It is stated that no other state or federal regulatory authority, other than this commission, has jurisdiction over the proposed transactions.

Georgia states that any amendment to this application-declaration seeking authority to issue and sell the new Preferred Stock will be filed not less than ten business days prior to the proposed effective date of the supplemental order relating thereto. Georgia will concurrently serve a copy of any such amendment upon any person who had, not later than September 8, 1980, requested a hearing on or advice as to whether a hearing is ordered with respect to the new Preferred Stock. Any person so served may then, not less than five business days prior to the proposed effective date of the supplemental order, request a hearing on the terms and conditions of the proposed offering of new Preferred Stock.

Notice is further given that any interested person may, not later than September 8, 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 the filing 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 applicant-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 application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices 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. 80-25743 Filed 8-22-80; 8:45 am]

BILLING CODE 8010-01-M

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**[Release No. 11308; 811-1388]**

## Huyler's; Application

August 19, 1980.

Notice is hereby given that the Commission proposes, pursuant to Section 8(f) of the Investment Company Act of 1940 ("Act"), to declare by order on its own motion that Huyler's, c/o Barnes, Hickam, Pantzer & Boyd, 1313 Merchants Bank Building, Indianapolis, Indiana 46204 ("Fund"), registered under the Act as a closed-end, non-diversified, management investment company has ceased to be an investment company as defined in the Act.

Information contained in the files of the Commission indicates that the Fund was organized under the laws of the State of New York on June 6, 1881, and registered under the Act on May 5, 1966. Prior to becoming an investment company the Fund was engaged in the business of manufacturing and selling manifolds and other components for gas burners which operations were sold on January 3, 1963.

The Fund did not file a registration statement pursuant to the Securities Act of 1933 to make a public offering of shares of its capital stock. On January 31, 1970, the Fund was merged into Altamil Corporation, a Delaware manufacturing corporation. Prior to the merger the Fund filed an application for an order of the Commission pursuant to Section 17(b) of the Act exempting from the provisions of Section 17(a) of the Act the proposed merger of the Fund into Altamil Corporation. A notice of the filing of that application was issued on August 13, 1969 (Investment Company Act Release No. 5773), and an order pursuant to Section 17(b) of the Act exempting the proposed merger from the provisions of Section 17(a) of the Act was issued on September 9, 1969 (Investment Company Act Release No. 5809). By letter dated February 14, 1970, counsel for the Fund advised the Commission that the Fund had ceased to exist as a corporate entity. The Fund has not filed any of the periodic reports required by the Act since 1970. Thus, it appears that the Fund is not currently engaged in the business of an investment company.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company it shall so declare by order, which may be made upon appropriate conditions if necessary for the protection of investors, and upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any person may not later than September 15, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted,

or he may request that he be notified if the Commission 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 the Fund 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 matter 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 the Division of Investment Management, pursuant to delegated authority.

**George A. Fitzsimmons,**

*Secretary.*

[FR Doc. 80–25742 Filed 8–22–80; 8:45 am]

BILLING CODE 8010–01–M

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**[Release No. 17076; SR–MSE–80–12]**

## Midwest Stock Exchange, Inc.; Order Approving Proposed Rule Change

August 19, 1980.

On June 19, 1980, the Midwest Stock Exchange, Incorporated, 120 South LaSalle Street, Chicago, Illinois 60603, ("MSE") 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) ("Act") and Rule 19b–4 thereunder, copies of a proposed rule change which would assign to the MSE Committee on Specialist Assignment and Evaluation certain duties currently performed by the MSE Committee on Floor Procedure, regarding the examination, assignment, evaluation, and suspension of specialists.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by issuance of a Commission Release (Securities Exchange Act Release No. 16959, 20 SEC Docket 615 (July 22, 1980)) and by publication in the **Federal Register** (45 FR 47283 (July 14, 1980)). No comments were received with respect to the rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange 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. 80–25739 Filed 8–22–80; 8:45 am]

BILLING CODE 8010–01–M

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**[Release No. 17075; SR–MSE–80–11]**

## Midwest Stock Exchange, Inc.; Order Approving Proposed Rule Change

August 19, 1980.

On June 10, 1980, the Midwest Stock Exchange, Incorporated, 120 South LaSalle Street, Chicago, Illinois 60603, ("MSE") filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act") and Rule 19b–4 thereunder, copies of a proposed rule change deleting from its rules all references and rules pertaining to MSE's organization, operation and regulation of an options market, while retaining its rules applicable to the handling of orders and the conduct of accounts relating to options trading.[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. 34–16918, June 23, 1980) and by publication in the **Federal Register** (45 FR 45046, July 2, 1980). No comments were received regarding the proposed rule change.

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] An amendment which made certain technical changes to the original filing was filed with the Commission by the MSE on July 22, 1980.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

**George A. Fitzsimmons,**

*Secretary.*

[FR Doc. 80–25740 Filed 8–22–80; 8:45 am]

BILLING CODE 8010–01–M

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**[File No. 1–7719]**

## Southwest Florida Banks, Inc.; Application to Withdraw From Listing and Registration

August 18, 1980.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 (the "Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the specified securities from listing and registration on the American Stock Exchange ("Amex").

The reasons alleged in the application for withdrawing these securities from listing and registration include the following:

1. Southwest Florida Banks, Inc. (the "Company") is listed and registered on the Amex and, pursuant to a Registration Statement on Form 8–A which became effective on July 7, 1980, the New York Stock Exchange ("NYSE"). The Company has determined that the direct and indirect costs and expenses do not justify maintaining the dual listing of the common stock and the preferred stock on the Amex and the NYSE, and believes that dual listing would fragment the market for its stocks.

2. This application relates solely to withdrawal of the common stock and the preferred stock from listing and registration on the Amex and shall have no effect upon the continued listing of such stocks on the NYSE. The Amex has posed no objection to this matter.

Any interested person may, on or before September 9, 1980, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

**George A. Fitzsimmons,**

*Secretary.*

[FR Doc. 80-25741 Filed 8-22-80; 8:45 am]

BILLING CODE 8010-01-M

## SMALL BUSINESS ADMINISTRATION

**[Declaration of Disaster Loan Area No. 1886]**

### Illinois: Declaration of Disaster Loan Area

Franklin, Jackson, Randolph and Williamson Counties and adjacent counties within the State of Illinois constitute a disaster area as a result of damage caused by winds, heavy rains and hail which occurred on June 28, 1980 and July 2, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on February 2, 1981, and for economic injury until the close of business on May 1, 1981, at: Small Business Administration, District Office, 219 South Dearborn Street, Room 438, Chicago, Illinois 60604, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 1, 1980.

**A. Vernon Weaver,**

*Administrator.*

[FR Doc. 80-25760 Filed 8-22-80; 8:45 am]

BILLING CODE 8025-01-M

**[Declaration of Disaster Loan Area No. 1890]**

### Indiana; Declaration of Disaster Loan Area

Rush County and adjacent counties within the State of Indiana constitute a disaster area as a result of damage caused by tornado, heavy rains and high winds which occurred on July 9, 1980 through July 10, 1980. Eligible persons, firms, and organizations may file applications for loans for phsyical damage until the close of business on October 2, 1980, and for economic injury until the close of business on May 1, 1981, at: Small Business Administration District Office, New Federal Building, 5th Floor, 575 North Pennsylvania Street, Indianapolis, Indiana 46204, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 1, 1980.

**A. Vernon Weaver,**

*Administrator.*

[FR Doc. 80-25754 Filed 8-22-80; 8:45 am]

BILLING CODE 8025-01-M

**[Declaration of Disaster Loan Area No. 1888]**

### Indiana; Declaration of Disaster Loan Area

The area of 1400 Block of 119th Street, in the City of Whiting, Lake County, Indiana, constitutes a disaster area because of damage resulting from a fire which occurred on July 6, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on September 29, 1980, and for economic injury until the close of business on April 29, 1981, at: Small Business Administration, District Office, New Federal Building, 5th Floor, 575 North Pennsylvania Street, Indianapolis, Indiana 46204, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 29, 1980.

**A. Vernon Weaver,**

*Administrator.*

[FR Doc. 80-25755 Filed 8-22-80; 8:45 am]

BILLING CODE 8025-01-M

**[Declaration of Disaster Loan Area No. 1897]**

### Iowa; Declaration of Disaster Loan Area

The following 30 counties and adjacent counties within the State of Iowa constitute a disaster area as a result of natural disasters as indicated:

| County | Natural disaster | Date |
|---|---|---|
| 1. Adair | Excessive rainfall and flooding | 5/30/80, 6/2-7/80. |
| | Hailstorm and windstorm | 6/6-7/80 |
| 2. Audubon | Rainstorm, high winds and hail | 6/6/80. |
| 3. Cass | Windstorm, heavy rainfall and hailstorm | 6/6/80. |
| 4. Cerro Gordo | Hail | 5/29 and 6/18/80. |
| 5. Cherokee | Hailstorm | 6/7/80. |
| 6. Dallas | Heavy rains and hail | 5/28, 5/31, 6/1 and 6/6/80. |
| 7. Delaware | Hailstorm and excessive rainfall and high winds | 6/2/80. |
| 8. Grundy | Storm—rain and hail | 6/6/80. |
| 9. Dubuque | Heavy rains, hail and wind | 6/2/80. |
| 10. Hamilton | Winds and hail | 6/6/80. |
| 11. Hardin | Hailstorm | 6/6/80. |
| 12. Harrison | Hail | 6/6/80. |
| | Hail and heavy rains | 6/14 and 6/18/80. |
| 13. Humboldt | Hail, wind and rain | 6/6/80. |
| 14. Jackson | Heavy rain, hail and wind | 6/6/80. |
| 15. Jasper | Hailstorm | 6/18/80. |
| 16. Lucas | Excessive rainfall and hail | 6/1-6/21/80. |
| 17. Madison | Hailstorm | 6/6 and 6/7/80. |
| 18. Marion | Severe thunderstorms, high winds and hail | 6/6, 7, 13, 14, and 6/18/80. |
| 19. Mills | Storms, high wind, hail, heavy rain | 6/2, 15 and 6/18/80. |
| 20. Monona | Hail, heavy rain | 6/14 and 6/18/80. |
| 21. Page | Wind and hailstorm | 6/12/80. |
| 22. Polk | Hail | 6/18/80. |
| 23. Pottawattamie | Rain, heavy wind and hail | 6/14-6/15/80. |
| 24. Shelby | Wind, rainstorm, flooding, hail | 6/6/80. |
| 25. Story | Hailstorm | 6/18/80. |
| 26. Van Buren | Excessive hail and wind | 6/14/80. |
| 27. Wapello | Flood, hail and windstorm | 6/2-6/15/80. |
| 28. Warren | Hail, wind, rain, tornado | 6/14/80. |
| 29. Woodbury | Hail, heavy rain, high winds | 6/18/80. |
| 30. Wright | Hail, heavy rain, high wind | 6/6/80. |

Eligible persons, firms and organizations may file applications for physical damage until the close of business on February 9, 1981 and for economic injury until May 8, 1981, at: Small Business Administration, District Office, 210 Walnut Street, Room 749, Des Moines, Iowa 50309, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 8, 1980.

**A. Vernon Weaver,**

*Administrator.*

[FR Doc. 80-25762 Filed 8-22-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1896]

### Kentucky; Declaration of Disaster Loan Area

Mason County and adjacent counties within the State of Kentucky constitute a disaster area as a result of damage caused by an earthquake, which occurred on July 27, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 9, 1980, and for economic injury until the close of business on May 8, 1981, at: Small Business Administration, District Office, Federal Office Building—Room 188, 600 Federal Place, Louisville, Kentucky 40201, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 8, 1980.

**A. Vernon Weaver,**

*Administrator.*

[FR Doc. 80-25758 Filed 8-22-80; 8:45 am]

BILLING CODE 8025-01-M

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[Declaration of Disaster Loan Area No. 1898]

### Missouri; Declaration of Disaster Loan Area

Crawford, Jefferson, Miller, Maries and Washington Counties and adjacent Counties within the State of Missouri constitute a disaster area as a result of damage caused by wind and rain storm which occurred on July 2, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 10, 1980, and for economic injury until the close of business on May 11, 1981, at: Small Business Administration, District Office, Mercantile Tower—Suite 2500, One Mercantile Tower, St. Louis, Missouri 63101, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 11, 1980.

**A. Vernon Weaver,**

*Administrator.*

[FR Doc. 80-25759 Filed 8-22-80; 8:45 am]

BILLING CODE 8025-01-M

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[Declaration of Disaster Loan Area No. 1901]

### New York; Declaration of Disaster Loan Area

The area of 1611–1619 Westchester Avenue and 1203–1209 Morrison Avenue, in the City of New York, Bronx County, New York, constitutes a disaster area because of damage resulting from a fire which occurred on June 7, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 10, 1980, and for economic injury until the close of business on May 11, 1981, at: Small Business Administration, District Office, 26 Federal Plaza—Room 3100, New York, New York 10007, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 11, 1980.

**William H. Mauk, Jr.,**

*Acting Administrator.*

[FR Doc. 80-25763 Filed 8-22-80; 8:45 am]

BILLING CODE 8025-01-M

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[Declaration of Disaster Loan Area #1887]

### Ohio; Declaration of Disaster Loan Area

Pickaway County and adjacent counties within the State of Ohio constitute a disaster area as a result of damage caused by heavy rain, high wind and tornado which occurred on July 12, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on September 29, 1980, and for economic injury until the close of business on April 29, 1981; at: Small Business Administration, District Office, Federal Building—U.S. Court House, 85 Marconi Boulevard, Columbus, Ohio 43215, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 29, 1980.

**A. Vernon Weaver,**

*Administrator.*

[FR Doc. 80-25761 Filed 8-22-80; 8:45 am]

BILLING CODE 8025-01-M

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[Declaration of Disaster Loan Area No. 1892]

### Pennsylvania; Declaration of Disaster Loan Area

The area of 700 Block of Philadelphia Avenue, South side, between South 7th and 8th Street and North side of Gompus Avenue between South 7th and 8th Street, in the Town of Indiana, Indiana County, Pennsylvania, constitutes a disaster area because of damage resulting from a fire which occurred on June 27, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on September 29, 1980, and for economic injury until the close of business on April 30, 1981, at: Small Business Administration, District Office, 1000 Liberty Avenue, Pittsburgh, Pennsylvania 15222, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 31, 1980.,

**A. Vernon Weaver,**

*Administrator.*

[FR Doc. 80-25753 Filed 8-22-80; 8:45 am]

BILLING CODE 8025-01-M

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### Region VI Advisory Council Public Meeting

The Small Business Administration Region VI Advisory Council, located in the geographical area of Dallas, Texas, will hold a public meeting at 9:00 a.m., Tuesday, September 16, 1980, in the Board Room, National Bank of Commerce, 1525 Elm Street, Dallas, Texas, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For furher information, write or call Emly S. Atkinson, District Director, U.S. Small Business Administration, 1100 Commerce Street, Dallas, Texas 75242—(214) 767–0600.

Dated: August 18, 1980.

**Michael B. Kraft**

*Deputy Advocate for Advisory Councils.*

[FR Doc. 80-25756 Filed 8-22-80; 8:45 am]

BILLING CODE 8025-01-M

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[Declaration of Disaster Loan Area No. 1900]

### Texas; Declaration of Disaster Loan Area

The following 47 counties within the State of Texas constitute a disaster area as a result of natural disaster as indicated:

| County | Natural disaster(s) | Date(s) |
|---|---|---|
| Atascosa | Drought | 5/16/80–7/22/80' |
| Austin | Drought | 5/19/80–7/18/80. |
| Bastrop | Drought | 6/1/80–7/21/80. |
| Bexar | Drought | 10/1/79–6/22/80. |
| Cochran | Drought | 6/1/80–7/21/80 |
| | Hailstorm | 6/18/80 |
| | Windstorm | 6/1/80. |
| Coleman | Drought | 6/1/80–7/21/80. |
| Comanche | Drought | 6/1/80–7/21/80. |
| Concho | Drought | 6/1/80–7/22/80. |
| Delta | Drought | 4/1/80–7/22/80. |
| Eastland | Drought | 6/1/80–7/21/80. |
| Edwards | Drought | 6/1/80–7/21/80. |
| Ellis | Drought | 6/1/80–7/21/80. |
| Fort Bend | Drought | 4/15/80–7/21/80. |
| Freestone | Drought | 6/1/80–7/21/70. |
| Frio | Drought | 4/22/80–7/24/80. |
| Guadalupe | Drought | 10/1/79–7/22/80. |
| Hall | Drought | 6/1/80–7/21/80. |
| Hartley | Drought | 6/1/80–7/21/80. |
| Henderson | Drought | 6/1/80–7/22/80. |
| Hidalgo | Drought | 5/1/80–7/21/80. |
| Hill | Drought | 5/8/80–7/21/80 |
| | Hail | 4/24/80–5/16/80. |
| Jack | Drought | 6/1/80–7/21/80. |
| Kent | Drought | 6/1/80–7/18/80. |
| Knox | Drought | 6/1/80–7/22/80. |
| Lamb | Drought | 6/1/80–7/22/80. |
| Leon | Drought | 6/1/80–7/21/80. |
| Liberty | Drought | 6/1/80–7/23/80. |
| Live Oak | Drought | 7/1/79–7/18/80 |
| | Severe Freeze | 4/14/80. |
| Llano | Drought | 6/1/80–7/23/80. |
| Marion | Drought | 6/20/80–7/21/80. |
| Matagorda | Drought | 5/18/80–7/18/80. |
| McLennan | Drought | 5/1/80–7/22/80. |
| Medina | Drought | 4/21/80–7/22/80. |
| Menard | Drought | 6/1/80–7/21/80. |
| Mills | Drought | 6/1/80–7/22/80. |
| Nueces | Drought | 6/1/80–7/22/80. |
| Parker | Drought | 6/1/80–7/23/80. |
| Red River | Drought | 6/23/80–7/22/80. |
| San Saba | Drought | 6/1/80–7/21/80. |
| Scurry | Drought | 6/1/80–7/21/80. |
| Sterling | Drought | 8/1/79–7/11/80. |
| Stonewall | Drought | 9/1/79–7/21/80. |
| Tom Green | Drought | 6/1/80–7/25/80. |
| Travis | Drought | 5/15/80–7/21/80. |
| Uvalde | Drought | 3/22/80–7/22/80. |
| Van Zandt | Drought | 5/10/80–7/10/80. |
| Wharton | Drought | 6/1/80–7/21/80. |

Eligible persons, firms and organizations, may file applications for loans for physical damage until the close of business on February 12, 1981, and for economic injury until the close of business on May 12, 1981, at:

Small Business Administration, District Office, 1100 Commerce Street, Dallas, Texas 75242.

Small Business Administration, District Office, One Allen Center, Suite 705, 500 Dallas, Texas 77002.

Small Business Administration, District Office, 222 E Van Buren, Suite 500, Harlingen, Texas 78550.

Small Business Administration, District Office, 712 Federal Office Bldg. U.S. Courthouse, 1205 Texas Avenue, Lubbock, Texas 79401.

Small Business Administration, District Office, 727 East Durango, Room A513, Federal Building, San Antonio, Texas 78206; or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 12, 1980.

**William H. Mauk, Jr.,**

*Acting Administrator.*

[FR Doc. 80–25757 Filed 8–22–80; 8:45 am]

**BILLING CODE 8025–01–M**

**[Declaration of Disaster Loan Area No. 1894]**

## Wisconsin; Declaration of Disaster Loan Area

Chippewa, Clark, Dunn, Eau Claire, La Crosse, Marathon, Monroe, Pierce, St. Croix and Vernon Counties and adjacent counties within the State of Wisconsin constitute a disaster area as a result of damage caused by heavy rain, winds, lightning and tornadoes which occurred on June 5, 1980 through June 8, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 6, 1980, and for economic injury until the close of business on May 7, 1981, at: Small Business Administration, District Office, 212 East Washington Avenue—Room 213, Madison, Wisconsin 53703, or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: August 7, 1980.

**A. Vernon Weaver,**

*Administrator.*

[FR Doc. 80–25751 Filed 8–22–80; 8:45 am]

**BILLING CODE 8025–01–M**

**[Declaration of Disaster Loan Area No.189]**

## Wisconsin; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that Chippewa, Dunn, Eau Claire and Pierce and adjacent counties within the State of Wisconsin constitute a disaster area because of damage resulting from severe storms and flooding beginning on or about July 15, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on September 24, 1980, and for economic injury until close of business on April 24, 1981, at: Small Business Administration, District Office, Federal Building, Room 246, 517 East Wisconsin Avenue, Milwaukee, Wisconsin 53202, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 29, 1980.

**A. Vernon Weaver,**

*Administrator.*

[FR doc. 80–25752 filed 8–22–80; 8:45 am]

**BILLING CODE 8025–01–M**

**[License No. 04/04–0189]**

## Issuance of License; Kitty Hawk Capital Ltd.

On June 16, 1980, a Notice was published in the **Federal Register** (45 FR 40750), stating that Kitty Hawk Capital, Ltd., located at 2195 First Union Plaza, Charlotte, N.C. 28282, has filed an application with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1980) for a license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended.

Interested persons were given until the close of business July 26, 1980, to submit their written comments to SBA. No comments were received.

Notice is hereby given that having considered the application and other pertinent information the SBA has issued License No. 04/04–0189 to Kitty Hawk Capital Ltd.

(Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies)

Dated: August 20, 1980.

**Michael K. Casey,**

*Associate Administrator for Investment.*

[FR Doc. 80-25914 Filed 8-22-80; 8:45 am]

BILLING CODE 8025-01-M

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**[Proposed License No. 06/06-0239]**

### Mapleleaf 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 Section 107.102 of the Regulations governing small business investment companies (13 CFR Section 107.102 (1980)), under the name of Mapleleaf Capital Corporation, Suite 1207, 201 Wilcrest Drive, Houston, Texas 77042, 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 (the Act), (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and shareholders of the Applicant are as follows:

Edward Barton Scott, President, Treasurer, Director, Suite 1207, 201 Wilcrest Drive, Houston, Texas 77042.

Terry J. Coburn, Vice President, Director, 1043 Woodside Drive, Dollard des Ormeaux, Quebec.

Arthur A. Lane, Secretary, 190 Riverside Drive, New York, New York 10024.

Mapleleaf Management Ltd., c/o Eaton, Van Winkle & Greenspoon, 600 Third Avenue, New York, New York 10016. Investment Advisor, 100 percent of Class B Common Stock.

Michael Kourday, Director, 5 Ruxview Ct., #102, Ruxton, Maryland 21202.

W. Kennedy B. Middendorf, Director, Box 1700, Laurel Hollow, Syosset, New York 11791.

Air Canada as Trustee for Air Canada Pension Trust Fund, 28.6 percent of Class A Common Stock.

North American Life Assurance Company, 14.3 percent of Class A Common.

Northern Telecom Pension Trust Fund, 28.6 percent of Class A Common.

Pension Fund Society of the Royal Bank of Canada, 28.6 percent of Class A Common.

(Percentages of Class A shareholders have been rounded).

Mapleleaf Management Ltd. (MML) is the sole beneficial owner of the initial 87,500 shares of Class B Common Stock. MML has eight beneficial owners; the owners of 10 percent or more of the common stock of MML are:

Edward Barton Scott, Suite 1207, 201 Wilcrest Drive, Houston, Texas 77042, 51.0 percent.

Gordon D. Ewart, President, Frontier Petroleum Corp., 836 Fifth Avenue, SW., Calgary, Alberta, Canada T2P OM5, 25.1 percent.

John W. Hemmer, 230 Park Avenue, New York, New York 10017, 10.4 percent.

There will be two classes of stock authorized: 2.5 million shares of Class A Common and 625,000 shares of Class B Common. Initially 350,000 shares of Class A Common will be issued at ten dollars per share, and 87,500 shares of Class B Common at one cent per share, with a resultant paid-in capital and paid-in surplus of $3,500,875. Applicant proposes to conduct its operations principally in the State of Texas.

Matters involved in SBA's consideration of the application include the general business reputation and character of shareholders and management, and the probability of successful operation of the new company in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of publication of this notice, submit to SBA, in writing, comments on the proposed licensing of this company. Any such communications should be addressed to: Associate Administrator for 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 Houston, Texas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 20, 1980.

**Michael K. Casey,**

*Associate Administrator for Investment.*

[FR Doc. 80-25916 Filed 8-22-80; 8:45 am]

BILLING CODE 8025-01-M

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**[Declaration of Disaster Loan Area No. 1899]**

### Michigan; Declaration of Disaster Loan Area

Berrien, Calhoun, Jackson, Wayne and Washtenaw counties and adjacent counties within the State of Michigan constitute a disaster area as a result of damage caused by high wind and thunderstorms which occurred on July 16, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 14, 1980 and for economic injury until the close of business on May 13, 1981, at: Small Business Administration, District Office, 477 Michigan Avenue—McNamara Building, Room 515, Detroit, Michigan 48226

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 13, 1980.

**William H. Mauk Jr.,**

*Acting Administrator*

[FR Doc. 80-25918 Filed 8-22-80; 8:45 am]

BILLING CODE 8025-01-M

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**[Declaration of Disaster Loan Area No. 1859; Amdt. No. 2]**

### Montana; Declaration of Disaster Loan Area

The above declaration and amendment thereto (see 45 FR 42918 and 45 FR 49004) are hereby amended to include Missoula County and adjacent counties within the State of Montana, as a result of ash fallout from the eruption of Mount St. Helens on May 18 through May 21, 1980. All other information remains the same, i.e., the termination date for "other" physical damage is the close of business on August 18, 1980; for physical "crop losses" at the close of business on December 19, 1980; and for economic injury at the close of business on March 19, 1981.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 28, 1980.

**A. Vernon Weaver,**

*Administrator.*

[FR Doc. 80-25917 Filed 8-22-80; 8:45 am]

BILLING CODE 8025-1-M

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**[Declaration of Disaster Loan Area No. 1851; Amdt. No.1]**

### Nebraska; Declaration of Disaster Loan Area

The above numbered Declaration (See 45 FR 41560) is amended by extending the termination date for accepting physical disaster loan applications only for physical damage resulting from severe storms and tornadoes beginning on or about June 3, 1980, from close of business August 4, 1980, until the close of business September 3, 1980. All other information remains the same; i.e., the termination date for filing applications for economic injury until the close of business on March 4, 1981.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 7, 1980.

**A. Vernon Weaver,**

*Administrator.*

[FR Doc. 80-25920 Filed 8-22-80; 8:45 am]

BILLING CODE 8025-01-M

**[Declaration of Disaster Loan Area No. 1878); Amdt. 1]**

## Nebraska; Declaration of Disaster Loan Area

The above declaration (see 45 FR 51328) is hereby amended by adding the following six counties, as a result of natural disasters indicated:

| County | Natural disaster | Date |
|---|---|---|
| Butler | Hailstorms | 6/14 and 6/18/80. |
| Douglas | High winds, rain and hail. | 6/12 and 6/14/80. |
| Hall | Hail, wind and rain | 6/18/80. |
| Nance | Wind, hail | 6/14/80. |
| Perkins | Hail | 6/15, 16 and 6/18/80. |
| Scotts Bluff | Hail, heavy rains | 6/14/80. |

All other information remains the same, i.e., the termination date for filing applications for physical damage is the close on business of January 23, 1981, and for economic injury at the close of business on April 24, 1981, at: Small Business Administration, District Office, 19th and Farnum Streets, 2nd Floor, Omaha, Nebraska 68102, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Date: August 11, 1980.

**A. Vernon Weaver,**

*Administrator.*

[FR Doc. 80-25921 Filed 8-22-80; 8:45 am]

BILLING CODE 8025-01-M

**[Application No. 09/09-5265]**

## Pacific Capital Fund, Inc.; Application for a License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under Section 301(d) of the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C. 661 *et seq.*), has been filed by Pacific Capital Fund, Inc. (Applicant), with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1980).

The officers, directors and stockholders of the Applicant are as follows:

Victor H. Gallego, 3227 Adelaide Way, Belmont, California 94402, President, Director, General Manager, .994% Stockholder.

Oscar C. Ongpin, 1532 Tarrytown, San Mateo, CA 94401, Secretary, Chief Financial Officer, Director, .006% Stockholder.

Jose Y. Lunchengco, 8 Bowie Road, Rolling Hills, CA 90274, Assistant Secretary, Director.

Benedicto V. Yujuico, 69 Santiago Avenue, Atherton, CA 94025, Director, 50% Stockholder.

Teresita M. Yujuico, 69 Santiago Avenue, Atherton, CA 94025, Director, 49% Stockholder.

The Applicant, a California corporation, with its principal place of business at 500 Airport Boulevard, Suite 400, Burlingame, California 94010, will begin operations with $1,000,000 of paid-in capital and paid-in surplus derived from the sale of 100,600,000 shares of common stock.

The Applicant will conduct its activities primarily in the State of California.

Applicant intends to provide assistance to all qualified socially or economically disadvantaged small business concerns as the opportunity to profitably assist such concerns is presented.

As a small business investment company under Section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Act, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the Applicant under their management, including adequate profitability and financial soundness, in accordance with the Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this notice, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in the Burlingame, California area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

**Michael K. Casey,**

*Associate Administrator for Investment.*

August 20, 1980.

[FR Doc. 80-25915 Filed 8-22-80; 8:45 am]

BILLING CODE 8025-01-M

## Small Business Investment Company; Maximum Annual Cost of Money to Small Business Concerns

13 CFR 107.301(c) sets forth the SBA Regulation governing the maximum annual cost of money to small business concerns for Financing by small business investment companies.

Section 107.301(c)(2) requires that SBA publish from time to time in the Federal Register the current Federal Financing Bank (FFB) rate for use in computing the maximum annual cost of money pursuant to § 107.301(c)(1). It is anticipated that a rate notice will be published each month.

13 CFR 107.301(c) does not supercede or preempt any applicable law that imposes an interest ceiling lower than the ceiling imposed by that regulation. Attention is directed to new subsection 308(i) of the Small Business Investment Act, added by section 524 of P.L. 96-221, March 31, 1980 (94 Stat. 161), to that law's Federal override of State usury ceilings, and to its forfeiture and penalty provisions.

Effective September 1, 1980, and until further notice, the FFB rate to be used for purposes of computing the maximum cost of money pursuant to 13 CFR 107.301(c) is 11.255% per annum.

**Peter F. McNeish,**

*Deputy Associate Administrator for Investment.*

[FR Doc. 80-25922 Filed 8-22-80; 8:45 am]

BILLING CODE 8025-01-M

**[Declaration of Disaster Loan Area No. 1821; Amdt. 6]**

## Texas; Declaration of Disaster Loan Area

The above numbered Declaration (see 45 FR 29153), amendment #1 (see FR 37798), amendment #2 (see 45 FR 42106), amendment #3 (see 45 FR 42106), amendment #4 (see 45 FR 43919) and amendment #5 (see 45 FR 51329 are amended by adding the following:

| County | Natural disaster(s) | Date(s) |
|---|---|---|
| Swisher | Hailstorm, tornado and high winds. | 5/28/80. |
| Wheeler | Tornado and high winds. | 5/28/80. |

And adjacent counties within the State of Texas as a result of natural disaster as indicated. All other information remains the same; i.e., the termination date for filing applications for physical damage is close of business on October 22, 1980, and for economic injury until the close of business on January 22, 1981.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 13, 1980.

**William H. Mauk, Jr.,**

*Acting Administrator.*

[FR Doc. 80-25919 Filed 8-22-80; 8:45 am]

BILLING CODE 8025-01-M

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

**[Notice 80-8]**

### Senior Executive Service Performance Review Boards; Membership

**AGENCY:** Department of Transportation (DOT).

**ACTION:** Notice.

**SUMMARY:** DOT publishes the names of the persons selected to serve on the various Departmental Performance Review Boards established by DOT under the Civil Service Reform Act.

**FOR FURTHER INFORMATION CONTACT:** Robert S. Smith, Director, Office of Personnel and Training, and Executive Secretary, DOT Executive Resources Board, (202) 426-4088.

**SUPPLEMENTARY INFORMATION:** The Civil Service Reform Act of 1978 (CSRA), which created the Senior Executive Service, requires that each agency implement a performance appraisal system making senior executives accountable for organizational and individual goal accomplishment. As part of this system, CSRA requires each agency to establish one or more Performance Review Boards (PRB), the function of which is to review and evaluate the initial appraisal of a senior executive's performance by the supervisor and to make recommendations to the final rating authority relative to the performance of the senior executive.

The persons named below have been selected to serve on one or more Departmental PRB's.

Issued in Washington, D.C., on August 19, 1980.

**Robert L. Fairman,**

*Deputy Assistant Secretary for Administration.*

**Department of Transportation Senior Executive Service Performance Review Boards**

*Office of the Secretary*

Carl T. Horton, Special Assistant to the Secretary
Rosalind A. Knapp, Assistant General Counsel for Legislation
Neil R. Eisner, Assistant General Counsel for Regulation and Enforcement
Robert G. Prestemon, Director, Office of Programs and Evaluation
Walter R. Boehner, Director, Office of Budget
Karen S. Lee, Deputy Assistant Secretary for Administration
Raymond J. Sander, Director, Office of Management Planning
Robert H. Kessler, Director, Office of Financial Systems
Charles Swinburn, Deputy Assistant Secretary for Policy and International Affairs
Donald F. Mazziotti, Deputy Assistant Secretary for Policy and International Affairs
Donald R. Trilling, Deputy Director, Office of Intermodal Transportation
Voyce J. Mack, Deputy Director, Office of International Programs
Richard F. Walsh, Director, Office of Transportation Economic Analysis
Judith Stone, Director, Office of Consumer Liaison
Alfonso Linhares, Director, Office of Technology Sharing

*Office of the Inspector General*

Joseph A. Sickon, Assistant Inspector General for Auditing, Department of Housing and Urban Development
Wallace Busbee, Assistant Inspector General for Auditing Veterans Administration
Raymond F. Randolph, Assistant Inspector General for Auditing, Small Business Administration

*United States Coast Guard*

Thomas F. Garnett, Associate Director for Labor Relations, Office of Personnel and Training, Office of the Secretary
RADM James P. Stewart, Chief of Staff
RADM William H. Stewart, Chief, Office of Personnel
RADM Wayne E. Caldwell, Chief, Office of Marine Environment and Systems
RADM William P. Kozlovsky, Comptroller

*Federal Aviation Administration*

Robert J. Aaronson, Associate Administrator for Airports Programs
Albert P. Albrecht, Associate Administrator for Engineering and Development
Paul J. Baker, Director, Central Region
Wayne J. Barlow, Director, Great Lakes Region
Louis J. Cardinalli, Director, Southern Region
Benjamin Demps, Director, Aeronautical Center
Robert L. Faith, Director, Alaskan Region
Charles R. Foster, Director, Northwest Region
Walter S. Luffsey, Associate Administrator for Aviation Standards
John D. Mattson, Director, Western Region
Clark Onstad, Chief Counsel
Murray E. Smith, Director, Eastern Region
Arthur Varnado, Director, Rocky Mountain Region
Leon C. Watkins, Director, Office of Civil Rights
Charles E. Weithoner, Associate Administrator for Administration
Robert E. Whittington, Director, New England Region
B. Hughel Wilkins, Associate Administrator for Policy and International Aviation Affairs
Robert O. Ziegler, Director, Pacific-Asia Region

*Federal Highway Administration*

Lorenzo Casanova, Associate Administrator for Safety
Daniel Markoff, Associate Administrator for Administration
Richard D. Morgan, Associate Administrator for Engineering and Traffic Operations
R. Edward Quick, Director, Office of Civil Rights

Alternate Members:

Rex C. Leathers, Regional Administrator, Region 4
William H. Ravenel, Chief Counsel

*Federal Railroad Administration*

Robert E. Gallamore, Deputy Administrator
Raymond K. James, Chief Counsel
Steven R. Ditmeyer, Associate Administrator for Policy and Program Development
Frederick G. Bremer, Associate Administrator for Administration
William E. Loftus, Associate Administrator for Federal Assistance

*National Highway Traffic Safety Administration*

Michael Finkelstein, Associate Administrator for Rulemaking
Charles Livingston, Associate Administrator for Traffic Safety Programs
R. Rhoads Stephenson, Associate Administrator for Research and Development
Lynn L. Bradford, Associate Administrator for Enforcement
Barry Felrice, Associate Administrator for Plans and Programs
Dan L. Scott, Associate Administrator for Administration
Frank A. Berndt, Chief Counsel

*Urban Mass Transportation Administration*

Lillian C. Liburdi, Deputy Administrator
Harold B. Williams, Director, Office of Civil Rights
Margaret M. Ayres, Chief Counsel
Robert H. McManus, Associate Administrator for Planning, Management, and Demonstrations
Charles H. Graves, Director, Office of Planning Assistance

Alternate Member:

Charles Broxmeyer, Director, New Systems and Automation Division

*Research and Special Programs Administration*

Larry D. Nelson, Deputy Administrator
John D. Hodge, Associate Administrator for Policy, Plans, and Administration
Gregory T. Haugan, Director, Transportation Programs Bureau
Leon D. Santman, Director, Materials Transportation Bureau
William J. Driscoll, Chief Counsel.

[FR Doc. 80-25813 Filed 8-22-80; 8:45 am]
BILLING CODE 4910-62-M

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

### Color Television Receivers

The following letters of instruction concerning the implementation of orderly marketing agreements with Korea and Taiwan on color television receivers were sent from Ambassador Robert D. Hormats to Robert E. Chasen, Commissioner of Customs on August 15, 1980.

**C. Michael Hathaway,**
*Assistant General Counsel.*

August 15, 1980.

Mr. Robert E. Chasen,
Commissioner of Customs,
U.S. Customs Service,
1301 Constitution Avenue, NW.,
Washington, D.C. 20228.

Dear Commissioner Chasen: This letter further amends our previous letter to you dated July 2, 1980, concerning the operation of the new orderly marketing agreement with Korea on color television receivers as it effects TSUS(A) items 685.1125, .1126, .1127, .1128, .1129, .1135, .1144, .1455, .1456, .1458, .1460, and .1564.

Imports from Korea occurring during the period July 1, 1980, through September 28, 1980, which were exported prior to July 1, 1980, should be charged to the second restraint period, and in accordance with Headnote 6(f), Part 2, Appendix TSUS, and additional 50,000 sets will be added to the restraint level for the second restraint period (136,000 plus 50,000 equals 186,000). In the event an excess over this amount occurs, or if sets exported prior to July 1 are imported after September 28, 1980, those sets of a screen size in excess of 12 inches or incompelete sets with picture tubes should be charged to the third restraint period. Overages of sets of a screen size of 12 inches or less (TSUS(A) items 685.1125 and .1126), and incomplets sets (TSUS(A) item 685.1564) exported prior to July 1, 1980, and imported during the period from July 1, 1980, through September 28, 1980, should be charged to the second restraint period. Should any excess of these sets occur, they should be listed in reported statistics with a footnote stating: "Imports in excess of 186,000 sets are subject to consultations conducted by the United States Trade Representative."

This letter will be published in the **Federal Register.**

Sincerely,

Robert D. Hormats.

August 15, 1980.

Mr. Robert E. Chasen,
Commissioner of Customs,
U.S. Customs Service,
1301 Constitution Avenue, NW.,
Washington, D.C. 20228.

Dear Commissioner Chasen: This letter further amends our previous letter to you dated July 2, 1980, concerning the operation of the new orderly marketing agreement with Taiwan on color television receivers as it effects TSUS(A) items 685.1125, .1126, .1127, .1128, 1129, .1135, .1144, .1455, .1456, .1458, .1460, and .1564.

Imports from Taiwan occurring during the period July 1, 1980, through September 28, 1980, which were exported prior to July 1, should be charged to the second restraint period. In the event an excess occurs, or is sets exported prior to July 1 are imported after September 28, 1980, those sets of a screen size in excess of 12 inches or incomplete sets with picture tubes should be charged to the third restraint period. Sets of a screen size of 12 inches or less (TSUS(A) items 685.1125 and .1126), and incomplete sets (TSUS(A) item 685.1564) exported prior to July 1, 1980, and imported during the period from July 1, 1980, through September 28, 1980, should continue to be charged to the second restraint period and overages listed in reporting statistics with a footnote stating: "—— units imported on or after (the date the second period level is filled) are subject ot consultations conducted by the United States Trade Representative."

This letter will be published in the **Federal Register.**

Sincerely,

Robert D. Hormats.

[FR Doc. 80-25897 Filed 8-22-80 8:45 am]
BILLING CODE 3190-01-M

# Sunshine Act Meetings

Federal Register
Vol. 45, No. 166
Monday, August 25, 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).

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### 1

[FR 1532]

**FEDERAL ELECTION COMMISSION.**

**PREVIOUSLY ANNOUNCED DATE AND TIME:** August 21, 1980 at 10 a.m.

**PLACE:** 1325 K Street NW., Washington, D.C.

**CHANGES IN MEETING:** An Executive Session for the discussion of personnel matters will be held beginning at 9 a.m. preceding the open meeting.

**PERSON TO CONTACT FOR INFORMATION:** Mr. Fred Eiland, Public Information Officer; telephone: 202–523–4065.

**Marjorie W. Emmons,**

*Secretary to the Commission.*

[S–1587–80 Filed 8–20–80; 4:56 pm]

BILLING CODE 6715-01-M

### 2

**FEDERAL HOME LOAN BANK BOARD.**

**TIME AND DATE:** 9:30 a.m., August 28, 1980.

**PLACE:** 1700 G Street NW., sixth floor, Washington, D.C.

**STATUS:** Open.

**CONTACT PERSON FOR MORE INFORMATION:** Mr. Marshall (202–377–6677).

**MATTERS TO BE CONSIDERED:**

Application to Increase Accounts of an Insurable Type by Purchase of Branch Offices—Westdale S&LA, Los Angeles, California INTO Homestead S&LA San Francisco, California.
Limited Facility Application—First FS&LA of Newton, Newton, Kansas.
Service Corporation Application—Suburban FS&LA, Flossmoor, Illinois.
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Application for Bank Membership and Insurance of Accounts—Wawel FS&LA, Wallington, New Jersey.
Branch Office Applicaiton—Hollywood FS&LA, Hollywood, Florida.
Branch Office Application—Coral Gables FS&LA, Coral Gables, Florida.

No. 380, August 21, 1980.

[S–1592–80 Filed 8–21–80; 3:50 pm]

BILLING CODE 6720-01-M

### 3

**FEDERAL HOME LOAN BANK BOARD.**

**"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:** Vol. 45, FR 54935, August 18, 1980.

**PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING:** 9:30 a.m., August 21, 1980.

**PLACE:** 1700 G Street NW., board room, sixth floor, Washington, D.C.

**STATUS:** Open meeting.

**CONTACT PERSON FOR MORE INFORMATION:** Mr. Marshall (202–377–6677).

**CHANGES IN THE MEETING:** The following item has been added to the agenda for the open meeting:

Request for a Commitment to Insure Accounts—First Oklahoma Savings and Loan Association of Tulsa, Tulsa, Oklahoma.

Announcement is being made at the earliest practicable time.

No. 383, August 21, 1980.

[S–1589–80 Filed 8–21–80; 12:22 pm]

BILLING CODE 6720-01-M

### 4

**POSTAL RATE COMMISSION.**

**"FEDERAL REGISTER" CITATION FOR PREVIOUS ANNOUNCEMENT:** 45 FR 53941, August 13, 1980.

**PREVIOUSLY ANNOUNCED TIME AND DATE OF THE OPEN MEETING:** 11 a.m., Tuesday, August 19, 1980.

**CHANGE IN THE MEETING:** Rescheduled for 11:00 a.m., Tuesday, September 9, 1980.

**CONTACT PERSON FOR MORE INFORMATION:** David F. Harris, Secretary, Postal Rate Commission, 2000 L Street NW., suite 500, Washington, D.C. 20268, 202–254–3880.

[S–1588–80 Filed 8–21–80; 10:46 am]

BILLING CODE 7715-01-M

# Reader Aids

Federal Register

Vol. 45, No. 166

Monday, August 25, 1980

## INFORMATION AND ASSISTANCE

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

**Federal Register,** Daily Issue:

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| **202-783-3238** | Subscription orders and problems (GPO) |
| | "Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue): |
| **202-523-5022** | Washington, D.C. |
| **312-663-0884** | Chicago, Ill. |
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**Other Publications and Services:**

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| **523-5239** | TTY for the Deaf |
| **523-5230** | U.S. Government Manual |
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[1] **Note:** Between 45 FR 55433 and 55465, August 20, 1980, there were several pagination errors. Please refer to the cover of the issue for Thursday, August 21, 1980, for explanation.

## CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

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## AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

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

| Monday | Tuesday | Wednesday | Thursday | Friday |
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

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

## REMINDERS

### Rules Going Into Effect Today

**Note:** There were no items eligible for inclusion in the list of **Rules Going Into Effect Today.**

### List of Public Laws

**Note:** No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

**Last Listing August 14, 1980**

*Advance Orders are now Being Accepted for Delivery in About 6 Weeks*

# CODE OF FEDERAL REGULATIONS

## (Revised as of July 1, 1980)

| Quantity | Volume | Price | Amount |
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| _____ | Title 40—Protection of Environment (Parts 0 to 51) | $7.50 | $_____ |
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| _____ | Title 40—Protection of Environment (Part 425 to End) | 7.50 | _____ |
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*[A Cumulative checklist of CFR issuances for 1980 appears in the back of the first issue of the Federal Register each month in the Reader Aids section. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected).]*

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Interior/FWS: Importation, Exportation and Transportation of Wildlife; Final Rules

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federal register

Monday
August 25, 1980

Part II

# Department of Transportation

## Office of the Secretary

**Improving Government Regulations, Regulations Agenda and Review List; Semi-Annual Summary**

**DEPARTMENT OF TRANSPORTATION**

**Office of the Secretary**

**14 CFR Ch. I**

**23 CFR Chs. I and II**

**33 CFR Chs. I and IV**

**41 CFR Ch. 12**

**46 CFR Chs. I and III**

**49 CFR Chs. I–VI**

**[OST Docket No. 59; Notice 80–2]**

## Improving Government Regulations, Department Regulations Agenda and Review List; Semi-Annual Summary

**AGENCY:** Department of Transportation.

**ACTION:** Department Regulations Agenda and Review List.

**SUMMARY:** The Regulations Agenda is a semi-annual summary of each proposed and each final regulation that the Department of Transportation expects to publish in the **Federal Register** during the succeeding 12 months or such longer projected period as may be anticipated. The Regulations Review List is a semi-annual summary of the existing regulations that the Department of Transportation has selected for review and possible revocation or revision. The Agenda and the Review List provide the public with information about the Department of Transportation's regulatory activity. It is expected that this information will enable the public to be more aware of, and allow it to more effectively participate in, the Department's regulatory activity.

**ADDRESSES:** The mailing address for the initiating offices of the Department which appear in the Agenda and the Review List are 400 Seventh Street, SW., Washington, D.C. 20590, except for the Federal Aviation Administration and the St. Lawrence Seaway Development Corporation, which are located at 800 Independence Avenue, SW., Washington, D.C. 20591, *and the U.S. Coast Guard, which is located at 2100 Second Street, S.W., Washington, D.C. 20593.*

**FOR FURTHER INFORMATION CONTACT:**

### General

For further information on the Agenda or the Review List, in general, contact: Neil R. Eisner, Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590, 202–426–4723.

### Specific

For further information about any particular item on the Agenda or the Review List, contact the individual listed in the column headed "Contact" for that item.

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### Background

Improvement of government regulations has been a prime goal of the Carter Administration. There should be no more regulations than necessary, and those that are issued should be simpler, more comprehensible, and less burdensome. Regulations should not be issued without appropriate involvement of the public; once issued, they should be periodically reviewed and revised, as needed, to assure that they continue to meet the needs for which they originally were designed.

To help the Department of Transportation ("Department") achieve these goals, and in accordance with Executive Order 12044 ("Improving Government Regulations"; 43 FR 12661; March 24, 1978; *subsequently extended by Executive Order 12221; 45 FR 44249; July 1, 1980)* the Secretary of Transportation issued the Department's Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). The Policies and Procedures include a requirement that the Department prepare a semi-annual Department Regulations Agenda for publication in the **Federal Register.** The Agenda summarizes each proposed and each final regulation that the Department expects to publish in the **Federal Register** during the succeeding 12 months or such longer projected period as may be anticipated. The regulatory policies and procedures also include a requirement that the Department prepare a semi-annual list of existing regulations it has selected for review and possible revocation or revision for publication in the **Federal Register.**

The Agendas and Review Lists are based on reports submitted by the intitiating offices by the last working days of June and December each year. After these reports are consolidated for, and reviewed by, the Department Regulations Council, the Department's Regulations Agenda and Review List is prepared and published in the **Federal Register.** The Department's last Regulations Agenda and Review List was published in the **Federal Register** on February 28, 1980 (45 FR 13312). The next one is scheduled for publication in the **Federal Register** on February 26, 1981.

### Definitions

The Agenda and the Review List cover all rules and regulations of the Department, including those that establish conditions for financial assistance. The following definitions are provided for ease in understanding the information in this document.

(1) *Initiating office* means an operating administration or other organizational element within the Department, the head of which is authorized by law or delegation to issue regulations or to formulate regulations for issuance by the Secretary.

(2) *Significant regulation* means a regulation that is not an emergency regulation and that in the judgment of the head of the initiating office, or the Secretary, or the Deputy Secretary—

(a) Requires a Regulatory Analysis or is otherwise costly;

(b) Concerns a matter on which there is substantial public interest or controversy;

(c) Has a major impact on another operating administration or other parts of the Department or other Federal Agency;

(d) Has a substantial effect on State and local governments;

(e) Has a substantial impact on a major transportation safety problem;

(f) Initiates a substantial regulatory program or change in policy;

(g) Is substantially different from international requirements or standards; or

(h) Otherwise involves important Department policy.

(3) *Emergency regulation* means (a) a regulation that, in the judgment of the head of the initiating office, circumstances require to be issued without notice and opportunity for public comment or made effective in less than 30 days after publication in the **Federal Register.**

(b) Is governed by short-term statutory or judicial deadlines.

(4) *Nonsignificant regulation* means a regulation that, in the judgment of the head of the initiating office, is neither a significant nor an emergency regulation.

A Regulatory Analysis is required for each proposed regulation that—

(1) Will result in an annual effect on the economy of $100 million or more;

(2) Will result in a major effect on the general economy in terms of costs, consumer prices, or production;

(3) Will result in a major increase in costs or prices for individual industries, levels of government, or geographic regions;

(4) Will have a substantial impact on the United States balance of trade; or

(5) The Secretary or head of the initiating office determines deserves such an analysis.

**Explanation of Information on the Regulations Agenda**

The Regulations Agenda is divided by initiating offices. For each initiating office there is a subdivision for: (1) significant regulations, (2) nonsignificant regulations, and (3) routine and frequent nonsignificant regulations. For each proposed and final regulation expected to be published, the Agenda provides the following information: (1) a short descriptive title; (2) a summary; (3) the earliest expected date for a decision on whether to issue the proposed or final regulation; (4) a contact office official who can provide additional information, including advice on how to obtain documents referenced in the Agenda; and (5) the related regulatory citation in the Code of Federal Regulations. If final action has been taken on an item included on the previous semi-annual Agenda, that item is still contained in this Agenda and the final action is indicated under the "Summary" column of that item.

For a significant regulation, the summary includes: (1) a description of the proposed or final regulation; (2) a brief statement as to why it is considered significant; (3) *a listing of any analyses an initiating office will prepare or has prepared for the rulemaking document; e.g., a Regulatory Analysis or Evaluation, an Environmental Impact Statement (EIS) and an Urban Impact Analysis;* (4) a brief statement of why the regulation is needed; (5) the legal basis for the action being taken; (6) the past and anticipated chronology of the development of the regulation including any final action taken since the last semi-annual Agenda and (7) the related regulatory citation in the Code of Federal Regulations. It should be noted that, even though a Regulatory Analysis is not required for some items on the Agenda, either because the criteria are not met or because the regulatory project is covered by earlier regulatory requirements, the Department requires an economic analysis for all of its regulations. *This economic analysis is contained in the Regulatory Evaluation.*

For nonsignificant regulations issued routinely and frequently as part of an established body of technical requirements (such as the Federal Aviation Administration's Airspace Rules) to keep those requirements operationally current, only the general category of the regulations, the identity of a contact office or official, and an indication of the expected number of regulations are included; individual regulations are not listed.

If a regulatory docket number has already been established, it is contained in parentheses immediately following the short descriptive title of the regulation. If a member of the public desires further information regarding a particular proposal or regulation, reference should be made to this docket number. The Federal Highway Administration also provides an FHPM number at this point for easier reference by those who use the Federal-aid Highway Program Manual (FHPM). The numbers following the FHPM represent, respectively, the volume, chapter, section and subsection at which the material is located in the FHPM.

In the "Earliest Expected Decision Date" column, abbreviations are used to indicate the particular documents being considered for issuance by that date. ANPRM stands for Advance Notice of Proposed Rulemaking, NPRM for Notice of Proposed Rulemaking, and FR for Final Rule. Listing a date in this column is not an indication that a proposal or a final rule will be issued on that date; it is the earliest date on which a final decision is expected to be made on whether to issue the document listed. If any document is issued, publication in the **Federal Register** would follow within a few days. These dates are based on current schedules. Subsequently received information could result in a decision not to take regulatory action or in changes to proposed publication dates. For example, the need for further evaluation could result in a later publication date; evidence of a greater need for the regulation could result in an earlier publication date.

It should be noted that some of the items on the Agenda result from programs that were established to review existing regulations and revoke or revise those regulations that the initiating office determined were not achieving their intended purpose. Projects under regulatory development that resulted from a review of existing regulations to determine whether they should be revoked or revised are preceded by the word "**Review**" in the "Title" column. Because some reviews can be large-scale undertakings, and because there are already a number of these in the regulatory development process, the Department thought it would provide the public with valuable information if it indicated not only which regulatory reviews are under consideration but also which reviews have now reached the stage where proposed revisions are being, or have been, prepared. The number of regulatory projects that an initiating office can handle is limited by available resources. Therefore, the number of projects in the regulatory development stage limits the number of reviews that can be added.

**Explanation of Information on the Regulations Review List**

The Regulations Review List is divided by initiating offices. For each office, it provides the following information: (1) a short description of the existing regulations involved, including the related citation to the Code of Federal Regulations; (2) a brief description of the reasons for each selection; (3) a contact office or official who can provide additional information; and (4) the target date for completing the review and determining the corrective course of action to be taken. The action taken can be revocation or revision of the regulation, or it can be a determination that no regulatory action is necessary because the regulation is found to be achieving its goals and the goals and objectives of Executive Order 12044 and the Department of Regulatory Policies and Procedures. If final action has been taken on an item included on the previous semi-annual Review List, that item is still contained in this Review List and the final action is indicated under the "Reasons for Selection" column for that item.

**General**

To allow for easier use of the Agenda and for quick comparison with earlier Agendas, the Department has instituted the following additional procedures in the Agenda: (1) Items listed on the Agenda or Review List retain the same order in each semi-annual publication. (2) New items are added at the end of the appropriate portion of the Agenda or Review List and are identified by an asterisk on the left side of the "Title" when first added. (3) New substantive information added to items that were on

an earlier Agenda or Review List is printed in italics.

**Mailing Lists for Regulatory Documents**

To assist the public in obtaining regulatory documents issued within the Department of Transportation, an Appendix A has been included in this document. The appendix contains instructions on how to be placed on mailing lists for copies of regulatory documents, including the Department's Semi-Annual Regulations Agenda, issued by the operating administrations of the Department and the Office of the Secretary. There is no charge for this service; however, because of the costs involved, the number of copies of a document forwarded to an individual requestor may be limited. Persons already on mailing lists for particular documents within the Department will remain on those lists and should not reapply.

By following the instructions specified in the appendix, a person can be placed on a mailing list for future copies of the Department's Regulations Agenda, which will be updated and published in the **Federal Register** every year during August and February. By using the Agenda, individuals can determine which Notice or Advance Notice of Proposed Rulemaking, to be issued by elements of the Department, is of interest to them. Then, using the instructions in the appendix, such persons also can be placed on a mailing list to ensure that, after the document of interest is issued, a copy will be mailed to them for their review and comment. In this way, individuals will be relieved of the burden of having to review the **Federal Register**, perhaps on a daily basis. The Department expects that this process will ensure that those people placed on mailing lists will receive early notice so that their views on the document can be adequately prepared and presented within the established comment period.

**General Rulemaking Contact Persons**

To assist persons desiring to obtain general information concerning the rulemaking process within the Department's operating administrations, an Appendix B has been added to the Agenda. This Appendix sets forth the addresses and the telephone numbers of the persons who can respond quickly to requests for general rulemaking information. Please note, however, that questions related to particular rulemaking actions should still be referred to the contact person listed with the particular rulemaking on the Agenda.

**Public Rulemaking Dockets**

To facilitate the inspection of docket files and the submission of comments by the public, an Appendix C sets forth the addresses and working hours for the Rules Docket for each operating administration.

**Request for Comments**

*Agenda*

Our Agenda is intended primarily for the use of the public. In each of the six Agendas that we have issued, we have made modifications and refinements that we believe provide the public with more helpful information as well as make the Agenda easier to use. We have, for example, tried to give as many **Federal Register** and *Code of Federal Regulations* citations as possible so that the public can easily check source documents when they are needed for more information; we also have tried to maintain the same order in the list of the regulations in the Agenda, adding new items at the end and putting new information in italics so that it would be easier for the public to follow the development of a regulation from one Agenda to the next. We would now like to ask you, the public, to make suggestions or comments on how the Agenda could be further improved. For example, do you find the information presented in an easily understandable manner? Do you find it easy to follow a regulation's development from Agenda-to-Agenda? Do you find that the format for setting out the information enables you to use the Agenda easily? Do you find that the explanation of the information in the Agenda and the Review List is clearly explained in the preamble to the Agenda? Your responses to these questions or any other comments or suggestions you may have should be sent to Neil R. Eisner, whose address appears above.

*Reviews*

In an effort to comply further with the spirit of Executive Order 12044, we are also seeking suggestions on existing regulations that should be included on our Review List; that is, which existing regulations issued by an operating administration of the Department or the Office of the Secretary do you believe need to be reviewed to determine whether they should be revised or revoked? If you have any suggested regulations, please send them, along with your explanation of why they should be reviewed, to the concerned operating administration or the Office of the Secretary, at the appropriate address noted in the "Address" paragraph above.

*Innovative Regulatory Techniques*

*On June 13, 1980, President Carter asked each Federal agency with regulatory responsibilities to review their programs and find areas where innovative regulatory techniques can be applied. The President also asked that each agency expedite the development and implementation of flexible alternatives now under consideration. The Department of Transportation is now reviewing its regulations pursuant to the President's request and is searching for regulatory areas where the application of innovative regulatory techniques would be appropriate. The Department invites the assistance of the public in this search.*

*The particular techniques having shown promise that were noted by the President are 1) the creation of marketable rights; 2) the use of economic incentives; 3) the use of performance standards; 4) the use of market-oriented compliance measures; 5) the enhancement of competition; 6) the use of information disclosure; 7) the use of voluntary standards; and 8) the tailoring of standards to distinguish among categories of rergulated entities ("tiering"). More complete descriptions of these innovative techniques are set forth in Appendix D. The Department of Transportation is already using these techniques in many regulatory programs. However, the views of the public are solicited with respect to other regulatory programs where these techniques can be applied effectively to reduce the burdens on regulated entities or to reduce governmental costs. If you have any suggestions, please send them to the concerned operating administration or the Office of the Secretary, at the appropriate address noted in the "Address" paragraph above. Additional information on the innovative techniques program can be obtained by contacting the person listed in the "For Further Information Contact; General" paragraph above.*

**Purpose**

The Department is publishing this Regulations Agenda and Review List in the **Federal Register** to share with interested members of the public the Department's preliminary expectations regarding its future regulatory actions. This should enable the public to be more aware of the Department's regulatory activity. Knowledge of the nature and scope of this activity, as well as the specific proposals and reviews being considered, should result in more effective public participation in the Department's regulatory activity. For example, awareness of the dates when

notices may be issued seeking public comment should allow appropriate planning and more efficient use of the comment period. By providing the expected date for a decision on whether to issue a final rule, the Department expects that more appropriate planning by those concerned with the regulation will also be possible.

This publication in the **Federal Register** does not impose any binding obligation on the Department, or any of the offices within the Department, with regard to any specific item on the Agenda or the Review List. Regulatory action in addition to the items listed is not precluded.

If further information is desired on any of the items listed in the Agenda or the Review List, the public is encouraged to contact the individual listed for the particular item. Additional information concerning the Agenda or the Review List, in general, or the Department's Regulatory Policies and Procedures may be obtained from Neil R. Eisner, whose address and telephone number appear above.

Issued in Washington, D.C.

*Acting Secretary of Transportation.*

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

AGENDA

## OST — Office of the Secretary

Significant Regulations

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| Title VI Civil Rights Regulation | **A. Description:** The proposed regulations would assemble in one package all DOT procedures and requirements concerning all recipients of financial assistance under Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d–4).<br>**B. Why Significant:** Substantial public interest is anticipated and it will affect all of the DOT elements and the administration of all grant programs.<br>**C. Analysis:** Regulatory Evaluation<br>**D. Need:** The Department has an existing Title VI regulation dating from 1970, and a Title VI order promulgated by Secretary Coleman on Jan. 19, 1977, and reaffirmed by Secretary Adams in March of that year. A new regulatory package is being developed to replace the previous layering of regulations.<br>**E. Legal Basis:** 42 U.S.C. 2000d–4<br>**F. Chronology:** The proposal is currently under review. When the review is completed, *the proposed regulation* will be submitted to the Department of Justice for approval.<br>**G. Citation:** 49 CFR pt. 21 | Robert J. Coates, (202) 426–4754. | NPRM *November 1980.* |
| Minority Business Enterprise Program. | **A. Description:** This regulation would implement the requirements of DOT Order 4000.7A for DOT operating elements to take affirmative action to assure that minority business enterprises participate in Departmental procurement and financial assistance programs.<br>**B. Why Significant:** Substantial public interest is anticipated given the proposed action's potential impact on DOT's procurement and assistance programs.<br>**C. Analysis:** Regulatory Evaluation<br>**D. Need:** To implement the provisions of the DOT Order 4000.7A by providing detailed instructions for carrying out the affirmative action requirements of the Order. To implement the 1978 amendments to the Small Business Act.<br>**E. Legal Basis:** Executive Order 11625; Executive Order 12138; 49 U.S.C. 1730; 45 U.S.C. 803; P.L. 95–599; P.L. 95–507; 4 U.S.C. 471 et seq.; Title 23 of the U.S.C.; 23 U.S.C. 401 et seq.; Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).<br>**F. Chronology:** NPRM was published on May 17, 1979 (44 FR 28928). The comment period closed on July 16, 1979. *The Department published a final rule concerning its financial assistance programs on March 31, 1980 (45 FR 21172). A final rule covering DOT's direct procurement activities is expected to be issued in July 1980.*<br>**G. Citation:** 49 CFR Part 23 | Robert Ashby, (202) 426–4723. | *Action Completed. (financial assistance programs rule)*<br>*FR September 1980. (direct contracts rule)* |
| Financial Assistance to Participants in Rulemaking Proceedings (Docket No. 48). | **A. Description:** This proposal would permit, but not require, each agency of the Department to fund eligible members of the public for the reasonable and actual costs of preparing and presenting their views at selected agency rulemaking proceedings.<br>**B. Why Significant:** This issue concerns a matter on which there is substantial public interest and controversy and would have a significant impact on the operating administrations and the Office of the Secretary. | Sam Podberesky, (202) 426–4723. | Further action to be determined. |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

AGENDA

**OST** **Office of the Secretary**

Significant Regulations—Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| | **C. Analysis:** Regulatory Evaluation<br><br>**D. Need:** This rule would substantially increase the number of active, informed, and independent participants at many rulemaking proceedings within the Department, thereby increasing the diversity and balance of views presented to the Department, and enhancing the Department's knowledge of the interests likely to be affected by its proposed rules.<br><br>**E. Legal Authority:** The Department's rulemaking authority under the Department of Transportation Act, 49 U.S.C. 1651 *et seq.*, and related statutes.<br><br>**F. Chronology:** On Jan. 13, 1977, the Department published regulations for a one-year demonstration program to provide financial assistance to certain participants in rulemaking proceedings of NHTSA. (42 FR 2863). At the same time, the Department issued an ANPRM, inviting public comments on the feasibility, wisdom, and scope of a permanent Department-wide program of financial assistance. Upon conclusion of the demonstration program, NHTSA evaluated the program and recommended that the Department establish an amended version of the program throughout the Department. On March 16, 1978, the demonstration program in NHTSA was extended until the Secretary decided whether to issue final, permanent Departmental regulations (43 FR 10918). On January 23, 1979, the regulation governing the NHTSA financial assistance demonstration program was revised to improve its administration. The Department is not in a position at this time to proceed with the issuance of an NPRM in view of the action taken by Congress, on the Department's Fiscal Year 1980 appropriations, to eliminate funding for the demonstration program.<br><br>**G. Citation:** 49 CFR pt. 5 | | |
| Public Availability of Information | **A. Description:** This involves a revision of DOT's Freedom of Information Act regulations. Specific areas to be revised may include the fee schedule and the policy on waivers of fees for public interest groups and the press.<br><br>**B. Why Significant:** Substantial public interest<br><br>**C. Analysis:** Regulatory Evaluation<br><br>**D. Need:** Freedom of Information Regulations need periodic revision to keep current with changes in case law, policy, and implementation costs.<br><br>**E. Legal Basis:** 5 U.S.C. 552 (Freedom of Information Act)<br><br>**F. Chronology:** The regulations were last revised in 1975. (40 FR 7915) A new revision is currently under internal development.<br><br>**G. Citation:** 49 CFR pt. 7 | Rebecca Lima Dailey (202) 426-4542. | NPRM *September 1980.* |
| *Nondiscrimination on the Basis of Handicap. | **A. Description:** The Department is considering certain additions and changes to its rules forbidding discrimination against handicapped persons in DOT programs. This rulemaking package will consist of *two* parts: (1) an NPRM that would amend section 27.71 of the existing DOT section 504 rule, to clarify requirements pertaining to Federally-assisted airports; (2) an NPRM that would add a new section 27.77 to the 504 rule, to cover financial assistance programs of NHTSA. | Robert C. Ashby (202) 426-4723. | NPRM *September 1980.* |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

AGENDA

## OST — Office of the Secretary

### Significant Regulations—Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| | **B. Why Significant:** The section 504 rule is a controversial regulation affecting all parts of DOT as well as many providers and users of DOT-funded or operated programs. Additions and changes to the rule will be of considerable interest to the public.<br>**C. Analysis:** Regulatory Evaluation<br>**D. Need:** These regulatory actions would clarify and complete the FAA and NHTSA portion of the 504 rule.<br>**E. Legal Basis:** Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794).<br>**F. Chronology:** The Final Rule establishing the Department's section 504 regulations was published May 31, 1979 (44 FR 31442).<br>**G. Citation:** 49 CFR Part 27 | | |

## OST — Office of the Secretary

### Nonsignificant Regulations

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| Consolidation of Transportation Grants to U.S. Territories. | The regulation would comply with Title V of Pub. L. 95-134 which permits departments and agencies to consolidate grant programs, reduce reporting requirements, and waive local matching fund requirements. NPRM was published on 1/8/79 (44 FR 1765) (49 CFR pt. 29). | Greg Dahlberg, (202) 426-9605. | FR *September 1980.* |
| Maintenance of and Access to Records Pertaining to Individuals. | Revision of the Department's Privacy Act regulations. Notice of incorporation by reference published on 8/28/78. NPRM published 12/4/78 (43 FR 56682) (49 CFR pt.10). | John Windsor, (202) 426-1887. | FR *October 1980.* |
| Official Seal | Revision of regulations governing description and use of the Department's seal (49 CFR pt. 3). | Sam Podberesky, (202) 426-4723. | FR *November 1980.* |
| Rulemaking procedures | Amendments to the Office of the Secretary regulations on notice-and-comment rulemaking. (49 CFR pt. 5). | Sam Podberesky, (202) 426-4723. | *Further action to be determined.* |
| Nondiscrimination on the Basis of Age in DOT Financial Assistance Programs. | This regulation would prohibit age discrimination by recipients of DOT financial assistance programs. NPRM published on October 22, 1979 (44 FR 60946). | Leslie Baldwin, (202) 426-4388. | FR *August 1980.* |
| *Amendments to Department Organizational Manual. | These amendments would update the Department's Organizational Manual to reflect changes in the organizational structure, nomenclature, and delegation of the Department. | Jack Lusk, (202) 426-4723. | FR *August 1980.* |
| *Part-time Career Employment Program. | This regulation would convert certain full-time positions in the Department to permanent part-time positions, in accordance with the Federal Employees' Part-Time Career Employment Act of 1978. | Bill Parent, (202) 426-2164. | NPRM *August 1980.* |
| *Comments on Relocation of Standard Time Zone Boundary in the State of Alaska. | Comments are being requested on the Department's decision to move Juneau, Alaska, and parts of the surrounding area from the Pacific time zone to the Yukon time zone. NPRM was published on June 9, 1980 (45 FR 38423) (49 CFR 71). | Jack Lusk, (202) 426-4723. | FR *September 1980.* |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

AGENDA

**USCG** **U.S. Coast Guard**

Significant Regulations

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| **Review:** Qualifications of the Person in Charge of Oil Transfer Operations, Tankerman Requirements (Docket No. CGD 79-116 and 79-116a. | **A. Description:** Would redefine and establish qualifying criteria for certifying individuals engaged in the carriage and transfer of the various categories of dangerous cargoes in bulk.<br><br>**B. Why Significant:** Considered significant because this is the result of a Presidential initiative.<br><br>**C. Analysis:** Regulatory Evaluation, Environmental Impact Statement, Inflationary Impact Statement.<br><br>**D. Need:** Most pollution incidents are the result of personnel error; consequently the minimum qualifications of persons involved in handling pollution substances should be specified.<br><br>**E. Legal Basis:** 86 Stat. 427, as amended (46 U.S.C. 391a); Sec 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(n)(4).<br><br>**F. Chronology:** Environmental Analysis and Inflationary Impact Statement completed February, 1977. NPRM published April 25, 1977 (42 FR 21190). Public hearing June, 1977. Extensive comments were received on this NPRM and it was withdrawn on April 30, 1979. A revised NPRM is being prepared.<br><br>**G. Citation:** 33 CFR pt. 155; 46 CFR pts. 12, 13, 30, 31, 35, 70, 90, 98, 105, 151, 153, and 157. | CDR Hess, (202) 426-2251. | NPRM *August 1980.* |
| **Review:** *Proposed Design Standards for Tank Barges* (Docket No. CGD 75-083). Upgrade Existing Tank Barge Construction (Docket No. CGD 75-083a). | **A. Description:** This action would comprise two regulatory projects centered on tank barge construction standards which resulted from Presidential initiatives of March 17, 1977, directing study of the tank barge pollution problem. One project will address new barge construction while the other will pertain to existing barges.<br><br>**B. Why Significant:** Considered significant due to substantial Congressional and public interest.<br><br>**C. Analysis:** Regulatory Analysis, Environmental Impact Statement.<br><br>**D. Need:** Increased public awareness of the oil pollution problem, as well as international and domestic interest in this area have made increased design standards necessary as a means of reducing the possibility of pollution.<br><br>**E. Legal Basis:** Sec. 201, 86 Stat 427, as amended (46 U.S.C. 391a).<br><br>**F. Chronology:** The upgrade of tank barge construction standards was published as a NPRM in the ***Federal Register*** of December 24, 1971 (36 FR 24960). As a result of the 63 written comments received, it was decided that the standards needed to be studied further, especially as they would apply to existing barges.<br><br>In 1974, the Coast Guard and the Maritime Administration performed a joint study of the tank barge pollution problem which found that certain construction techniques might provide a significant advantage for eliminating oil pollution from tank barges. However, the study had several weaknesses and regulatory action was not taken. | LCDR Johnson, (202) 426-4431;. LCDR Rock, (202) 426-2183. | Notice of future actions the Coast Guard intends to take *March, 1981.* |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

AGENDA

**USCG** **U.S. Coast Guard**

Significant Regulations—Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| | In July 1977, the Coast Guard began a reexamination of the tank barge construction standards. It was determined that new construction should be treated separately from existing barges. An ANPRM concerning impacts related to existing barges was published on June 14, 1979 (44 FR 34440). A NPRM on the standards for new construction was published on June 14, 1979 (44 FR 34440). Public hearings were held on August 2, 1979 (Washington, D.C.), August 15, 1979 (Seattle); August 23, 1979 (New Orleans); September 5, 1979 (Washington, D.C.); and September 7, 1979 (St. Louis). Comment period ended September 30, 1979. The comment period was extended to December 1, 1979. The decision date is scheduled for April, 1980. *Supplemental Notice published March 13, 1980 (45 FR 16438). National Academy of Sciences (NAS) study will be conducted February 15, 1980, through January 31, 1981. Rulemaking has been deferred until completion of the NAS study.* | | |
| | **G. Citation:** 46 CFR pts. 32–40 | | |
| **Review:** Pollution Prevention, Vessels and Oil Transfer Facilities (Docket No. CGD 75–124a). | **A. Description:** Would reduce accidental or intentional discharge of oil or oily wastes during vessel operations. | *Lt. B. Balch,* (202) 426–9578. | NPRM *September 1980.* |
| | **B. Why significant:** This regulation is the significant part of Docket No. CGD 75–124. Substantive changes to the NPRM are proposed so that a supplemental NPRM is needed. It is considered significant due to opposition from the owners/operators of offshore marine service vessels and inland waterways vessels to the oil-water separator requirements of 33 CFR 155.330. Also, considerable expense may be incurred by the towing service to install separators and monitors or alarms, if alternative measures are not used. Without these sections, the remainder of CGD 75–124 is non-significant and *was published as a final rule on January 31, 1980 (45 FR 7156).* | | |
| | **C. Analysis:** Regulatory Evaluation | | |
| | **D. Need:** (1) Necessity to reduce the number of oil spills. (2) Clarification of existing rules. (3) Additional requirement for oil-water separators under the 1973 International Convention for the Prevention of Pollution from Ships. | | |
| | **E. Legal Basis:** Section 311(i)(1) (C) and (D) of the Federal Water Pollution Control Act, as amended; 33 U.S.C. 1321(i)(1) (C) and (D). | | |
| | **F. Chronology:** NPRM published June 27, 1977 (42 FR 32670). Supplemental NPRM published October 27, 1977 (42 FR 56625). Public Hearings held: New Orleans, LA. 11/22/77, St. Louis, MO. 11/30/77, Wash., D.C., 11/28/77. | | |
| | **G. Citation:** 33 CFR 155.330 thru 155.410 | | |
| Segregated Ballast For Oil Tankers (Docket No. CGD 77–058). | **A. Description:** On March 17, 1977 President Carter directed the Secretary of Transportation to issue new rules for oil tanker standards which were to include segregated ballast on all tankers and double bottoms on all new tankers which call at American ports. The provisions of these proposed regulations have been changed by the February 1978 Intergovernmental Maritime consultative Organization (IMCO) Conference to include Crude Oil Washing (COW) and Clean Ballast Tanks (CBT). | Mr. J. Angelo, (202) 426–4431 CDR Ireland, (202) 426–2167. | *Action complete.* |
| | **B. Why Significant:** This rulemaking is considered significant because of substantial Congressional and public interest. | | |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

AGENDA

**USCG** **U.S. Coast Guard**

Significant Regulations—Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| | **C. Analysis:** Regulatory Analysis, Environmental Impact Statement.<br><br>**D. Need:** As part of the President's initiatives to reduce accidental pollution and operational oil pollution resulting from normal tanker operations.<br><br>**E. Legal Basis:** R.S. 4417(a) as amended by section 5, P.L. 95-474, (46 U.S.C. 391a).<br><br>**F. Chronology:** NPRM was published May 16, 1977 (42 FR 24868). As a result of the IMCO 2/78 Tanker and Pollution Prevention Conference a new NPRM was issued. This rulemaking was also mandated by the Port and Tanker Safety Act of 1978. NPRM published February 12, 1979 (44 FR 8984). Hearings were held on March 21, 1979 in Washington, D.C., and March 28, 1979 in San Francisco. Interim Final Rule published November 19, 1979 (44 FR 66502). *Final Rule published June 30, 1980 (45 FR 43705).*<br><br>**G. Citation:** 33 CFR pt. 157 | | |
| **Review:** Construction and Equipment; Existing Self-Propelled Vessels Carrying Bulk Liquefied Gases (Docket No. 77-069). | **A. Description:** Would amend regulations for existing self-propelled vessels that carry bulk liquefied gases by including the substantive requirements for the "Code for Existing Ships Carrying Liquefied Gases in Bulk" adopted by Intergovernmental Maritime Consultative Organization (IMCO) which would increase safety levels of existing ships carrying gas.<br><br>**B. Why Significant:** This is significant because it involves a large number of existing U.S. and foreign flag ships which carry liquefied gas and is the subject of substantial public interest.<br><br>**C. Analysis:** Regulatory Analysis<br><br>**D. Need:** Increased use of liquefied gases has intensified the problems associated with this product. Since this product has unique properties and dangers, a dedicated set of regulations is needed to address them.<br><br>**E. Legal Basis:** R.S. 4417(a) as amended by section 5, P.L. 95-474, (46 U.S.C. 391a): See 6(d)(1), 80 Stat 937 (49 U.S.C. 1655(b)(1)). This rulemaking is also mandated by the Port and Tanker Safety Act of 1978..<br><br>**F. Chronology:** An Advance Notice of Proposed Rulemaking was published June 30, 1977 (42 FR 33353). This action is also mandated by the Port and Tanker Safety Act of 1978. Recent events have created a need for additional information. We intend to publish an additional ANPRM.<br><br>**G. Citation:** 46 CFR pts. 31, 34, 38, 40, 54, 98, 154 | LCDR Pluta, (202) 426-2160. | ANPRM September 1980. |
| **Review:** Licensing of Pilots (Docket No. CGD 77-084). | **A. Description:** This proposal would require recency of service for each route upon which a pilot is authorized to serve; licenses would be issued with tonnage limitations commensurate with pilot experience; and consideration of shiphandling simulator training for pilots of very large vessels including Very Large Crude Carriers (VLCC).<br><br>**B. Why Significant:** Considered significant because there is substantial interest among marine personnel on this matter with opposition expected from Federal pilots.<br><br>**C. Analysis:** Regulatory Evaluation | CDR Norman, (202) 426-2240. | NPRM August 1980. |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

AGENDA

**USCG** **U.S. Coast Guard**

Significant Regulations—Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| | **D. Need:** Increased ship size has led to unusual handling characteristics with which some pilots may not be familiar. This rule will allow use of simulator training for these kinds of vessels.<br>**E. Legal Basis:** 46 U.S.C. 214, 224, 230, 233, 237; 49 U.S.C. 1655(b)(1).<br>**F. Chronology:** A Regulatory Analysis and Work Plan were completed 10/78. A public hearing will probably be held shortly after the publication of the NPRM.<br>**G. Citation:** 46 CFR pt. 10 | | |
| Tank Vessel Operations Regulations, Puget Sound (Docket No. CGD 78–041). | **A. Description:** This regulation would govern the operation of tank vessels in the Puget Sound area to protect against environmental harm resulting from vessel or structure damage, destruction, or loss.<br>**B. Why Significant:** This is considered a significant rulemaking due to Congressional and public interest. In addition it may generate controversy among the public, environmentalists, and the oil industry.<br>**C. Analysis:** Regulatory Evaluation, Environmental Impact Statement.<br>**D. Need:** To reduce the possibility of environmental harm resulting from oil spills in Puget Sound by governing the operation of tankers to reduce the risk of collision or grounding.<br>**E. Legal Basis:** Port and Waterways Safety Act (33 U.S.C. 1221).<br>**F. Chronology:** Secretary Adams signed 180 day Interim Rule on March 14, 1978 prohibiting entry of oil tankers in excess of 125,000 Deadweight Tons in Puget Sound March 23, 1978 (43 FR 12257). ANPRM published March 27, 1978 (43 FR 12840) with public hearing held April 20–21, 1978. NPRM published April 12, 1979 (44 FR 21974). Public hearings were held in Washington State on June 11–14 1979. The interim navigation rule will remain in effect until cancelled (44 FR 36174). *The Puget Sound rulemaking has been broken into three parts: 78–041 Tank Vessel Operations, 78–041a Puget Sound VTS Service Area, and 78–041B, Puget Sound VTS General Rules. 78–041b, the General Rules, were published as a final rule on July 21, 1980 (45 FR 48822). The Puget Sound VTS Service Area portion (041a) was reclassified as nonsignificant and future issues of the agenda will list it in the nonsignificant section. A supplemental notice on the new nonsignificant portion was published on July 21, 1980 (45 FR 48826). The Tank Vessel Operations (041) portion remains significant. A supplemental NPRM announcing tanker/tug risk analysis tests was published on July 21, 1980 (45 FR 48827).*<br>**G. Citation:** 33 CFR pts. 160, 161 | *Mr. Ziegfeld, (202) 755–6146.* | *FR December 1981.* |
| Personnel Safety and Health Requirements for Industrial Vessels. (Docket No. CGD 80–15). | **A. Description:** This regulation would develop health and safety requirements for Industrial vessels. *(This regulation has been reclassified as a nonsignificant regulation. It is now listed in the nonsignificant portion of this Agenda.).* | LT Cashman, (202) 471–5150. | *NPRM December 1980.* |
| Personnel Job Safety Requirements for Fixed Installations on the Outer Continental Shelf (Docket CGD 79–077). | **A. Description:** This regulation would develop personnel safety and health requirements for artificial island, fixed installations and other devices on the Outer Continental Shelf (OCS). *(This regulation has been reclassified as a nonsignificant regulation. It is now listed in the nonsignificant portion of this Agenda.).* | LT Cashman (202) 472–5160. | *NPRM December 1980.* |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

AGENDA

**USCG**

## U.S. Coast Guard

Significant Regulations—Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| Revision of 46 CFR 157.20-5, Division into Three Watch Regulation (Docket No. CGD 78-037). | **A. Description:** This revision would require an adjustment in vessel manning requirements, to bring them into line with current legislation. It would change the requirements which identify personnel who must be used on the three watches and personnel who may be employed in a day working status.<br>**B. Why Significant:** Involves a matter that is of significant interest to the public. Also, opposition is anticipated from the maritime labor unions.<br>**C. Analysis:** Regulatory Evaluation.<br>**D. Need:** The regulations in this section no longer reflect present CG policy and need updating.<br>**E. Legal Basis:** R. S. 4463, as amended (46 U.S.C. 222); Section 2 of the Seamen's Act of 1915, as amended (49 Statute 1933; 46 U.S.C. 673).<br>**F. Chronology:** Prepared Work Plan 5/78. Legislative action affecting this regulation is anticipated in Congress. Pending the outcome of this action, work on this regulation has been suspended.<br>**G. Citation:** 46 CFR 157.20-5 | CDR McCowen (202) 426-2240. | *Withdrawn.* |
| Drawbridge Operation Regulations—Newark Bay and Passaic and Hackensack Rivers, New Jersey (Docket No. CGD 78-173). | **A. Description:** Would amend the regulations to provide more equitable balance between the needs of land and marine modes of transportation in scheduling drawbridge openings and generally update the regulations.<br>**B. Why Significant:** Involves coordination with other agencies within DOT and is a matter of significant public interest.<br>**C. Analysis:** Regulatory Evaluation.<br>**D. Need:** Increased use of rail, road, and water transportation in this heavily industrialized and heavily populated area, mariners' complaints of long delays before bridge openings, and a general need to update existing regulations.<br>**E. Legal Basis:** Sec. 5, 28 Stat. 362, 33 U.S.C. 499; 80 Stat. 937, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5).<br>**F. Chronology:** A fact-finding public hearing was held November 17, 1977 to provide the basis for formulating the proposed rule. *NPRM published February 28, 1980 (45 FR 16203). Public hearings were held in Newark, N.J. and Rutherford, N.J. on April 23, 1980.*<br>**G. Citation:** 33 CFR 117.200 | Mr. F. Teuton, (202) 426-0942. | *FR September 1980.* |
| **Review:** Eight-Hour Day, Voluntary Overtime (Docket No. CGD 78-146). | **A. Description:** Under 46 CFR 157.20-10, no licensed officer or seaman should be required to be on duty more than eight hours in any one day except in extraordinary conditions. The regulations do not address overtime and do not consider any possible "fatigue factor.".<br>**B. Why Significant:** Involves a matter that is of public interest. In addition, opposition may be forthcoming from maritime labor unions, or management, or both.<br>**C. Analysis:** Regulatory Evaluation | CDR McCowen, (202) 426-2240. | *Withdrawn.* |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

AGENDA

**USCG** **U.S. Coast Guard**

Significant Regulations—Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| | **D. Need:** In recent years Coast Guard studies have shown that a "fatigue factor" must be recognized as having a profound effect on one's reaction time, judgment, and well being.<br>**E. Legal Basis:** Section 2 of Seaman Act of 1915, as amended. (49 Stat. 1933; 46 USC 673).<br>**F. Chronology:** Prepared Work Plan 1/79. Submission to OST May 1979. *Withdrawn March 6, 1980.*<br>**G. Citation:** 46 CFR 157.20-10 | | |

**USCG** **U.S. Coast Guard**

Nonsignificant Regulations [1]

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| Vessel Traffic Service (VTS), Berwick, Bay, La, (Docket 73-186). | Would codify certain operating procedures now being done under local order. (33 CFR pt. 161). | LTJG Molessa, (202) 426-4958. | NPRM *August 1980.* |
| **Review:** Cargo Location Signs and Cargo Information Cards on Barges (Docket No. CGD 73-243). | Requires notification to the vessel's crew of the hazards and locations of dangerous cargoes carried on barges. NPRM published March 29, 1979 (44 FR 18709) Supplemental NPRM published June 7, 1979. Comment period extended to June 29, 1979. *FR published March 20, 1980 (45 FR 17999).* (46 CFR pt. 35). | Mr. R. Query, (202) 426-1217. | *Action complete.* |
| VTS Houston-Galveston, Texas (Docket No. CGD 74-029). | Would make mandatory a now voluntary vessel traffic service. (33 CFR pt. 161). | LTJG Molessa, (202) 426-4958. | NPRM *August 1980.* |
| **Review:** Revision of Electrical Regulations (Docket No. CGD 74-125). | Would generally revise and update the electrical regulations to conform with latest technology and to include steering requirements for vessels other than tank vessels. This project was downgraded from significant. Supplemental NPRM published March 3, 1980 (45 FR 13982). | LCDR Mowery, (202) 426-2206. | *FR October 1980.* |
| *Pilot Ladders and Powered Pilot Hoists* (Docket No. CGD 74-140). | Would establish new regulations for pilot hoists and revise regulations for pilot ladders and chain ladders. NPRM published July 23, 1979. (44 FR 43016). Publication of FR deferred pending evaluation of comments. (46 CFR pts. 160, 163). | Mr. R. Markle, (202) 426-1445. | FR *September* 1980. |
| **Review:** Fixed Fire Extinguishing Systems on Uninspected Vessels (Docket No. CGD 74-284). | Would establish standards for the construction and installation of Halon 1301 and other fixed fire extinguishing systems as optional systems for compliance with existing regulations. (46 CFR 162.029). | Mr. K. Wahle, (202) 426-1444. | NPRM *August* 1980. |
| Elevators and Dumbwaiters (Docket No. CGD 75-001). | Would adopt the 1978 American National Standards Institute (ANSI) code with certain modifications for vessel construction. NPRM published April 5, 1976 (41 FR 14386). (46 CFR pt. 58). | Mr. B. Jackson, (202) 426-2206. | FR *November* 1980. |
| **Review:** Compatibility of Bulk Liquid Cargoes (Docket No. CGD 75-059). | Would establish cargo loading standards to prevent the intermingling of cargo likely to create dangerous conditions. (46 CFR pt. 150) *NPRM published March 27, 1980 (45 FR 30132).* | Mr. R. Query, (202) 426-1217. | *FR September 1980.* |
| VTS New Orleans (Docket No. CGD 75-112). | If approved, would have made voluntary system mandatory. Rulemaking discontinued pending a special study. *Notice of withdrawal published February 11, 1980 (45 FR 9011).* | LTJG Molessa, (202) 426-4958. | Withdrawn. |

[1] For this Agenda, the Coast Guard nonsignificant regulations have been reorganized. They are now in numerical order by docket number. Docket numbers will now be assigned in a manner that will permit this numerical order to be retained while new regulatory projects are still listed at the end of the agenda.

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

AGENDA

**USCG** **U.S. Coast Guard**

Nonsignificant Regulations —Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| **Review:** Ocean Operator (Docket No. CGD 75-178). | Proposed licensing requirements for rank of ocean operator. NPRM published March 14, 1977 (42 FR 13844). *This has been* withdrawn pending legislative activity. (46 CFR pts. 157 and 186). | CDR McGowen, (202) 426-2240. | *Withdrawn.* |
| Opening signals for Drawbridges (Docket No. 75-237). | If approved, would establish uniform signals for opening drawbridges. *NPRM published June 1980 (45 FR 43226)* (33 CFR pt. 117). | Mr. Teuton, (202) 426-1380. | *FR November 1980.* |
| **Review:** Advance Notice of Arrival (Docket No. CGD 75-238). | Would require advance notice to Captain of the Port (COTP) of vessel arrivals, departures and hazardous conditions. NPRM published June 15, 1978 (43 FR 25958). Public hearing held October 12, 1978 in Washington, D.C., and October 20, 1978 in Houston, Texas. Interim Final rules published November 5, 1979 (44 FR 63672). (33 CFR pt. 161). | LT *Allen,* (202) 426-1927. | FR *September 1980.* |
| **Review:** Stability Standards for Towing and Offshore Vessel Hull Forms (Docket No. CGD 76-018). | Would establish intact stability standards for both towing and free-route modes of subject vessels. ANPRM published April 12, 1976 (41 FR 15349). (46 CFR pt. 42). | Mr. F. Perrini, (202) 426-2187. | NPRM *August* 1980. |
| Exposure Suits on Great Lakes Vessels (Docket No. CGD 76-033a). | Specification and vessel requirements for low-temperature exposure suits. NPRM published June 8, 1978 (43 FR 25000). *FR published April 10, 1980 (45 FR 24471).* (46 CFR pts. 33, 35, 71, 75, 78, 91, 94, 97, 99, 160, 189, 192). | Mr. R. Markle, (202) 426-1445. | *Action complete.* |
| **Review:** Subdivision and Stability of Passenger Vessels (Docket No. CGD 76-053). | Proposes more flexible regulations by allowing alternate compliance with Intergovernmental Maritime Consultative Organization as an alternative to existing requirements. (46 CFR pts. 73, 74). | Mr. J. Howell, (202) 426-2187. | NPRM *August 1980.* |
| Pilotage Requirements (Docket No. CGD 76-060). | Would clearly delineate when and in what areas pilots are required. (46 CFR 157.20-40). | CDR McCowan, (202) 426-2240. | NPRM *December* 1980. |
| **Review:** Stability Standards for Hopper Dredges (Docket No. CGD 76-080). | Would improve capability of a dredge to withstand flooding caused by damage to hull or interior piping. NPRM published December 10, 1979 (44 FR 70791). (46 CFR pt. 93). | Mr. D. Ewing (202) 426-2187. | FR August 1980. |
| Cargo Monitors on Tank Vessels (Docket No. CGD 76-088b). | Proposed requirements for installation and use of cargo monitors. NPRM published June 27, 1977 (42 FR 32684). (33 CFR pt. 157). | LT Cool, (202) 426-2168. | *Supplemental NPRM October 1980.* |
| **Review:** Deepwater Port Safety Zone Regulations (Docket No. CGD 76-096). | Would establish regulations for safety zones at U.S. Deepwater Ports. *NPRM published February 14, 1980 (45 FR 10172).* (33 CFR pt. 150). | Mr. F. Martin, (202) 472-5052. | *FR September 1980.* |
| **Review:** Casualty Reporting (Docket No. CGD 76-170). | Would update the regulation by changing the monetary and other damage criteria. As a result of numerous comments a revised NPRM was published. NPRM published October 19, 1978 (43 CFR 48982). Correction published October 23, 1978 (43 FR 49316). NPRM published December 3, 1979 (44 FR 69308). (46 CFR 4.05). | CDR Blomquist, (202) 426-1455. | *FR August 1980.* |
| **Review:** Radar Observer Endorsement for Personnel (Docket No. CGD 76-193a). | Would require specialized training in use of radar equipment. This will be a supplemental notice based on a document published earlier. (48 CFR Pt. 10). | CDR Hess, (202) 426-2251. | NPRM *August 1980.* |
| **Review:** Shipboard Fumigation Standards (Docket No. CGD 76-206). | Proposed operational requirements for fumigation procedures on vessels. (46 CFR pt. 147a). | LT Norris, (202) 426-1577. | NPRM *August 1980.* |
| **Review:** Exemption for Cargo Vessels in Alaska Serving Remote Villages (Docket No. CGD 76-223). | Would allow special uses for specific vessels serving in the Alaskan Trade. (46 CFR pts. 6, 30, 42, 43, 70, 90, and 151; 33 CFR pt. 1). | LTJG Murray, (202) 426-2190. | *FR October 1980.* |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

AGENDA

**USCG** **U.S. Coast Guard**

Nonsignificant Regulations —Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| Requirement to Stop to Permit Boarding (Docket No. CGD 76-232). | Would require boat operators to stop when ordered to do so by CG Boarding Officer. (33 CFR pt. 177). | *Mr. R. Dewees,* (202) 426-4176. | NPRM September 1980. |
| **Review:** Marine Safety Investigations (Docket No. CGD 77-018). | Would implement investigation authority under Ports and Waterways Safety Act. NPRM published January 25, 1979 (44 FR 5368). (33 CFR pt. 168). | LT Allen, (202) 426-1927. | FR *September 1980.* |
| Damage Stability, Subchapter "O" Barges (Docket No. CGD 77-027). | Would apply damage stability requirements for chemical vessels to ocean chemical barges. (46 CFR 151.10-10). | Mr. F. Perrini, (202) 426-2187. | NPRM *October 1980.* |
| Ocean Dumping Surveillance Equipment Requirements, (new Part) (Docket No. CGD 77-029). | Would establish equipment requirements to conduct surveillance to prevent unlawful dumping of material into ocean waters. NPRM published December 13, 1979 (44 FR 72188). (33 CFR pt. 158). | LCDR Voyik, (202) 755-7938. | *FR September 1980.* |
| **Review:** Suspension & Revocation Proceedings—Consolidation of Regulations (Docket No. CGD 77-037). | Would combine disparate regulations to clarify the appeal process. *No substantive changes will be made.* (46 CFR pts. 1,5). | LT McDaniel, (202) 426-9776. | *FR September 1980.* |
| **Review:** Designation of Oceanographic Vessels (Docket No. CGD 77-081). | Would *establish standard procedures for designating oceanographic research vessels and allow their exemption from certain manning requirements.* (46 CFR pt. 188). | CDR McCowen, (202) 426-*2240.* | NPRM *August 1980.* |
| Vessel Traffic Service (VTS) New York, N.Y. (Docket No. CGD 77-087). | Establishes regulations for vessel traffic service in New York Harbor. NPRM published February 16, 1978 (43 FR 6906). Final Rule published August 2, 1979 (44 FR 45381). Effective date suspended indefinitely September 24, 1979 (45 FR 50005) (44 FR 2133). (33 CFR pt. 161). | Mr. F. Schwer, (202) 426-4958. | Rule published, effective date pending equipment installation. |
| Requirement for First Purchaser List Kept by Boat Dealers (Docket No. CGD 77-115). | Would require boat dealers to assist in creating a list of retail purchasers so manufacturers could send notice to alert of safety defects. (33 CFR pt. 179). | Mr. Ellison, (202) 426-1065. | NPRM *September 1980.* |
| **Review:** Waterfront Facilities (Docket No. CGD 77-128. | Would revise waterfront facility regulations by consolidating and updating general regulations. ANPRM published April 10, 1978 (43 FR 15108). (33 CFR pts. 126-32). | LT Allen, (202) 426-1927. | NPRM *August 1980.* |
| **Review:** Amendments to Alternative Compliance (Docket No. CGD 77-136). | Would provide editorial improvement and clarification of existing regulations. (33 CFR pt. 87). | Mr. T. Foley, (202) 426-4958. | *NPRM September 1980.* |
| **Review:** Miscellaneous Changes to *46 CFR 56.* (Docket No. CGD 77-140). | Would update Title 46, Subchapter F—Marine Engineering. (46 CFR pt. 56). | LCDR Jenkins, (202) 426-2160. | NPRM *October 1980.* |
| **Review:** Acceptance of American Society of Mechanical Engineers (ASME) "U" or "UM" *Pressure* vessels (Docket No. CGD 77-147). | Would accept pressure vessels bearing the ASME "U" or "UM" stamp without U.S. Coast Guard inspection. (46 CFR pt. 54). | Mr. H. Hime, (202) 426-2160. | NPRM *December* 1980. |
| **Review:** Amendments to Customs Regulations for Boats (Docket No. CGD 77-157). | Would amend the Joint Coast Guard Customs regulations for imported boats. Minor revision to improve administration of the regulations. NPRM completed and forwarded to U.S. Customs Service. (19 CFR pt. 12). | *LT Newman,* (202) 426-1065. | NPRM *September 1980.* |
| Damage Stability Standards for Great Lakes Vessels (Docket No. CGD 77-162). | Would establish subdivision and stability standards for commercial vessels operating on the Great Lakes. | Mr. Howell, (202) 426-2187. | ANPRM August 1980. |
| **Review:** Establishment of Second-Class Ocean Operator (Docket No. CGD 77-176). | Would establish qualification for a second operator on small passenger vessels required to have more than one Ocean Operator on Board. NPRM published March 23, 1978 (43 FR 12218). This project has been suspended pending current legislative activity. (46 CFR pts. 157,186 and 187). | CDR McCowen, (202) 426-2240. | Further action to be determined. |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

AGENDA

**USCG** **U.S. Coast Guard**

Nonsignificant Regulations —Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| **Review:** Amendment to Navigation Safety Regulations (Docket No. CGD 77-183). | Would relax some navigation requirements for Great Lakes and provide editorial corrections. NPRM published September 4, 1979 (44 FR 51620). *FR published March 24, 1980 (45 FR 18924).* (33 CFR pt. 164). | Mr. T. Foley, (202) 426-2240. | *Action complete.* |
| *Revision of Navigation Safety Regulations (Docket No. CGD 77-196).* | *This docket was previously titled "Designation of Confined or Congested Waters." 33 CFR Part 164 is being revised. This revision would amend existing navigation safety regulations and incorporate changes in electronic position fixing devices and electronic relative motion analyzers, delete references to confined or congested waters, and resolve certain other ambiguities. (33 CFR Pt. 164).* | *Mr. L. Stephey, (202) 426-4958.* | *NPRM October 1980.* |
| Lifesaving Systems for Great Lakes Vessels (Docket No. CGD 77-202). | Would amend regulations for lifeboats and other equipment to improve chances of personnel survival following abandonment of vessel. This project has been redocketed and will apear in future agendas under the number CGD 77-202. Re-docketed from No. CGD 75-033. (46 CFR Subchapters D, H, I, T, and Q). | Mr. R. Markle, (202) 426-1445. | NPRM *January 1981.* |
| **Review:** Second Class Operator for Towing Vessels (Docket No. CGD 77-204). | Would allow for able seaman service on ocean going vessels to be credited toward second class towboat license. NPRM published May 25, 1978. This proposal has been suspended pending current legislative activity (43 FR 22653). (46 CFR pt. 10). | CDR Norman, (202) 426-2240. | Further action to be determined. |
| **Review:** Halon 1301 Fire Extinguishing Systems for Merchant Vessels (Docket No. CGD 77-232). | Would allow Halon 1301 for specific types of installations. (46 CFR 164.035). | Mr. R. Eberly, (202) 426-2197. | NPRM *September 1980.* |
| Navigation Lights for Small Vessels (Docket No. CGD 77-233). | Would specify approval procedures and installation requirements for International Rules navigation lights for small vessels. NPRM published September 7, 1978 (43 FR 39946). (33 CFR pt. 89). | Mr. L. Gray, (202) 426-4027. | *Supplemental NPRM August 1980.* |
| **Review:** Safety Orientation for Passenger Vessels (Docket No. CGD 78-009). | Alerts passengers to locations and use of safety devices. NPRM published June 29, 1978 (43 FR 28426). *FR published February 19, 1980 (45 FR 11108).* (46 CFR pts. 26 and 185). | LCDR Rock, (202) 426-2183. | *Action complete.* |
| Officers On Uninspected Vessels (Docket No. CGD 78-027). | The amendement would clarify 46 CFR 157.30-10 regarding the number of deck officers and engineers to be on board uninspected vessels. | CMDR McCowen (202) 426-2240. | NPRM *November* 1980. |
| Hazardous Substances, Pollution Prevention for Vessels and Marine Transfer Facilities (Docket No. CGD 78-032). | Would establish regulations for pollution prevention for hazardous substances for vessels and marine transfer facilities. (33 CFR pts. 154, 155 and 156). | *S. Mojonnier, (202) 426-9578.* | ANPRM *October 1980.* |
| Substitute Licenses/Merchant Documents in Suspension Marine Cases (Docket No. CGD 78-033). | Would allow the issuance of a substitute license/Merchant Marine Document pending the outcome of a hearing. | LT McDaniel, (202) 426-9776. | *Withdrawn.* |
| Liquefied Natural Gas Waterfront Facility (Docket No. CGD 78-038). | Would establish LNG Waterfront Facility Safety Regulations in accordance with Memorandum of Understanding between USCG and Materials Transportation Bureau, RSPA. ANPRM published August 3, 1978 (43 FR 34362). Will merge with CGD 77-128. Supplemental ANPRM published March 8, 1979 (44 FR 12693). (33 CFR pt. 126). | LT Dickman, (202) 426-1927. | NPRM *August 1980.* |
| Tows Navigating the Pass Manchac Bridge, LA (Docket No. CGD 78-050). | Provides for regulation of tows navigating the waters in the vicinity of the Pass Manchac Bridge, LA. NPRM published December 21, 1978 (43 FR 59524). Correction published January 29, 1979 (44 FR 5680). *Final Rule published June 26, 1980* (45 FR 43166). (33 CFR pt. 162). | LTJG Molessa, (202) 426-4958. | *Action complete.* |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

AGENDA

**USCG** **U.S. Coast Guard**

Nonsignificant Regulations —Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| **Review:** St. Mary's River, Vessel Traffic Service (Docket No. CGD 78-079). | Would revise and restate existing anchorage and navigation regulations for St. Mary's River, re-promulgating them under the authority of the Ports and Waterways Safety Act. (33 CFR pt. 161). | Mr. T. Foley, (202) 426-4958. | NPRM *August 1980.* |
| Notification of Marine Casualties (Docket No. CGD 78-098). | If approved, would require vessels within a certain distance of United States coasts to notify the Coast Guard of certain casualties. Further action on this project depends on the outcome of a study suggested in response to the ANPRM. ANPRM published April 16, 1979 (44 FR 22476). (33 CFR pt. 124 transferred to 161). | LT Allen, (202) 426-1927. | Study pending. |
| Marine Investigation Regulations (Docket No. CGD 78-105). | Would clarify the Coast Guard's subpoena power in marine investigation proceedings. (46 CFR pt. 4). | LCDR Miller, (202) 426-1455. | *Withdrawn.* |
| Aluminum Hatch Covers Aboard Tank Vessels (Docket No. CGD 78-121). | Would prohibit aluminum hatch covers on tank vessels, because they can melt down in ship-board fires. (46 CFR 32.60-1). | Mr. R. Eberly, (202) 426-2197. | NPRM *September 1980.* |
| **Review:** Bulk Chemical Tanker Update (Docket No. CGD 78-128). | Would update and revise standards for self-propelled vessels carrying hazardous liquid. (46 CFR pt. 153). | LCDR Trainer, (202) 426-1217. | NPRM *May 1980.* |
| **Review:** Accessibility of Fire Extinguishers on Boats (Docket No. CGD 78-137). | Would require boat operators to keep portable fire extinguishers in a readily accessible location. (46 CFR pt. 25). | *Mr. Dewees, (202) 426-4176.* | NPRM *October 1980.* |
| **Review:** Private Electronic Aids to Navigation (Docket No. CGD 78-145). | Would delete the prohibition of Private Aids to Navigation to provide uniform regulatory treatment. (33 CFR pt. 66). | LT Johnson, (202) 426-1974. | NPRM *August* 1980. |
| Inland Waters Navigation Regulations—Waters Connecting Lake Huron and Lake Erie (Docket No. CGD 78-151). | Would modernize existing regulations. (33 CFR pt. 162)..... | Mr. LaRue, (202) 426-4958. | NPRM *August 1980.* |
| **Review:** Tables of Vessels Examined or Inspected under Various Coast Guard Regulations (Docket No. CGD 78-152). | Would update tables in various parts of Title 46 to reflect the new requirements implemented by the recently published Mobile Offshore Drilling Unit Regulations. | LT M. Rolman, (202) 426-2190. | *Withdrawn.* |
| **Review:** Survey Period for Oil Lubricated Tailshafts with Mechanical Seals (Docket No. CGD 78-153). | Would extend the drawing interval for oil lubricated tailshafts with mechanical seals. NPRM published November 1, 1979 (44 FR 62915). (46 CFR pt. 63). | LT M. Rolman, (202) 426-2190. | FR *September 1980.* |
| **Review:** Mandatory Marking of Obstructions (Docket No. CGD 78-156). | Would clarify and consolidate the requirements for marking of obstructions. (33 CFR pt. 64). | LT Johnson, (202) 426-1974. | NPRM *September* 1980. |
| **Review:** Private Aids to Navigation and State Aids to Navigation (Docket No. CGD 78-157). | Would codify and clarify the Aids to Navigation regulations concerning State and Private Aids to Navigation. (33 CFR pt. 66). | LT Johnson, (202) 426-1974. | NPRM September 1980. |
| **Review:** Mandatory Markings for Artificial Islands Installations, and other Devices (Docket No. CGD 78-158). | Would revise the marking regulations to bring them into agreement with the latest procedures. (33 CFR pt. 67). | LT Johnson, (202) 426-1974. | NPRM September 1980. |
| **Review:** Aids to Navigation—General Interference with, Damages to and Charges for Aids to Navigation (Docket No. CGD 78-159). | Would codify revise and clarify the existing regulations. (33 CFR pts. 60, 62, 66, 70, 74, and 76). | LT Johnson, (202) 426-1974. | NPRM September 1980. |
| **Review:** General Revision to Subchapter N (Docket No. CGD 78-160). | Proposed general revisions to Subchapter N, Artificial Islands and Fixed Structures on the Outer Continental Shelf. Revisions to include changes made necessary by new legislation and the Coast Guard Commercial Diving Rules. *NPRM published May 1, 1980 (45 FR 29072).* (33 CFR pt. 140). | LCDR T. Barrett, (202) 472-5160. | *FR October 1980.* |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

AGENDA

**USCG** **U.S. Coast Guard**

Nonsignificant Regulations —Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| **Review:** Termination of Windsurfer Exemption (Docket No. CGD 78-163). | Would determine whether to continue an exemption that allows operators of Windsurfer boats to not carry Personal Flotation Devices. ANPRM published March 29, 1979.. | *Mr. Dewees, (202) 426-4176.* | NPRM *May 1980.* |
| Approval of Inflatable Personal Flotation Devices (PFDs) (Docket No. CGD 78-174). | Would establish performance standards for inflatable PFDs and procedures for granting *product* approval to these devices. ANPRM published March 15, 1979 (46 CFR pt. 160). | *LT Weiss,* (202) 426-1444. | NPRM *January 1981.* |
| Offshore Oil Lightering (Docket No. CGD 78-180). | Would establish requirements for vessel to vessel transfers of oil or hazardous materials if the cargo is bound for a U.S. port. NPRM published May 31, 1979 (44 FR 31486). (33 CFR pt. 156). | LT J. Balch, (202) 426-9578. | *Supplemental NPRM September 1980.* |
| **Review:** Amendment to Hull Identification Requirements (Docket No. CGD 79-013). | Would further delineate responsibility for marking boats with a hull identification number. Would require a second number inside the boat to aid in identification of stolen boats. (33 CFR pt. 181). | *Mr. Ellison, (202) 426-1065.* | NPRM *September 1980.* |
| **Review:** Stability Subchapter (Docket No. CGD 79-023). | Would bring together all the existing stability regulations and identifiable past practice into a single subchapter including a part pertaining to the carriage of passengers and separate parts pertaining to cargoes, vessl use and special types. | Mr. D. Ewin, (202) 426-2187. | NPRM *January 1981.* |
| Port and Tanker Safety Act Delegations Under Section 9, Ports and Waterways Safety Act (Docket No. CGD 79-026). | Would delegate to Captains of the Port authority and responsibility to prohibit vessel operations and cargo transfers which may be unsafe. (33 CFR pt. 160). NPRM published December 3, 1979 (44 FR 69306) (33 CFR pt. 160). | LT *Allen, (202) 426-1927.* | FR *August* 1980. |
| Revision of Approval of Cargo Containers (Docket No. CGD 79-027). | Establishes domestic administrative machinery for the implementation and administration of the International Convention for Safe Containers (CSC). NPRM published November 29, 1979 (44 FR 68495). *FR published June 2, 1980. (45 FR 37212).* | Mr. C. Hochman, (202) 426-1577. | *Action complete.* |
| Installation, Maintenance, and Inspection of Pilot, Accommodation and Chain Ladders; and Powered Pilot Hoists (Docket No. CGD 79-032). | Would establish inspection procedures and timetables for embarkation apparatus. | LTJG Murray, (202) 426-2190. | NPRM *November* 1980. |
| Limited Access Areas (Docket No. CGD 79-034). | Would realign limited access area regulations in 33 CFR. (33 CFR pts. 125, 127, 128, and 165). | LT Allen, (202) 426-4958. | FR *August 1980.* |
| Steering Gear; Drills and Tests (Docket No. CGD 79-038). | Would require all inspected vessels over 100 gross tons and foreign vessels over 1600 gross tons to have written procedures for loss of steering control, and conduct log emergency steering drills. Docket No. CGD 79-038a incorporates changes to Title 46 CFR and CGD 79-038b incorporates changes to Title 33 CFR. | LT Rolman, (202) 426-1464. | NPRM *January* 1980. |
| Crane Operator Qualifications and Standards for Offshore Crane Design Inspection, Testing and Operation (Docket No. CGD 79-059). | Would develop requied qualifications for crane operators employed on the Outer Continental Shelf and standards for crane design, inspection and testing. ANPRM published January 10, 1980 (45 FR 2052). (33 CFR pt. 146 and 46 CFR pt. 92). | LTJG Silka, (202) 472-5160. | NPRM *September 1980.* |
| Revocation of Sitka and Wrangell, Alaska as Ports of Documentation. (Docket No. CGD 79-0606). | Revokes the designation of Sitka and Wrangell, Alaska as Ports of Documentation as listed in 46 CFR 66.05-1. NPRM published October 4, 1979. *F.R. Published February 14, 1980 (45 FR 9930)* (44 FR 57137). | LTJG Heyl, (202) 426-2299. | *Action complete.* |
| 46 CFR Subchapter D, Tank Vessels Corrections and Clarifications to conform to Title 33 CFR (Docket No. CGD 79-061). | Would eliminate conflicting requirements in Titles 46 and 33 CFR for minimum bolts per flange on transfer connections, fixed piping. In addition, eliminates confusion in tank barge security and smoking regulations. | LTJG Murray, (202) 426-2190. | NPRM *August 1980.* |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

AGENDA

**USCG** **U.S. Coast Guard**

Nonsignificant Regulations —Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| Marine Personnel Safety Standards (Docket No. CGD 79-065). | Would develop a new Subchapter prescribing general personnel safety standards for inspection vessels and offshore facilities. (Subchapter V). | LT Zedan, (202) 426-2190. | NPRM *December* 1980. |
| COLREGS Demarcation Lines Boston Harbor Entrance (Docket No. CGD 79-066). | Moves the Colregs Demarcation Line of Boston Harbor Entrance several NPRM published November 8, 1979. (44 FR 64843) *FR Published March 10, 1980 (45 FR 15175)* (33 CFR pt. 82). | LTJG Molessa, (202) 426-4958. | *Action complete.* |
| Stowage of Lifeboats and Liferafts (Docket No. CGD 79-072). | Would amend various subchapters to require inspected vessels under 1600 gross tons, on coastwise voyage and having widely separated accommodation or working spaces, to carry inflatable liferafts in those areas capable of accommodating 50 percent of the people on board. NPRM published December 3, 1979 (44 FR 69311) *Supplemental NPRM published May 27, 1980 (45 FR 35366).* | LT Zedan, (202) 426-2190. | *FR November 1980.* |
| Unregulated Hazardous Working Conditions on the Outer Continental Shelf (OCS) (Docket No. CGD 79-073). | Would identify any presently unregulated hazardous working conditions on the OCS and if necessary regulate such conditions. (33 CFR Subchapter N). ANPRM published September 20, 1979. (44 FR 54499). | LCDR Barrett, (202) 472-5160. | *Withdrawn.* |
| *Personnel Job Safety Requirements for Fixed Installations on the Outer Continental Shelf (Docket No. CGD 79-077). | This regulation would develop personnel safety and health requirements for artificial island, fixed installations and other devices on the Outer Continental Shelf (33 CFR Subchapter No; 46 CFR Subchapters 1A and V.). | Lt. Cashman, (202) 471-5150. | NPRM December 1980. |
| Vessel Personnel Licensing and Certification Standards of Foreign Counties (Docket No. CGD 79-081(a)). | Establishes procedures for verification of training, qualification and watchkeeping standards of personnel serving on foreign tank vessels. *Interim FR Published April 7, 1980 (45 FR 23425).* | LCDR D. Struck, (202) 755-8684. | Interim FR *August* 1980. |
| Foreign Tank Vessel Manning Levels (Docket No. CGD 79-081(b)). | Would establish minimum manning levels for foreign tank vessels while operating on U.S. Navigable Waters. | LCDR D. Struck, (202) 755-8684. | NPRM *September* 1980. |
| Review: Tank Vent Height (Docket No. CGD 79-083). | Corrects vent height regulations in 46 CFR 56.50-85 to agree with 46 CFR 45.133. NPRM published January 7, 1980 (45 FR 1431). *FR published April 21, 1980 (45 FR 26711).* | Mr. D. Ewing, (202) 426-2187. | *Action complete.* |
| Amendment to Application of Vessel Numbers (Docket No. 79-087). | Would delete date of birth and citizenship data from application for vessel number. | *Mr. Dewees,* (202) 426-4176. | NPRM *November* 1980. |
| Shipment of Bulk Hazardous Waste by Water (Docket No. CGD 79-095). | Would establish requirements for transportation of bulk hazardous wastes. | Mr. R. M. Query (202) 426-1217. | NPRM *September* 1980. |
| U.S. Coast Guard Reserve (Docket No. CGD 79-105). | Would update the administrative regulations pertaining to the Coast Guard reserve. | CAPT Grover (202) 426-2348. | *FR December 1980.* |
| Merchant Mariner's Documents for Industrial Workers (Docket No. 79-109). | Would establish regulations for endorsements to merchant marine documents for special skills of industrial workers. | LCDR Struck, (202) 426-2240. | NPRM December 1980. |
| Inland Waterways Navigation Thimble Shoals (Docket No. CGD 79-120). | Would make two existing regulations consistent. (33 CFR pts. 128 and 162). | Mr. *Le Blanc,* (202) 426-4958. | NPRM *January 1981.* |
| Applications for Exemptions for SBT, CBT or COW, for Existing Vessels in Specific Trades (Docket No. CGD 79-126). | Would establish procedures for exemption from Segregated Ballast (SBT), Clean Ballast (CBT), or Crude Oil Washing (COW), for existing vessels in specific trades. *NPRM published May 22, 1980 (45 FR 34306).* | LCDR A. Spackman, (202) 426-4431. | *FR January 1981.* |
| Joint U.S. Canada Vessel Traffic Management regulations for the Pacific region (Docket No. CGD 79-131). | Would implement the provisions of an Agreement for a Cooperative Vessel Traffic Management System for the Pacific Region. (33 CFR pt. 161). | CDR Cruickshank, (202) 426-1940. | NPRM *October 1980.* |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

AGENDA

**USCG** **U.S. Coast Guard**

Nonsignificant Regulations —Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| Shipboard Noise Abatement (Docket No. CGD 79-134). | Would develop noise abatement standards (noise levels, hearing conservation program, etc.) for inspected vessels over 100 gross tons. (Will be included in subchapter V). | LT Zedan, (202) 426-2190. | NPRM *January 1981.* |
| Start-in-Gear Protection (Docket No. CGD 79-137). | Would establish a requirement for manufacturers of outboard engines producing more than 115 lbs of thrust to have a feature that would prevent the engine from being started while the transmission was in gear. *NPRM published March 24, 1980 (45 FR 18987); comment due July 24, 1980 (33 CFR 181 and 183).* | Mr. L. Granholm, (202) 426-4027. | *FR January 1981.* |
| **Review:** Great Lakes Pilotage Regulations (Docket No. CGD 79-138). | Increases the basic rates for Great Lakes Pilotage by five percent and adds a new class to the range of pilotage units. NPRM published January 17, 1980 (45 FR 1431) comment due February 21, 1980. *FR published February 21, 1980 (45 FR 13076).* | Mr. J. Hartke, (202) 755-8685. | *Action complete.* |
| **Review:** Requirement of Shipping Papers for Unslaked Lime *(Docket No. CGD 79-141).* | Removes the Coast Guard's requirements for the carriage of shipping papers for bulk shipments of unslacked lime. *NPRM published February 28, 1980 (45 FR 13138). Final Rule published May 12, 1980 (45 FR 31110).* | Mr. J. McAnulty, (202) 426-1578. | *Action complete.* |
| **Review:** Special Service Load Line Vessels, Hurricane Season (Docket No. CGD 79-142). | Would allow manned vessels with special service load lines to be operated during the hurricane season if the provisions of a Coast Guard approved heavy weather plan are followed. *NPRM published April 21, 1980 (45 FR 26722).* | Mr. D. Ewing, (202) 426-2187. | *FR January 1981.* |
| Permanently Moored Tank Barges *(Docket No. CGD 79-143).* | Would clarify the inspection and certification standards for permanently moored tank barges. | LTJG Olds, (202) 426-2190. | ANPRM *September* 1980. |
| **Review:** Inland Waterways Navigation Great Lakes (Docket No. CGD 79-151). | Would update existing regulations in 33 CFR pt. 162. ..... | LTJG Molessa, (202) 426-4958. | NPRM *September* 1980. |
| Electronic Relative Motion Analyzer (Docket No. CGD 79-148). | Would require an electronic relative motion analyzer to be carried by all tankers of 10,000 gross tons or above. *NPRM published February 21, 1980 (45 FR 11790).* | Mr. F. Schwer, (202) 426-4958. | *FR August 1980.* |
| **Review:** Tank Vessels Transferring Outer Continental Shelf Oil (Docket No. CGD 79-152). | Would require vessels transferring Outer Continental Shelf oil from offshore oil exploration or production facilities to have segregated ballast tanks, dedicated clear ballast tanks, or special ballast arrangements. *NPRM published May 1, 1980 (45 FR 29087).* | LCDR R. Tweedie, (202) 426-4431. | *FR January 1981.* |
| **Review:** Load Line Equivalent Regulations (Docket No. CGD 79-153). | Would rearrange existing regulations in 46 CFR 42, Load Line, to comply with International Maritime Consultative Organization Resolution A.320(IX). | Mr. D. Ewing, (202) 426-2187. | NPRM *September* 1980. |
| Deepwater Port Liability Fund Requirements. (Docket No. CGD 79-158). | Would implement provisions of the Deepwater Port Act of 1974 to establish and administer liability limits and compensation relative to accidental oil spills at deep water port sites. (33 CFR pt. 150). | Mr. F. Martin, (202) 472-5052. | NPRM *August* 1980. |
| **Review:** Tank Stop Valves (Docket No. CGD 79-159). | Would amend the regulations for tank stop valves to make them applicable to sluice gates and sluice valves as well as piping systems. | LCDR Jenkins, (202) 426-2160. | NPRM *September* 1980. |
| Modification to Line Throwing Device Requirements. (Docket No. *CGD 79-160).* | Would modify the regulation requiring a linethrowing device only in cargo vessels over 500 gross tons and passenger vessels on international voyages. | LTJG Olds, (202) 426-2190. | NPRM *August* 1980. |
| **Review:** Revocation of Obsolete Specifications I (Docket No. CGD 79-165a). | Would revoke approval specifications for wood life floats and obsolete floating water lights. | Mr. F. Thompson, (202) 426-2174. | FR *August* 1980. |
| **Review:** Revocation of Obsolete Specifications II (Docket No. CGD 79-165b). | Would revoke approval specifications for cork and balsa ring life buoys and material specifications for cork and balsa. | Mr. F. Thompson, (202) 426-2174. | *NPRM* August 1980. |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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**USCG** **U.S. Coast Guard**

Nonsignificant Regulations —Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| **Review:** Painters for Life Floats and Buoyant Apparatus (Docket No. CGD 79-167). | Would require life floats and buoyant apparatus to have painters that are secured to the vessel. | Mr. R. Markle, (202) 426-1444. | NPRM *January* 1980. |
| Launching Devices for Liferafts (Docket No. CGD 79-168). | Proposed specification for approval of devices used for launching inflatable liferafts. (46 CFR pts. 160 and 163). Re-docketed from No. CGD 75-217. | Mr. *McCall,* (202) 426-1445. | NPRM *December* 1980. |
| **Review:** License in Temporary Grades (Docket No. CGD 79-173). | Would provide for licenses in Temporary Grades or Special Endorsements or Licenses to Permit Temporary Service. | LCDR D. Struck, (202) 755-8684. | NPRM *September* 1980. |
| Disclosure of Safety Standards and Country of Registry (Docket No. CGD 79-180). | Would update 46 CFR 80.10 in compliance with 46 U.S.C. 362(b). | LT Zedan, (202) 426-2190. | FR September 1980. |
| Shipboard Asbestos Standards (Docket No. CGD 79-181). | Would develop safety standards threshold values, etc., for use of asbestos on inspected vessels. (Will be included in Subchapter V). | LT Zedan, (202) 426-2190. | NPRM September 1980. |
| Primary Health Care and Qualifications of Seamen. (Docket No. CGD 79-182). | Would implement health standards and qualifications of seamen and provide for training/experience in medical care for vessels. | CDR Parrow, (202) 472-4242. | *Withdrawn.* |
| Update of Subchapter O Cargo List (Docket No. CGD 80-001). | Would update the subchapter O cargo table in 46 CFR 151.05. | Mr. J. Jakabcin, (202) 426-2559. | NPRM *August* 1980. |
| Update of the Subchapter D Cargo Lists (Docket NO. CDG 80-002). | Would update the Subchapter D Cargo Lists (46 CFR 30-40). *NPRM published April 14, 1980 (45 FR 23575).* | Mr. C. Payne, (202) 426-2559. | FR *August* 1980. |
| *Prince William Sound VTS Amendment (Docket No. CGD 80-010). | Would update Prince William Sound Vessel Traffic System regulations (33 CFR). | Mr. E. LaRue, (202) 426-4958. | NPRM November 1980. |
| *Emergency Position Indicating Radiobeacons (EPIRBS) (Docket No. 80-24). | Would require use of EPIRB's on vessels operating on the Great Lakes. | Mr. Markle, (202) 426-1444. | NPRM December 1980. |
| *Update Incorporations by Reference (Docket No. CGD 80-46 and 47). | Will update private standards incorporated by reference in Boating Safety standards (33 CFR Pt. 183). NPRM published June 9, 1980 (45 FR 38417). | Mr. Gray, (202) 426-4027. | FR September 1980. |
| *Comments on Draft Consumer Affairs Program (Docket No. CGD 80-62). | Would establish a consumer affairs program throughout the U.S. Coast Guard. | Mr. O'Brien, (202) 426-2290. | FR December 1980. |
| *Valve Inspection for Thermal Fluid Heaters (Docket No. 80-64). | Would clarify the inspection standards for valves on thermal heaters. | LTJG Olds, (202) 426-2190. | NPRM September 1980. |
| *Carriage of Liquefied Gases (Docket No. 80-65). | Would establish regulations for carriage of liquefied gas under 46 CFR 38.05. | Mr. Rowek, (202) 426-1217. | NPRM October 1980. |
| *Personnel Safety and Health Requirements for Industrial Vessels (Docket No. CGD 80-15). | This regulation would develop health and safety requirements for industrial vessels. (46 CFR Subchapters 1 and 1A.). | Lt. Cashman, (202) 471-5150. | NPRM December 1980. |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

AGENDA

## USCG — U.S. Coast Guard

Routine and Frequent Non-significant Regulations

| Title | Total | Contact | Decision date |
|---|---|---|---|
| Safety/Security Zone Regulations | 10 | LCDR McDonald, (202) 426-1927. | *August 1980–August 1981.* |
| Anchorage Area Regulations | 16 | Mr. Ziegfeld, (202) 426-1940. | *August 1980–August 1981.* |
| Drawbridge Regulations | 90 | Mr. F. Teuton, (202) 426-1380. | *August 1980–August 1981.* |

## FAA — Federal Aviation Administration

Significant Regulations

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| Flammability Standard for Crewmember Uniforms (Docket No. 14451). | **A. Description:** Proposed revision to establish flammability specifications for crewmember uniforms that will provide protection against heat and flame.<br>**B. Why Significant:** This proposal is considered a significant rulemaking project due to substantial public interest and potential cost to airlines.<br>**C. Analysis:** Regulatory Analysis.<br>**D. Need:** To establish basic flammability specifications for crewmember uniforms, since clothing now used is made of conventional fabrics which may be ignited under many of the emergency conditions that may result..<br>**E. Legal Basis:** Secs. 313(a), 601, and 604, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421(a), 1422), Sec. 6(c) DOT Act (49 U.S.C. § 1655(c)).<br>**F. Chronology:** Prior to April 1974, a number of informal conferences were held with members of the public including the Association of Flight Attendants (AFA), regarding flammability of flight attendant uniforms. A project was established to examine AFA claims regarding uniform flammability. National Bureau of Standards (NBS) Center for Fire Research was selected as research contractor. ANPRM No. 75-13 was issued March 16, 1975 (40 FR 11737), to solicit public information and comments. A follow-up contract was established with the NBS to evaluate comments and conduct further testing. the contract was extended through August 1979. The results of the contractual effort are being used in the development of the NPRM. *A public hearing was held on May 28 and 29, 1980, to further explore the technical and economic factors that would be involved in implementing flammability standards. Participants in the hearing agreed to explore nonregulatory solutions to the problems raised by AFA.*<br>**G. Citation:** 14 CFR Part 121. | William J. Sullivan, (202) 755-8716. | NPRM *March 1981.* |
| Parts Manufacturer Approvals (Docket No. 17147). | **A. Description:** Proposes to revise the Parts Manufacturer Appoval application and reporting requirements and provisions related to showing identicalness of parts.<br>**B. Why Significant:** The proposed revision is considered to be significant because it is controversial.<br>**C. Analysis:** Regulatory Evaluation. | William J. Sullivan, (202) 755-8716. | *SNPRM September 1980.* |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

AGENDA

**FAA** **Federal Aviation Administration**

Significant Regulations—Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| | **D. Need:** Differences of opinion exist with respect to the methods available for showing identicalness of parts. Also the Parts Manufacturer Approval application and reporting requirements may be unnecessarily burdensome.<br><br>**E. Legal Basis:** Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, (49 U.S.C 1354(a), 1421, and 1423).<br><br>**F. Chronology:** Project No. 76-257-R was initiated December 23, 1975. NPRM No. 77-19 was published in the Federal Register (42 FR 43985). Comment period later reopened until January 4, 1978 (NPRM No. 77-19A, 42 FR 61048) and again reopened until May 15, 1978 (NPRM No. 77-19B, 43 FR 15432). Portions of NPRM dealing with other subjects will be handled separately. *We expect to issue a Supplemental Notice of Proposed Rulemaking (SNPRM) in September 1980.*<br><br>**G. Citation:** 14 CFR Pt. 21 | | |
| **Review:** Part 91 Upgrade | **A. Description:** To upgrade the general aviation standards applicable to the operation of certain large aircraft, when not operated as an air carrier and to revise certain regulations applicable to commercial operators and air travel clubs.<br><br>**B. Why Significant:** This is considered significant due to substantial public interest in the constraints to be proposed for safer operations of large aircraft under the regulations.<br><br>**C. Analysis:** Regulatory Evaluation<br><br>**D. Need:** Experience indicates that these proposed regulations are necessary to replace the current regulations with clearer regulations that are based upon safety, rather than economic criteria.<br><br>**E. Legal Basis:** Secs. 313(a) and 601-610 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a) and 1421-1430) and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).<br><br>**F. Chronology:** The NPRM was published in the Federal Register on November 11, 1979 (44 FR 66324). The closing date for comments was February 19, 1980.<br><br>**G. Citation:** 14 CFR Pt. 91 | William J. Sullivan, (202) 755-8716. | FR October 1980. |
| **Review:** Operations Review Notice No. 7 (Docket No. 17669). | **A. Description:** Proposes to revise the flight and duty time limitations and rest requirements for flight crewmembers used by domestic, flag, and supplemental air carriers, commercial operators of large aircraft, and air travel clubs.<br><br>**B. Why Significant:** This proposal is considered a significant regulation because of the controversy associated with the complexity and enforcement problems of the current rules.<br><br>**C. Analysis:** Regulatory Evaluation<br><br>**D. Need:** This proposal is needed to eliminate the complexity of the current regulations and to assure that flight and duty time limitations are based upon today's operating environment.<br><br>**E. Legal Basis:** Secs. 313(a), 601, and 604 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1424) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c). | William J. Sullivan, (202) 755-8716. | *SNPRM October 1980.* |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

AGENDA

**FAA** **Federal Aviation Administration**

Significant Regulations—Continued

| Title | | Summary | Contact | Earliest expected decision date |
|---|---|---|---|---|
| | | **F. Chronology:** The proposals contained in this notice are based on related proposals discussed at the December 1975 Operations Review Conference. The notice was published in the Federal Register on February 27, 1978 (43 FR 8070), with a closing date of May 30, 1978, for public comments. The initial comment period was extended by supplemental notice on May 25, 1978 (43 FR 22540), to July 14, 1978, with reply comments allowed on or before August 18, 1978. *We expect to issue a Supplemental Notice of Proposed Rulemaking (SNPRM) in October 1980.*<br><br>**G. Citation:** 14 CFR Pts. 121 and 123 | | |
| **Review:** Operations Notice No. 14. | Review | **A. Description:** Proposes to establish regulations for flight and duty time limitations and rest requirements for flight attendants used by domestic, flag, and supplemental air carriers, commercial operators of large aircraft and air travel clubs.<br><br>**B. Why Significant:** This proposal is considered a significant regulation because there is substantial public interest in it.<br><br>**C. Analysis:** Regulatory Evaluation<br><br>**D. Need:** Because flight attendants perform important duties relating to the safety of flight, flight and duty time limitations and rest requirements are necessary to prevent excessive fatigue from adversely affecting the performance of those duties.<br><br>**E. Legal Basis:** Secs. 313(a), 601, and 604 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1424) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).<br><br>**F. Chronology:** The proposals contained in this notice are based on related proposals discussed at the December 1975, Operations Review Conference.<br><br>**G. Citation:** 14 CFR Pts. 121 and 123 | William J. Sullivan, (202) 755–8716. | NPRM August *1981.* |
| Administrative User (Docket No. 19110). | Charges. | **A. Description:** This notice proposes to revise existing FAA fees for aircraft registration and for recording conveyances affecting title to, or any interest in, aircraft. In addition, it proposes to establish fees for FAA certification of pilots, instructors, and other airmen, including medical certification. It is intended that this proposed rule will provide for the recovery of expenses that the FAA incurs in these activities. The proposed action would be in accordance with the sense of the Congress.<br><br>**B. Why Significant:** This proposal is considered a significant project because it involves an area of substantial public interest and controversy.<br><br>**C. Analysis:** Regulatory Evaluation<br><br>**D. Need:** This proposal will provide for the recovery of expenses that the FAA incurs in these activities and is in accordance with the sense of Congress.<br><br>**E. Legal Basis:** Secs. 313, 503, 505, 601, 602, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354, 1401, 1403, 1421, and 1422); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)), Title V; Independent Offices Appropriation Act of 1952 (31 U.S.C. 483(a)). | John M. Rodgers, (202) 426–3420. | FR *October 1980.* |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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**FAA** **Federal Aviation Administration**

Significant Regulations—Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| | **F. Chronology:** NPRM published on April 20, 1978 (43 FR 16924). The closing date for comments was July 19, 1978.<br><br>**G. Citation:** 14 CFR Pts. 47, 49, 61, 63, 65, 67, 143, and 187. | | |
| Wind Shear. (Docket No. 19110) | **A. Description:** Proposed revision to require all large passenger-carrying aircraft be equipped with a device that will display wind shear information to the pilots.<br><br>**B. Why Significant:** This action is considered a significant project because it will generate substantial public interest and will be controversial.<br><br>**C. Analysis:** Regulatory Evaluation<br><br>**D. Need:** As a result of several accidents involving wind shear, the FAA believes it is necessary to identify equipment that will enable pilots to identify low level wind shear conditions.<br><br>**E. Legal Basis;** Secs. 313(a), 601 and 604 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1424) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).<br><br>**F. Chronology:** In 1975, the FAA began a two year effort to develop a wind shear program. As part of the program, FAA began work to develop a wind shear warning and pilot aiding device which has achieved encouraging results. Following the initial announcement of this proposal it was determined that a regulatory analysis would not be required; however, an evaluation will be made and docketed. The ANPRM was published on May 3, 1979 (44 FR 25807) and comment period closed August 3, 1979.<br><br>**G. Citation:** 14 CFR Pt. 121 | William J. Sullivan, (202) 755-8716. | NPRM *October 1980.* |
| *Stage 2 Operating Noise Limits for Airplanes Engaged in Foreign Air Commerce (Dockets 13582 and 14317). | **A. Description:** Proposed amendment to apply the Operating Noise Limits rule to certain currently excepted airplanes to meet present Federal noise standards in accordance with a phased time schedule ending on January 1, 1985. *This significant regulatory project has been cancelled. A similar regulatory project that implements Title III of the Aviation Safety and Noise Abatement Act of 1979 has been added to the nonsignificant portion of this Agenda.* | James Densmore, (202) 755-9468. | *Cancelled.* |
| *Stage 3 Requirements for Issuance of Standard Airworthiness Certificates. | **A. Description:** Proposed amendment would require all aircraft added to the U.S. domestic fleet after specified dates to meet FAR Part 36, Stage 3 noise limits.<br><br>**B. Why Significant:** This proposal is considered significant because of its potential to shift production away from older, noisier, and less fuel efficient airplanes. The proposal may involve substantial public interest.<br><br>**C. Analysis:** Regulatory Analysis<br><br>**D. Need:** To provide further relief and protection to the public from aircraft noise.<br><br>**E. Legal Basis:** Section 611 of the Federal Aviation Act of 1958 (as amended).<br><br>**F. Chronology:** A related proposal was presented in NPRM 72-19, published 7/25/72 (37 FR 14813). *This project has been canceled.*<br><br>**G. Citation:** 14 CFR Part 36 | James Densmore, (202) 755-9468. | *Cancelled.* |

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**FAA** **Federal Aviation Administration**

Significant Regulations—Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| *Metropolitan Washington Airports Policy. | **A. Description:** Develop and implement a comprehensive policy and regulations (1) defining the respective roles of Washington National and Dulles International Airports, and (2) governing the future use, operation, development and maintenance of those airports.<br><br>**B. Why Significant:** The proposed policy is of substantial interest to the public, potentially affecting State and local governments and the aviation community.<br><br>**C. Analysis:** Regulatory Evaluation.....<br><br>**D. Need:** The lack of a firm, long-range policy has substantially hindered maximum effective and efficient management of the airports. Planning and funding processes have necessasrily been limited to relatively short-term objectives. Efforts to lessen the impact of the airports on surrounding communities continue to be hampered by the absence of well-defined policy goals and guidelines. Aircraft operators using the airports have been similarly disadvantaged with respect to long-term planning and objectives.<br><br>**E. Legal Basis:** Sections 307 and 611 of the Federal Aviation Act (49 U.S.C. 1348 and 1431); D.C. Code Title 2-1602, Section 2 (54 Stat. 658) and Sections 4 and 8 (64 Stat. 770).<br><br>**F. Chronology:** A Notice of Proposed Policy was published March 23, 1978 (43 FR 12141). The NPRM was published January 21, 1980 (45 FR 4314). *The comment period closed April 15, 1980.*<br><br>**G. Citation:** 14 CFR Pts. 93 and 159..... | Charles Erhard, (703) 557-0972. | FR *August* 1980. |
| *Allocation of "Slots" at Washington National Airport. | **A. Description:** Proposed amendment to establish procedures for allocating the hourly number of instrument flight operations (takeoffs and landings) or "slots" that may be reserved at Washington National Airport (WNA) in accordance with the FAA's High Density Rule.<br><br>**B. Why significant:** This proposal is considered a significant rulemaking project due to substantial public interest and potential costs to airlines.<br><br>**C. Analysis:** Regulatory Analysis.....<br><br>**D. Need:** The Civil Aeronautics Board and the Department of Justice have expressed concerns about continuing the antitrust immunity under which the airline scheduling committees currently allocate slots at WNA. A new method of allocation may become necessary.<br><br>**E. Legal basis:** Sections 103, 306, 307(a), (b), and (c), and 313(a), Federal Aviation Act of 1958, as amended (49 U.S.C. §§ 1303, 1347. 1348(a), (b), and (c), and 1354(a)); § 6(c) DOT Act (49 U.S.C. § 1655(c)); Sec. 2, Act for the Administration of Washington National Airport, 54 Stat. 688.<br><br>**F. Chronology:** The CAB in conjunction with the FAA commissioned the Polinomics Research Laboratories, Inc., to research the allocation problem. A report of its findings has been prepared. Another report by Econ, Inc. analyzing a slot allocation auction procedure has been prepared under an FAA contract.<br><br>**G. Citation:** 14 CFR Part 93..... | Harvey Safeer, (202) 426-3331. | NPRM: To be decided. |

## DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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**FAA** — **Federal Aviation Administration**

### Nonsignificant Regulations

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| Third Attitude Gyro, Ground Proximity Warning System, and Cockpit Voice Recorders. | Proposed amendment to add instrument and equipment requirements (1) to require a third gyroscopic attitude instrument, independently powered in case of total aircraft electrical failure, on all multiengine turbojet powered airplanes not already required to have a third gyroscopic attitude and (2) to require a ground proximity warning system and a cockpit voice recorder on all turbojet powered airplanes configured with 6 or more passenger seats. (14 CFR Pts. 23, 25, 91, and 121). | William J. Sullivan, (202) 755-8716. | NPRM *December 1980.* |
| **Review:** Aircraft Engine Regulatory Notice (Docket No. 16919). | Proposed amendment to resolve a number of regulatory issues raised by engine manufacturers and to update those standards. (14 CFR Pts. 23, 25, 27, 29, and 33). | William J. Sullivan, (202) 755-8716. | NPRM *August 1980.* |
| Instrument Approach Procedures ... | Proposed rule to clarify prescribed conditions for approach and landing under specified weather conditions. *The NPRM was published March 6, 1980 (45 FR 14801). The comment period closed May 6, 1980.* (14 CFR Pts. 91 and 121). | William J. Sullivan, (202) 755-8716. | *FR October 1981.* |
| Triennial Aircraft Registration Report (Docket No. 18958). | *The* rule *establishes* a requirement that holders of a Certificate of Aircraft Registration file a report with the FAA Aircraft Registry on the current eligibility of the aircraft for registration, whenever three years have elapsed since the Registry has received information indicating registration eligibility. The NPRM was published 4/26/79 (44 FR 24573.) *The Amendments were published March 31, 1980 (45 FR 20772).* (14 CFR Pt. 47). | Virginia Swimmer, (405) 686-2284. | *Action complete.* |
| Airport Noise Regulations (Docket No. 16279). | Environmental Protection Agency's proposed revision to require airport noise certification as a condition for Airport and Airway Development Act funding. The NPRM was published on 11/22/76 (41 FR 51522). (14 CFR Pt. 91). | Richard Tedrick, (202) 755-9027. | FR *September* 1980. |
| **Review:** Operations Review Notice No. 11. | Proposed revision to update and improve the rules applicable to mechanic certification, repair stations and aircraft equipment. (14 CFR Pts. 121, 145, and 183). | William J. Sullivan, (202) 755-8716. | NPRM *August 1980.* |
| **Review:** Operations Review Notice No. 12. | Proposed extensive revisions to update and improve regulations applicable to aircraft maintenance, preventive maintenance, rebuilding and alteration of aircraft. (14 CFR Pts. 43 and 91). | William J. Sullivan, (202) 755-8716. | NPRM *August 1980.* |
| **Review:** Operations Review Notice No. 13. | Proposed miscellaneous revisions and other editorial and clarifying changes to (14 CFR Pts. 43, 63, 65, 91, 105, 121, 123, 127, 143, 145, and 147). | William J. Sullivan, (202) 755-8716. | NPRM *December 1980.* |
| **Review:** Operations Review Amendment No. 8 (Docket No. 17897). | The amendment updates and improves airmen and crewmembers rules, training programs, flight operations, dispatching, records and reports of air carriers and commercial operators and scheduled air carriers with helicopters. NPRM published on 5/11/78 with comment period closing on 9/25/78 (43 FR 35518). *This amendment was published June 16, 1980 (45 FR 41586).* (14 CFR Pts. 121 and 127). | William J. Sullivan, (202) 755-8715. | *Action complete.* |
| **Review:** Operations Review Notice No. 9 (Docket No. 18241). | *The amendment* updates and improves equipment, maintenance, and operating rules of aircraft, airmen certification, certificated operators and agencies, flight attendants and training requirements. The NPRM was published on 8/17/78 (43 FR 36464). *The amendment was published July 10, 1980 (45 FR 46736).* (14 CFR Pts. 63, 65, and 121). | William J. Sullivan, (202) 755-8716. | *Action complete.* |
| **Review:** Part 91 Notice (Docket No. 16431). | The agency conducted a Regulatory Review Conference of 14 CFR Part 91, Subpart B, in September 1977, in order to update that part. This action will cover all proposals covered by the review except for lost communications. (14 CFR Pt. 77). | *James Burns,* (202) 426-*3656.* | NPRM *September* 1980. |

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Nonsignificant Regulations—Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| **Review:** Part 91 Review Lost Communications (Docket No. 16431). | The FAA conducted a Regulatory Review Conference of 14 CFR Pt. 91 Subpart B, in September 1977, in order to update that part. This action will cover the special proposal on lost communications. | *James Burns,* (202) 426-*3656.* | NPRM September 1980. |
| Pearson Airpark (Docket No. 18311). | Proposal to exclude persons from the requirement of communicating with Portland Tower while operating in the Pearson Airpark Traffic Pattern. The NPRM was published on Sept. 28, 1978 (43 FR 44549). (14 CFR Pt. 93). | *James Burns,* (202) 426-*3656.* | FR *August 1980.* |
| **Review:** Objects Affecting Navigable Airspace (Docket No. 16920). | Proposal to amend regulations including areas such as notice requirements, obstruction standards, aeronautical studies, determinations, antenna farm areas and discretionary review/petition procedures. Notice of Review was published on 6/19/78 (43 FR 26322). (14 CFR Pt. 77). | *Harold Becker,* (202) 426-8777. | NPRM *October 1980.* |
| Reimbursement of Security Screening Costs (Docket No. 17326). | *This Special Federal Aviation Regulation (SFAR) establishes a* procedure for compensating air carriers for certain security screening costs in foreign air transportation. The NPRM was published on 10/31/77 (42 FR 56957). *The SFAR was published July 28, 1980 (45 FR 49913).* (14 CFR Pt. 121). | R. P. Jones, (202) 426-8409. | FR *Action complete.* |
| Civil Helicopter Noise Certification (Docket No. 13410). | This project would establish noise certification levels and procedures for civil helicopters. An ANPRM was published 12/28/73, (38 FR 35487). The NPRM was published 7/19/79 (44 FR 42410). The comment period closed 11/19/79. (14 CFR Pt. 36). | Richard Tedrick, (202) 755-9027. | FR *September* 1980. |
| Implementation of OMB Circular A-95 (Docket No. 17337). | Final procedures and regulations implementing OMB Circular A-95 (coordination of Federal assistance programs with State, areawide, and local planning agencies), based on public comment on interim procedures in Special Federal Aviation Regulation 35 (42 FR 59476, 11/17/77). (14 CFR Pt. 152). | John Gable, (202) 426-8090. | FR *September* 1980. |
| Implementation of Energy Policy (Docket No. 16617). | Implementation of the Energy Policy and Conservation Act. The NPRM was published on 3/31/77. (42 FR 17135). (14 CFR Pt. 11). | Charles M. Hoch, (202) 755-9717. | FR *September 1980.* |
| **Review:** Update of Part 139..... | Revision of 14 CFR Part 139 to update and clarify the part including fire-fighting and rescue requirements. (14 CFR Pt. 139). | Bill Southerland, (202) 426-3067. | NPRM *August 1980.* |
| Delayed Landing Flap Procedure for Turbojet-Powered Airplanes (Docket No. 15020). | Proposed regulation which would require that landing flap setting for turbojet-powered airplanes be delayed until at or below 1,000 feet above airport elevation for purpose of noise abatement on approach and landing. The NPRM was published on 11/29/76 (41 FR 52396). *The withdrawal was published June 26, 1980 (45 FR 43203).* (14 CFR Pt. 91). | William J. Sullivan, (202) 755-8716. | *Withdrawn.* |
| Protective Breathing Equipment..... | Proposed rule to establish minimum performance standards and operating rules for protective breathing equipment. (14 CFR Pts. 25, 29, 37, 91 and 121). | William J. Sullivan, (202) 755-8716. | NPRM *February 1981.* |
| Supplemental Oxygen..... | Proposed rule to permit certain widebody turbojet airplanes to operate up to flight level of 45,000 feet above sea level without requirements for the pilot to use supplemental oxygen. (14 CFR Pts. 25, 29, 37, 91, and 121). | William J. Sullivan, (202) 755-8716. | NPRM *February 1981.* |
| **Review:** Metropolitan Washington Airports Regulations. | Proposed revision to reflect changed operational conditions and policies and to simplify, clarify and consolidate the regulations pertaining to the National Capital Airports. (14 CFR Pt. 159). | Charles Anderson, 703-557-1433. | NPRM *December 1980.* |
| Miscellaneous Minor Amendments. | Proposed nonsubstantive amendments that are routine, editorial and clarifying in nature. (14 CFR Pts. 23, 25, 37, 45, 61, 63, 65, 91, and 121). | William J. Sullivan, (202) 755-8716. | NPRM *August 1980.* |

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Nonsignificant Regulations—Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| Aircraft Owners and Pilots Association (AOPA) Petition to Revise Part 91 (Docket No. 18334). | Proposed amendment based upon AOPA petition to revise regulations in a format and language more understandable by pilots. The petition states that the proposed changes are not intended to significantly change the substance of the present regulations. An ANPRM was published *January 22, 1979.* (44 FR 4571). (14 CFR Pt. 91). | William J. Sullivan, (202) 755-8716. | NPRM *January 1981.* |
| Foreign Airman Certification. | Proposed amendments to establish priorities for processing applications by foreign airmen for U.S. Airman Certificates. (14 CFR Pts. 61, 63, 65, and 67). | William J. Sullivan, (202) 755-8716. | NPRM June *1981.* |
| Noise Standards for Propeller Driven Agricultural and Firefighting Airplanes (Docket No. 16382). | Proposed regulation to restrict the operation of agricultural and firefighting airplanes which do not comply with the noise limits of Appendix F of 14 CFR Part 36. The NPRM was published *December 23, 1976* (41 FR 56065). (14 CFR Parts 21, 36, and 91). | *James Densmore,* (202) 755-*9468.* | FR *October 1980.* |
| Recording of Aircraft Titles and Security Documents—Notice of Lien (Docket No. 14236). | Proposed amendment to prescribe specific procedures for filing Noice of Lien with the Aircraft Registry. This proposal would also require release of the Notice filed upon satisfaction of the lien. The NPRM was published January 13, 1975 (40 FR 2445). (14 CFR Part 49). | Virginia Swimmer, (405) 686-2284. | FR *September 1980.* |
| Cessna Finance Petition. (Docket No. 17311). | Petition for rulemaking to amend Part 47 to provide all persons who hold a security interest in aircraft the same protection now afforded the seller of an aircraft under a conditional sales contract. The ANPRM was published 10/20/77 (42 FR 55891). *The NPRM was published May 22, 1980 (45 FR 34826). The comment period was extended to August 21, 1980.* (14 CFR Pt. 47). | Virginia Swimmer, (405) 688-2284. | *FR December* 1980. |
| **Review:** Airport Aid Program. *(Docket No. 19430).* | Revision of 14 CFR Part 152 updates airport aid requirements in accordance with Airport and Airway Development Act Amendments of 1976. The NPRM was published 8/9/79 (44 FR 46858). The Comment Period closed 10/9/79. (14 CFR Pt. 152). *The amendment was published May 22, 1980. (45 FR 34782).* | Paul Galis, (202) 426-3050. | *Action complete.* |
| Security Requirements Applicable to U.S. Commuter Air Carriers Certificate Holders. (Docket No. 19726). | Proposed rule to implement safety standards mandated by the Airline Deregulation Act of 1978, and insure that commuter air carrier passengers enjoy the same level of security as persons traveling on air carriers holding Certificates of Public Convenience and Necessity from the CAB. The NPRM was published 11/1/79 (44 FR 63048). Comment period closed 1/28/80. (14 CFR Pt. 121). | R. P. Jones, (202) 426-8409. | FR *October* 1980. |
| Heater Air Ducts | Proposed rule to require that ventilating and combustion air ducts be made of fireproof materials whenever such ducts are located near combustion heaters. (14 CFR Pt. 23). NPRM issued 2/21/80. Comment period closes 4/28/80. | William J. Sullivan, (202) 426-8716. | FR *October* 1980. |
| Blood Alcohol Level Tests | Proposed rule which will subject Certificated Flight Crewmembers suspected of being under the influence of alcohol to blood-alcohol tests and establish a specific blood-alcohol content level at which a pilot is considered to be intoxicated. (14 CFR Pts. 61 and 91). | William J. Sullivan, (202) 426-8716. | NPRM *August 1980.* |
| **Review:** Airworthiness Review Amendment No. 8 Miscellaneous and Procedural Amendments (Docket No. 14779). | Proposed amendments to improve and update the airworthiness standards contained in the regulations that apply to the type certification of aircraft, engines, propellers, related operating and maintenance rules, and procedural requirements. The NPRM was published July 11, 1975. (40 FR 29140) (14 CFR Pts. 1, 21, 26, 27, 31, 33, 35, 43, and 45). | William J. Sullivan, (202) 755-8716. | FR *August 1980.* |

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## Federal Aviation Administration

Nonsignificant Regulations—Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| Microwave Landing System (MLS). | Proposed rule to recognize the MLS selected by ICAO and to prescribe measuring standards and procedures for the approval, installation, operation, and maintenance of such systems on non-Federal navigation facilities. (14 CFR Pt. 171). | William Redeen, (202) 426-8634. | NPRM *December 1980.* |
| Tires Retrofit (Docket No. 19793)... | Proposed rule to require installation of improved tires on certain turbojet transport category airplanes. The NPRM was published 11/27/79. (41 FR 68759). The comment period closed 2/27/79. (14 CFR Pt. 91). | William J. Sullivan, (202) 755-8716. | FR *October* 1980. |
| Updating of References to FAA Environmental Requirements. | The amendment requires compliance with the revised FAA environmental order that contains policies and procedures for considering environmental impacts. The revised order has been published in the **Federal Register** for comment. Therefore a formal NPRM will not be issued, since it would not result in the receipt of additional useful information. *The amendment was published August 25, 1980* (14 CFR Pts. 152, 154, and 1955). | Lynne Pickard, (202) 426-3263. | *Action complete.* |
| Revision of Applicability of Part 139. | Proposed amendment to require the certification of airports serving commuter air carriers, as well as air carriers holding certificates of public convenience and necessity from the CAB. This revision would respond to the Airline Deregulation Act of 1978 and ensures that passengers traveling aboard commuter air carriers enjoy the same level of safety as passengers traveling aboard CAB certificated air carriers (14 CFR Part 139). | Jose Roman, Jr., (202) 426-3087. | NPRM *September* 1980. |
| Advanced Simulation (Docket No. 19758). | *The amendment permits* additional flight crew training in advanced flight training simulators. The NPRM was published 11/13/79 (14 FR 65550). The Comment Period was extended until 2/15/80 (45 FR 3324). *The amendment was published June 30, 1980 (45 FR 44176).* (14 CFR Parts 61 and 121). | William J. Sullivan, (202) 755-8716. | *Action complete.* |
| Technical Standard Orders (TSO's) Revision Program (Docket No. 19589). | *The* amendment includes a new procedure to expedite the issuance of standard for materials used on civil aircraft. In accordance with Executive Order 12044, these new procedures would result in less burdensome requirements which will expedite TSO issuance, and will result in the substantial reduction of regulatory material. The NPRM was published 10/1/79 (44 FR 56370). The Comment Period closed 12/3/79. *The amendment was published June 9, 1980 (45 FR 28342).* (14 CFR Parts 23 and 37). | Edward P. Faberman, (202) 264-3235. | *Action complete.* |
| **Review:** Rotorcraft Airworthiness Standards (Docket No. 18689). | Proposed extensive revisions to update and improve regulations applicable to helicopters and their operations. In view of recent technological advances in helicopter design and recent operating experience with new helicopter capabilities, there is a need to upgrade the rules regarding the helicopter airworthiness standards and operating requirements. (14 CFR Parts 1, 27, 29, 33, 43, 45, 61, 91, 121, 127, 133, and 135). | William J. Sullivan, (202) 755-8716. | NPRM *November* 1980. |
| **Review:** Light Transport Airplane Airworthiness Standards (Docket No. 18600). | Proposed new Part to establish airworthiness standards for a new light transport category of multiengine airplanes having a maximum seating capacity of 60 and a maximum gross weight of 50,000 pounds to accommodate the future needs of the commuter and air taxi industry. (14 CFR Parts 1, 21, 36, 91, and 135). | William J. Sullivan, (202) 755-8716. | NPRM *August* 1980. |
| Minimum Equipment Lists (MEL)..... | Proposed amendment to clarify existing MEL provisions by combining the MEL regulatory authority contained in Parts 91, 121, 133, 135, and 137 into a single regulatory section in Part 91. (14 CFR Parts 91, 121, 133, 135, and 137). | William J. Sullivan, (202) 755-8716. | NPRM *August* 1980. |

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Nonsignificant Regulations—Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| Hang Gliding | Proposed addition to FAR Part 101 to designate general safety rules for hang gliding in order to accommodate increasing hang gliding activity in the National Airspace System. (14 CFR Part 101). | *James Burns,* (202) 426-*3656.* | NPRM *October* 1980. |
| Notification/Reporting of Parachute Jump Altitudes. | Proposed amendment to require that notification of a parachute jump be made to Air Traffic Control in terms of mean sea-level (MSL) or above ground level (AGL). (14 CFR Part 105). | *James Burns,* (202) 426-*3656.* | NPRM *October* 1980. |
| Parachute Jumps In Terminal Control Areas (TCA's). | Proposed amendment to FAR Part 105 would require an ATC authorization for a nonemergency parachute jump into, or within, a terminal control area. (14 CFR Part 105). | William Broadwater, (202) 426-3731. | NPRM *December* 1980. |
| Air Traffic Rules for High Density Traffic Airports. | Proposed amendment to deal with the allocation of instrument flight operations (takeoffs and landings) to users of high density traffic airports. (14 CFR Part 93). | William Broadwater, (202) 426-3731. | *Cancelled.* |
| Air Traffic Speed Rule | Proposed amendment to permit departing aircraft at or above 5,000 feet within the confines of the TCA to operate in excess of the present 250-knot limit. (14 CFR Part 91). | William Broadwater, (202) 426-3731. | *Cancelled.* |
| Operations in Airport Traffic Areas. | Proposed amendment to require all aircraft within an airport traffic area to establish and maintain communications with the airport traffic control tower. (14 CFR Part 91). | *James Burns,* (202) 426-*3656.* | NPRM *December* 1980. |
| Notice of Construction, Alteration, Activation, and Deactivation of Airports. | Proposed amendments to require persons proposing to construct, alter, activate, or deactivate a civil or joint use airport to provide prior notice of such actions to the Administrator. (14 CFR Part 157). | *Keith Potts,* (202) 426-3731. | NPRM November 1980. |
| Terminal Control Areas (TCA's): Honolulu (Docket No. 18605 APC-1). | Terminal Control Areas (TCA's) are proposed to reduce the midair collision potential by eliminating the mix of controlled and uncontrolled aircraft in a higher density terminal environment. The NPRM was published December 17, 1979 (44 FR 73114). The comment period closed March 17, 1980 (14 CFR Part 71). | *Keith Potts,* (202) 426-3731. | FR *August* 1980. |
| Terminal Control Areas (TCA's): Phoenix. | Terminal Control Areas (TCA's) are proposed to reduce the midair collision potential by eliminating the mix of controlled and uncontrolled aircraft in a higher density terminal environment. *The NPRM was published April 7, 1980 (45 FR 23457). The comment period was extended to August 6, 1980.* (14 CFR Part 71). | *Keith Potts,* (202) 426-3731. | FR *October* 1980. |
| Terminal Control Areas (TCA's): Tampa. | Terminal Control Areas (TCA's) are proposed to reduce the midair collision potential by eliminating the mix of controlled and uncontrolled aircraft in a higher density terminal environment. (14 CFR Part 71). NPRM published February 4, 1980 (45 FR 7559). Comment period closes 5/5/80. | *Keith Potts,* (202) 426-3731. | FR *September* 1980. |
| Terminal Control Areas (TCA's): San Diego (Docket No. 18605 AWE-17). | Terminal Control Areas (TCA's) reduce the midair collision potential by eliminating the mix of controlled and uncontrolled aircraft in a higher density terminal environment. The NPRM was published December 6, 1979 (44 FR 70177). The Comment Period closed February 5, 1980. *The Amendment was published March 20, 1980 (45 FR 18336). (14 CFR Part 91).* | William Broadwater, (202) 426-3731. | *Action complete.* |
| Terminal Control Areas (TCA's): Fort Lauderdale/*Miami.* | Terminal Control Areas (TCA's) are proposed to reduce the midair collision potential by eliminating the mix of controlled and uncontrolled aircraft in a higher density terminal environment. (14 CFR Part 71). | *Keith Potts,* (202) 426-3731. | NPRM *September* 1980. |
| Terminal Control Areas (TCA's): Orlando. | Terminal Control Areas (TCA's) are proposed to reduce the midair collision potential by eliminating the mix of controlled and uncontrolled aircraft in a higher density terminal environment. (14 CFR Part 71). | *Keith Potts,* (202) 426-3731. | NPRM August 1980. |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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**FAA**

## Federal Aviation Administration

Nonsignificant Regulations—Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| Terminal Control Areas (TCA's): Memphis. | Terminal Control Areas (TCA's) are proposed to reduce the midair collision potential by eliminating the mix of controlled and uncontrolled aircraft in a higher density terminal environment. (14 CFR Part 71). | *Keith Potts,* (202) 426-3731. | NPRM November 1980. |
| Terminal Control Areas (TCA's): Portland. | Terminal Control Areas (TCA's) are proposed to reduce the midair collision potential by eliminating the mix of controlled and uncontrolled aircraft in a higher density terminal environment. (14 CFR Part 71). | *Keith Potts,* (202) 426-3731. | NPRM December 1980. |
| Dulles Access Road | Amendment to implement the Secretary's decision to permit four-person carpools to use the Dulles Airport Access Highway. The NPRM was published January 14, 1980 (45 FR 2661). The comment period closed February 29, 1980. *The Amendment was published April 1, 1980 (14 FR 21211).* (14 CFR Part 152). | Edward Faggen, (703) 557-8123. | *Action complete.* |
| Update List of Advisory Circulars | Spot Amendment to update the list of advisory circulars contained in Appendix I which include certain programming, design, and construction standards for airport development projects submitted for approval under the Airport Aid Program. (14 CFR Part 152). | James Burnett, (202) 426-3057. | FR *September* 1980. |
| Metropolitan Washington Airport: Solicitation of funds and Distribution of Literature. | Developed constitutionally acceptable standards controlling the solicitation of funds and the distribution of literature. Such control may be exercised only to the extent required to permit the agency to operate the airports safely and efficiently without infringing on the First Amendment rights of the people involved in these activities. *The NPRM was published March 27, 1980 (45 FR 20424). The comment period closed May 12, 1980. The amendment was published May 27, 1980 (45 FR 35314).* (14 CFR Pt. 159). | Edward Faggen, (703) 557-8123. | *Action complete.* |
| Implementation of EPA JT3D Smoke Standards for In-Use Engines. | Proposed amendment is required to implement and enforce EPA revision to their smoke standards for JT3D Airplane Engines. *The NPRM was published April 14, 1980 (45 FR 25350). The comment period closes June 28, 1980.* (14 CFR Part 11). | E. M. Ballenzweig, (202) 755-8933. | *FR November 1980.* |
| Implementation of EPA 1981 Gaseous Emissions Standards and Revised Test Procedures. | Proposed amendment would implement expected major revision in EPA standards for aircraft engine emissions. | E. M. Ballenzweig, (202) 755-8933. | NPRM *August* 1980. |
| *Stage 2 Operating Noise Limits for Airplanes Engaged in Foreign Air Commerce. | Proposed rules to implement Title III of the Aviation Safety and Noise Abatement Act of 1979. The NPRM was published April 14, 1980 (45 FR 25355). The comment period closes June 28, 1980. (14 CFR Part 36). | James Densmore, (202) 755-9468. | FR August 1980. |
| *Operations Review Notice No 8A (Docket No 17897). | Proposed amendment to require that all flight attendants remain seated at their assigned stations during taxing except to perform duties related to the safety of the airplane and its occupants. NPRM published June 19, 1980 (45 FR 41956) (14 CFR 121 and 127). | W. J. Sullivan, (202) 755-8716. | FR December 1980. |
| *Carriage of Candidates | The amendment codifies Special Federal Aviation Regulation (SFAR) 37 which allow persons not in the air transportation business to receive limited payments for carriage of candidates in Federal elections without the carriage being considered a commercial operation. The amendment was published June 26, 1980 (45 FR 43160) (14 CFR Parts 91, 121, 127, and 135). | W. J. Sullivan, (202) 755-8716. | Action complete. |
| *National Federation of the Blind (NFB)—Carriage of Canes. | Petition for rulemaking to permit the stowage of a blind person's flexible cane in a readily accessible location, on all passenger-carrying flights, so that the cane would be available to that person in case of evacuation of an aircraft in an emergency situation. | W. J. Sullivan, (202) 755-8716. | NPRM August 1980. |

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## FAA — Federal Aviation Administration

Nonsignificant Regulations—Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| *Redelegation of Authority | The revision redelegates authority from the Director, Flight Standards Service, to the Director of Flight Airworthiness or the Director of Flight Operations, as appropriate. The amendment was published July 17, 1980 (45 FR 47837) (14 CFR Parts 11, 91, 121, 135, and 137). | W. J. Sullivan, (202) 755-8716. | Action complete. |
| *Modification of Aircraft Registration Markings. | Proposed amendment to increase height of markings from 3 inches to 12 inches on certain fixed-wing aircraft, decrease height of markings from 20 inches to 3 inches on airships and balloons, and retain the 3-inch height of markings on experimental amateur-built, and experimental exhibition aircraft. NPRM published July 31, 1980 (45 FR 50810) (14 CFR 39). | W. J. Sullivan, (202) 755-8716. | FR December 1980. |
| *Terminal Control Area (TCA): Kansas City. | Proposed modification of existing Terminal Control Area to reduce size of TCA, where not needed, to provide safe and efficient use of the terminal area. | B. Keith Potts, (202) 426-3731. | NPRM August 1980. |
| *Special Airport Traffic Area and Communication Rule. | Proposed amendments to establish special airport traffic areas for certain Canadian airports that are adjacent to the U.S.-Canadian border and which have operating air traffic control towers; the amendments would also require aircraft communications with those towers while operating in the area. | B. Keith Potts, (202) 426-3731). | NPRM November 1980. |

## FAA — Federal Aviation Administration

Routine and Frequent Nonsignificant Regulations

| Title | Summary | Contact | Decision date |
|---|---|---|---|
| | Approximate Number | | |
| Other Items: | | | |
| Part 95 Instrument Flight Rules Altitudes. | 2500 | William J. Sullivan, (202) 755-8716. | *July 1, 1980-June 30, 1981* |
| Airworthiness Directives | 300 | William J. Sullivan, (202) 755-8716. | *July 1, 1980-June 30, 1981* |
| Standard Instrument Approach Procedures. | 2800 | William J. Sullivan, (202) 755-8716. | *July 1, 1980-June 30, 1981* |
| Airspace Actions | 525 | *Keith Potts, (202) 426-3731.* | *July 1, 1980-June 30, 1981* |

## FHWA — Federal Highway Administration

Significant Regulations

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| **Review:** Outdoor Advertising Control and Acquisition. | **A. Description:** This regulation would provide a definition of "effective control" of outdoor advertising as required by 23 U.S.C. 131. It would also set further requirements for signs exempt from control under the statute and establish the basic framework for State development of police power regulations and procedures. The regulation would also outline the requirements for Federal participation in the acquisition of compensable nonconforming outdoor advertising devices.<br><br>**B. Why Significant:** This proposal may involve substantial public interest, is controversial and involves important Departmental policy. | Richard Moeller, (202) 245-0021. | NPRM *Date to be Determined.* |

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**FHWA** **Federal Highway Administration**

Significant Regulations—Continued

| Title | Summary | Contact | Earliest expected decision date |
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| | **C. Analysis:** Regulatory Evaluation<br><br>**D. Need:** This regulation is necessary for the maintenance of national uniformity in the outdoor advertising control program. Since 23 U.S.C. 131 is regulatory in nature, it is necessary to establish and maintain minimum Federal program requirements.<br><br>**E. Legal Basis:** 23 U.S.C. 131, 148, and 315; 49 CFR 1.48....<br><br>**F. Chronology:** The proposal involves the consolidation of two existing regulations, 23 CFR pt. 750, subpts. D and G, and one interim regulation 23 CFR pt. 750, subpt. E. The regulations have been in effect since September 16, 1975 and July 29, 1974, respectively. The interim regulations have been in effect since October 18, 1976. The proposed consolidation will be issued as an NPRM. An ANPRM published April 30, 1979 (44 FR 25387) and a Notice published May 17, 1979 (44 FR 28946) announced public hearings as part of an overall review of the Highway Beautification Program. These currently proposed regulations may be modified as a result of this review. A Notice published June 15, 1979 (44 FR 34516) announced a hearing site change and a change in hearing procedures. On June 25, 1979 (44 FR 37100), a Notice announced amendments to the Highway Beautification Act by the Surface Transportation Assistance Act of 1978. A Notice published on July 12, 1979 (44 FR 40781) announced the establishment of a National Advisory Committee on Outdoor Advertising and Motorist Information. On July 23, 1979 (44 FR 43236), a Notice announced the availability of a report on Directional and Informational Sign Standards and Systems. This report is to be considered as part of the reassessment of the Highway Beautification Program.<br><br>**G. Citation:** 23 CFR pt. 750, subpt. C. (FHPM 7-6-2)..... | | |
| **Review:** Air Quality Guidelines..... | **A. Description:** The regulation would establish administrative procedures regarding: (1) conformity of highway plans, programs, and projects with air quality implementation plans, and (2) priority to highway improvements with air quality benefits. This regulation would be a revision of existing FHPM 7-7-9, Air Quality Guidelines.<br><br>**B. Why Significant:** This Regulation is considered significant because it affects another Federal agency and may be controversial.<br><br>**C. Analysis:** Regulatory Evaluation<br><br>**D. Need:** Currently, permanent administrative procedures on funding sanctions, priority of highway improvements with air quality benefits, and conformity of highway plans, programs, and projects with air quality implementation plans are lacking even through the existing Air Quality Guidelines were amended on November 19, 1979 (44 FR 66193) to provide interim procedures. These regulations are a result of the Clean Air Act Amendments of 1977 which became law in August 1977.<br><br>**E. Legal Basis:** Clean Air Act Amendments of 1977. (42 U.S.C. 7401). | Harter M. Rupert, (202) 426-4836. | NPRM *September* 1980. |

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**Federal Highway Administration**

Significant Regulations—Continued

| Title | Summary | Contact | Earliest expected decision date |
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| | **F. Chronology:** A joint EPA/FHWA Notice on Sec. 176(a) of the Clean Air Act Amendments, which covers only project approval sanctions, was published June 11, 1979 (44 FR 33473). An NPRM proposed for *September* 1980 would provide regulations on Sections 176(c) (conformity with air quality implementation plans), and 176(d) (priority to improvements with air quality benefits). Interim procedures were published November 19, 1979 (44 FR 66193).<br><br>**G. Citation:** 23 CFR pt. 770. (FHPM 7-7-9) | | |
| Employee Safety and Health Standards (Docket No. MC-64). | **A. Description:** This regulation would provide safety and health standards to govern employees engaged in the operation, maintenance, and loading and unloading of motor vehicles, designed to eliminate uncertainty with regard to the jurisdictional authority of the Occupational Safety and Health Administration (OSHA).<br><br>**B. Why Significant:** This proposal may have a significant impact on OSHA.<br><br>**C. Analysis:** Regulatory Evaluation<br><br>**D. Need:** These standards are designed to eliminate uncertainty with regard to the jurisdictional authority of the OSHA and to improve safety and health standards for employees of motor carriers.<br><br>**E. Legal Basis:** 49 U.S.C. 304 and 1655<br><br>**F. Chronology:** An NPRM was issued March 2, 1978 (43 FR 8566) and the closing date for the comment period was May 31, 1978. A Notice on June 9, 1978 (43 FR 25145) extended the comment period to June 30, 1978. *As a result of the analysis of the comments, another NPRM is being considered.*<br><br>**G. Citation:** 49 CFR pt. 399 | Gerald J. Davis, (202) 426-9767. | *NPRM November* 1980. |
| Minimum Cab Space Dimensions (Docket No. MC-79). | **A. Description:** this regulation would specify minimum size for the cab portion of the regulated commercial vehicles manufactured after a certain date.<br><br>**B. Why Significant:** This proposal has the potential of being costly if extensive changes to cab configuration become necessary.<br><br>**C. Analysis:** Regulatory Analysis<br><br>**D. Need:** Changes in truck technology and maximum limitation on size by States have led to the development of reduced cab space in favor of increased cargo space to remain within State length limitations, possibly having negative impact on safe operations and driver work place..<br><br>**E. Legal Basis:** 49 U.S.C. 304 and 1655<br><br>**F. Chronology:** An ANPRM was issued on February 14, 1978 (43 FR 6273). Comment period closed on July 14, 1978. *A review of present cab sizes was conducted and a report issued on February 27, 1980..*<br><br>**G. Citation:** 49 CFR pt. 393 | Gerald J. Davis, (202) 426-9767. | *Further action to be determined.* |
| **Review:** Construction Contract Equal Opportunity Compliance Procedures. | **A. Description:** This regulation would prescribe policies and procedures to standardize the implementation of the equal opportunity contract compliance program, including compliance reviews, consolidated compliance reviews, and the administration of areawide plans. | Edward W. Morris, Jr., (202) 426-0471. | NPRM *October 1980.* |

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**Federal Highway Administration**

Significant Regulations—Continued

| Title | Summary | Contact | Earliest expected decision date |
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| | **B. Why Significant:** There is substantial public interest relative to this regulation.<br>**C. Analysis:** Regulatory Evaluation<br>**D. Need:** To standardize the implementation of the equal opportunity contract compliance program.<br>**E. Legal Basis:** 23 U.S.C. 112(b) and 140(a)<br>**F. Chronology:** *DOT/FHWA recently entered into a Memorandum of Understanding with the Department of Labor/ Office of Federal Contract Compliance Programs relative to respective responsibilities under Executive Order 11246 and Title 23.*<br>**G. Citation:** 23 CFR pt. 230, subpt. D. (FHPM 2-2-3) | | |
| Geometric Design Criteria for Resurfacing, Restoration, and Rehabilitation (RRR) of Streets and Highways Other Than Freeways (Docket No. 78-10). | **A. Description:** This regulation would contain criteria intended to provide additional flexibility in some of the basic geometric features of design, primarily those in which modification would result in appreciable savings in costs and other impacts while improving safety.<br>**B. Why Significant:** This regulation is considered significant because the adoption of new design criteria specifically for RRR projects has proven to be controversial.<br>**C. Analysis:** Regulatory Analysis<br>**D. Need:** To implement the 1976 amendment to 23 U.S.C. 101 redefining "construction" to include resurfacing, restoration, and rehabilitation. Geometric design criteria are needed to effectively administer a RRR program for preservation work on the Federal-aid highway systems.<br>**E. Legal Basis:** 23 U.S.C. 101, 109, 315, and 402; 49 CFR 1.48(b).<br>**F. Chronology:** An ANPRM published August 25, 1977, (42 FR 42876) offered three alternatives. A Notice published October 28, 1977 (42 FR 56751) extended the comment period for the ANPRM to November 22, 1977. A notice of withdrawal of the ANPRM was published January 9, 1978 (43 FR 2734). Because of the adverse comments, all alternatives were rejected and FHWA decided to develop a new set of criteria for Resurfacing, Restoration, and Rehabilitation (RRR) projects. An NPRM was published on August 23, 1978 (43 FR 37556). A correction to the NPRM was published September 12, 1978 (43 FR 40539). A Notice published on October 19, 1978 (43 FR 48658) extended the comment period for the NPRM to January 4, 1979. On May 23, 1979 (44 FR 29921) FHWA published as a Notice a status report on the creation of an internal task force appointed to evaluate comments received on the NPRM and make recommendations to the Administrator.<br>**G. Citation:** 23 CFR pt. 625 | Alvin R. Cowan or Seppo Sillan, (202) 426-0312. | NPRM *September 1980.* |
| Certification of Motor Vehicle Size and Weight Enforcement (Docket No. 77-21). | **A. Description:** *This rule revises existing regulations dealing with annual certifications by the States that all size and weight laws are being enforced. It establishes an enforcement program that FHWA must approve, against which the States' efforts are measured each year.*<br>**B. Why Significiant:** The regulation is significant because failure on the part of the State is cause for the withholding of Federal-aid highway project approval.<br>**C. Analysis:** Regulatory Evaluation | Wm. F. Bauch, (202) 426-1993. | *Action complete.* |

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| | **D. Need:** This regulation is needed to implement 23 U.S.C. 141, Enforcement of Requirements, as amended by the Surface Transportation Assistance Act of 1978.<br><br>**E. Legal Basis:** 23 U.S.C. 141<br><br>**F. Chronology:** A NPRM was issued January 16, 1978, (43 FR 2683) with comments due April 15, 1978. Thirty comments were received. A NPRM was published March 14, 1979 (44 FR 15639), with comments due by June 12, 1979. *Final Rule published August 7, 1980 (45 FR 52365.)*<br><br>**G. Citation:** 23 CFR 658.9 (FHPM 6–8–5) | | |
| Withdrawal of Interstate Segments and Substitution of Alternative Projects. (Docket No. *77–29).* | **A. Description:** This regulation would implement Sections 103(e)(2) and 103(e)(4) of Title 23 U.S.C., as amended by the Federal-Aid Highway Act of 1976 and the Surface Transportation Assistance Act of 1978 (STAA). Section 103(e)(2) provided for the withdrawal of nonessential Interstate routes and the substitution of alternative Interstate routes, however, the STAA amended this Section to prohibit the designation of any Interstate routes or portions thereof under the authority of this paragraph after the date of enactment of STAA. Section 103(e)(4) provides for the withdrawal of nonessential Interstate routes and the substitution of other transportation projects, both highway and non-highway by dates specified in the Surface Transportation Assistance Act of 1978.<br><br>**B. Why Significant:** There is substantial public interest and controversy concerning this proposal.<br><br>**C. Analysis:** Regulatory Analysis<br><br>**D. Need:** This regulation is needed to implement the provisions of 23 U.S.C. 103 enacted in the 1976 Federal-Aid Highway Act, as amended by the Surface Transportation Assistance Act of 1978.<br><br>**E. Legal Basis:** 23 U.S.C. 103(e)(2) and 103(e)(4)<br><br>**F. Chronology:** The current substitution regulations were issued on June 12, 1974. The Federal-Aid Highway Act Amendments of 1974 and the Federal-Aid Highway Act of 1976 amended the original statutory provisions enacted by the Federal-Aid Highway Act of 1973. Provisions of the Surface Transportation Assistance Act of 1978 were incorporated prior to issuing the NPRM. NPRM published January 10, 1980 (45 FR 2296).<br><br>**G. Citation:** 23 CFR pt. 476 subpt. D and pt. 450 | FHWA L. A. Staron, (202) 426–0404 or F. Calhoun, (202) 426–0762;. UMTA Richard White, (202) 472–6991. | FR *September 1980.* |
| Hours of Service of Drivers (Docket No. MC–70–1). | **A. Description:** The Federal Highway Administration (FHWA) is proposing a revision of the regulations pertaining to hours of service limitations for commercial vehicle drivers engaged in interstate or foreign commerce.<br><br>**B. Why Significant:** This proposal may be controversial and could have a major cost impact on the motor carrier industry.<br><br>**C. Analysis:** Regulatory Analysis<br><br>**D. Need:** This action is being taken in response to numerous petitions and requests from public interest groups, labor organizations, and individual drivers for the revision of these regulations.<br><br>**E. Legal Basis:** 49 U.S.C. 304 and 1655 | Gerald J. Davis, (202) 426–9767. | NPRM *January 1981.* |

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| | **F. Chronology:** An ANPRM which stated that FHWA was considering an extensive review of the Hours of Service of Drivers regulation was published on February 12, 1976 (Docket MC–70, Notice 76–14, 41 FR 6275). A second ANPRM was issued on May 22, 1978 (43 FR 21905) setting forth three plans for comments. A notice of public hearings was published August 29, 1978 (43 FR 38608). Public hearings were held in 7 major cities. *Further analytical research is underway and an NPRM is being considered when that research is completed. The record-keeping requirements imposed by the current regulation will also be reviewed as part of this action. A request for comment relating to this regulation based on a petition filed by owner operator requesting longer driving and working hours was issued on January 14, 1980 (45 FR 5781). The closing date for comments was May 23, 1980.*<br><br>**G. Citation:** 49 CFR pt. 395 | | |
| **Review:** Environmental Impact and Related Statements. | **A. Description:** *These regulations* would implement the National Environmental Policy Act and Section 138 of the Federal-Aid Highway Act. It would specify the procedures to be used by FHWA in the preparation and processing of Environmental Impact and Section 4(f) statements. *These regulations are being developed jointly with the Urban Mass Transportation Administration (UMTA).*<br><br>**B. Why Significant:** These regulations will involve substantial public interest and controversy and will implement important Departmental policy.<br><br>**C. Analysis:** Regulatory Evaluation<br><br>**D. Need:** Executive Order 11991 authorizes the Council on Environmental Quality (CEQ) to issue regulations to implement the National Environmental Policy Act.<br><br>**E. Legal Basis.** These revisions are required because of regulations which were promulgated by CEQ.<br><br>**F. Chronology:** The CEQ regulations were published for public comment in the Federal Register on June 9, 1978. (43 FR 25230). Final CEQ regulations were published November 29, 1978 (43 FR 55978). An NPRM was published October 15, 1979 (44 FR 59438). On November 19, 1979, the original deadline for comments of November 14, 1979 was extended to December 3, 1979 (44 FR 66213). A Notice published December 31, 1979 (44 FR 77293) contained interim instructions to FHWA field offices for compliance with the CEQ regulations and DOT Order 5610.1C of September 18, 1979 which was published October 1, 1979 (44 FR 56420).<br><br>**G. Citation:** 23 CFR pt. 771. (FHPM 7–7–2) | FHWA Dale Wilken, (202) 426–4093;. UMTA John Collins, (202) 426–1908. | FR *September* 1980. |
| **Review:** Urban Transportation Planning Process; **Review:** Transportation Improvement Program. | **A. Description:** Revisions to these regulations would implement the provisions of Section 169 of the Surface Transportation Assistance Act of 1978, accommodate simplifying recommendations made by FHWA's Regulations Reduction Task Force, and implement the transportation planning aspects of the 1977 Clean Air Act Amendments.<br><br>**B. Why Significant:** These are significant regulations since they significantly impact the Urban Mass Transportation Administration (UMTA) and involve important Department policy.<br><br>**C. Analysis:** Regulatory Evaluation | FHWA Sam Rea, (202) 426–2961;. UMTA Bob Kirkland, (202) 426–4991. | *Withdrawn.* |

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| | **D. Need:** Continuing review has identified areas where added flexibility will not impair effectiveness. Air quality planning must be included in accordance with the DOT-EPA Memorandum of Understanding.<br>**E. Legal Basis:** 23 U.S.C. 104(f)(3), 134 and 315.....<br>**F. Chronology:** The recommendations of the FHWA Regulations Reduction Task Force were adopted in October 1977. Following agreement with UMTA and EPA, insofar as air quality is concerned, proposed regulatory changes will be prepared. *The broader Federal Register issuance on environmental action plans and urban planning supercedes issuance of this regulation. See Agenda entry on "Transportation Planning and Environmental Process Guidelines (Action Plans)" below..*<br>**G. Citation:** 23 CFR pt. 450, subpt. A and C. (FHPM 4-4-2 and 4-4-6). | | |
| Equal Employment Opportunity on Federal-aid Highway Construction Contracts. | **A. Description:** This regulation would simplify procedures relating to Equal Employment Opportunity on Federal-aid highway construction contracts.<br>**B. Why Significant:** The regulation concerns a matter on which there is substantial public interest.<br>**C. Analysis:** Regulatory Evaluation.....<br>**D. Need:** This regulation is needed to achieve administrative effectiveness and efficiency.<br>**E. Legal Basis:** 23 U.S.C. 140 and 315.....<br>**F. Chronology:** An NPRM will be published in *December* 1980.<br>**G. Citation:** 23 CFR pt. 230, subpt. A. (FHPM 6-4-1-2)..... | K. L. Ziems, (202) 426-4847. | NPRM *December 1980.* |
| Non-Urbanized Area Public Transportation (Docket No. 78-40). | **A. Description:** Proposed regulation would finalize procedures for the administration of a continuing program of non-urbanized area public transportation including operating subsidies.<br>**B. Why Significant:** The proposed new program involves FHWA and UMTA and impacts State and local transportation programs.<br>**C. Analysis:** Regulatory Evaluation.....<br>**D. Need:** The proposed regulation would finalize procedures for the administration of the non-urbanized area public transportation assistance program.<br>**E. Legal Basis:** Section 18 of the Urban Mass Transportation Assistance Act of 1964, as amended.<br>**F. Chronology:** A DOT Rural and Small Urban Working Group has summarized the policy issues for the Section 18 program. Interim operating procedures were issued as an emergency regulation December 13, 1978 (43 FR 58308), and a 90-day comment period was established.<br>**G. Citation:** 23 CFR pt. 825..... | FHWA Sheldon G. Strickland, (202) 426-0153;. UMTA Kay Regan, (202) 427-7037. | NPRM *October 1980.* |
| Major Urban Transportation Investment (Docket No. 78-21). | **A. Description:** The proposed regulation requires that State and local transportation officials conduct an analysis of alternatives for all major urban transportation investments for highway or public transportation. | FHWA V. Paparella, (202) 426-0215;. UMTA Joel Ettinger, (202) 426-2360. | Further action to be determined. |

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| Title | Summary | Contact | Earliest expected decision date |
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| | **B. Why Significant:** The proposed rule involves important Departmental policy and major urban investments of the Urban Mass Transportation Administration and the Federal Highway Administration.<br><br>**C. Analysis:** Regulatory Evaluation<br><br>**D. Need:** The increased flexibility in the use of Federal-aid highway funds for mass transit-related activities has led to the need for a single investment policy for both Federal Highway Administration and Urban Mass Transportation projects to ensure that Federal funds are used effectively.<br><br>**E. Legal Basis:** 23 U.S.C. 134 and 315 and 49 U.S.C. 1601 et seq.<br><br>**F. Chronology:** An NPRM was published in the Federal Register on December 7, 1978 (43 FR 57478). The Department of Transportation will make a later determination concerning what action to take with respect to this rulemaking.<br><br>**G. Citation:** 23 CFR pt. 455, subpt. A and B, and 49 CFR pt. 620. | | |
| Certification of Speed Limit Enforcement (Docket No. 78–41). | **A. Description:** The regulation would revise the procedure used by the States: (1) in monitoring speeds on highways with a 55 mile per hour speed limit, (2) in calculating a statewide value for the percentage of all traffic exceeding 55 miles per hour on such highways and (3) certifying annually that they are enforcing the 55-mile per hour National Maximum Speed Limit.<br><br>**B. Why Significant:** *This regulation* would have substantial impact on state and local governments and on NHTSA programs *and is being developed in corrdination with NHTSA.*<br><br>**C. Analysis:** Regulatory Evaluation<br><br>**D. Need:** This regulation is needed to implement the modified 55 mph enforcement provisions of the Surface Transportation Assistance Act of 1978.<br><br>**E. Legal Basis:** 23 U.S.C. 141, 154<br><br>**F. Chronology:** An NFRM was published in the Federal Register November 5, 1979. (44 FR 63680). While this rulemaking is underway, the States are meeting the requirements of 23 U.S.C. 141 and 154 by following the instructions contained in two Federal Register notices published as an emergency rule and an extension to an emergency rule: 43 FR 59464, December 20, 1978 and 44 FR 55592, September 27, 1979 respectively. Comment period closed January 9, 1980.<br><br>**G. Citation:** 23 CFR 658.7 | William F. Bauch, (202) 426–1993. | FR September 1980. |
| Buy America Requirements (Docket No. 78–35). | **A. Description:** This regulation would establish provisions for the protection of domestic structural steel on construction projects with an estimated cost of $450,000 or more.<br><br>**B. Why Significant:** This regulation involves a matter which may become controversial or arouse significant public interest.<br><br>**C. Analysis:** Regulatory Analysis | K.L. Ziems, (202) 426–4847. | NPRM *September 1980.* |

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| | **D. Need:** This regulation is required to implement the provisions of Section 401 of the Surface Transportation Assistance Act of 1978.<br><br>**E. Legal Basis:** Section 401 of the Surface Transportation Assistance Act of 1978; P.L. 95-599.<br><br>**F. Chronology:** An emergency regulation was issued on November 17, 1978 (43 FR 53717). FHWA asked for comments, and the comment period closed on January 17, 1979.<br><br>**G. Citation:** 23 CFR 635.410 | | |
| Interstate Maintenance Guidelines (Docket No. 78-43). | **A. Description:** This regulation establishes guidelines describing criteria applicable to the Interstate system to ensure that the conditions of these routes are maintained at the level required by the purposes for which they were designed. Each State must certify each year to the FHWA that it has a maintenance program for the Interstate system to meet these guidelines once they are established.<br><br>**B. Why Significant:** These guidelines may involve substantial public and State highway agency interest.<br><br>**C. Analysis:** Regulatory Analysis<br><br>**D. Need:** This regulation is necessary to insure the preservation of the entire highway, including surface, shoulders, roadsides, structures, and such traffic control devices as are necessary for its safe and efficient utilization. Since 23 U.S.C. 116 is regulatory in nature, it is necessary to establish Federal maintenance guidelines or level of service.<br><br>**E. Legal Basis:** 23 U.S.C. 109(m), 315; 49 CFR 1.48(b)<br><br>**F. Chronology:** An ANRPM was published on January 2, 1979 (44 FR 69). NPRM published August 9, 1979 (44 FR 46882). *Final rule published March 31, 1980 (45 FR 20791).*<br><br>**G. Citation:** 23 CFR pt. 635 | Paul E. Cunningham, (202) 426-0436. | *Action complete.* |
| Transportation Planning and Environmental Process Guidelines (Action Plans). | **A. Description:** This ANPRM would request comments on the need for revisions to the urban transportation planning requirements (23 CFR 450, Subparts A and C and 49 CFR 613, Subpart B, the Major Urban Mass Transportation Investment Policy (41 FR 41512, September 22, 1976), and the Environmental Process Guidelines (23 CFR 795).<br><br>**B. Why Significant:** The ANPRM would cover areas of substantial public interest and important Department policies.<br><br>**C. Analysis:** Regulatory Evaluation<br><br>**D. Need:** Concerns have been raised over the complexity of these requirements and the relationship between planning and other program areas. Further, national concerns such as air quality and energy are not fully reflected in present regulations.<br><br>**E. Legal Basis:** 23 U.S.C. 104(f)(3), 109(h), 134, 307, and 315, and the Urban Mass Transportation Act of 1964 as amended. | FHWA Sam Rea, (202) 426-2961;. UMTA Bob Kirkland, (202) 426-4991. | ANPRM *under consideration.* |

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| | **F. Chronology:** The FHWA Regulations Reduction Task Force recommended changes to the Urban transportation planning requirements. Discussion of potential areas for changes have been initiated between FHWA and UMTA.<br><br>**G. Citation:** 23 CFR 450, Subparts A and C, 49 CFR 613, Subpart B, and 23 CFR 795. | | |
| *Minimum Levels of Financial Responsibility. | **A. Description:** Section 30 of the Motor Carrier Act of 1980, Pub. L. 96-296 (signed July 1, 1980) gives the Secretary of Transportation the authority to phase in over a two-year period, the minimum levels of financial responsibility for motor carriers set by the Act.<br><br>**B. Why Significant:** It has been determined that this proposal may have substantial impact on the motor carrier or insurance industry.<br><br>**Analysis:** Regulatory Evaluation<br><br>**Need:** The purpose of the financial responsibility provision of the Act is to create incentives for the motor carrier industry to focus on the safety aspects of highway transportation and to assure the general public that a motor carrier maintains an adequate level of financial responsibility sufficient to satisfy claims covering public liability, property damage, and environmental restoration.<br><br>**E. Legl Basis:** The Motor Carrier Act of 1980, Pub. L. 96-296 Section 30.<br><br>**F. Chronology:** Advance Notice of Proposed Rulemaking will be published in August 1980.<br><br>**G. Citation:** None | Gerald Davis, (202) 426-9767. | ANPRM August 1980. |

## FHWA — Federal Highway Administration

Nonsignificant Regulations

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| **Review:** New Research and Development (R&D) Studies and Work Programs (Docket No. 79-21). | This regulation would cover the starting of new R&D studies and the programming of R&D work funded with Federal-Aid highway funds. An NPRM was published September 27, 1979 (44 FR 55766). (23 CFR pts. 530 and 540; FHPM 5-4-1). | Harry H. Hersey, (703) 557-5257. | FR *August* 1980. |
| **Review:** R&D Management—General. | This regulation would have covered the management of R&D studies using Federal-aid highway funds. It will be withdrawn because the content is covered by other regulations. An NPRM was published September 27, 1979 (44 FR 55766) (23 CFR pt. 520; FHPM 5-2-1). | Harry H. Hersey, (703) 557-5257. | To be withdrawn *August* 1980. |
| **Review:** R&D Reports and Implementation Activities (Docket No. 79-21). | This regulation would cover documentation of the results of R&D studies funded with Federal-aid highway funds without State matching to finance pooled fund studies. An NPRM was published September 27, 1979 (44 FR 55766). (23 CFR pt. 544; FHPM 5-4-3). | Harry H. Hersey, (703) 557-5257. | FR *August 1980.* |

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Nonsignificant Regulations—Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| **Review:** Federal-Aid Funds Without State Matching (Docket No. 79-21). | This regulation would cover the use of Federal-aid highway funds without State matching to finance pooled fund studies. An NPRM was published September 27, 1979 (44 FR 55766) (23 CFR pt. 560; FHPM 5-6-1). | Harry H. Hersey, (703) 557-5257. | FR *August* 1980. |
| **Review:** R&D Management Option (Docket No. 79-21). | This regulation would provide alternate administrative procedures for State highway agencies which meet specified management standards. An NPRM was published September 27, 1979 (44 FR 55766). (23 CFR pt. 524; FHPM 5-2-4). | Harry H. Hersey, (703) 557-5257. | FR *August* 1980. |
| **Review:** *Highway Planning Program Administration* (Docket No. 78-24). | This regulation would reflect recent policy changes in management of the highway planning and research program, e.g., allowing separate projects for components of the program (urbanized area planning, statewide planning, research and development), and applying matching rates to time periods rather than a fiscal year fund, etc. NPRM was published January 11, 1979 (44 FR 2400). As a result of comments received to the Docket, as well as internal FHWA coordination, it was decided to combine 23 CFR Part 450, Subpart B, Metropolitan Planning Funds with this regulation since both deal with program administration. This will delay publication of the final rule by approximately 6 months (23 CFR Part 420, Subpart A and Part 450, Subpart C; FHPM 4-1-2-1). | R. B. Puckett, (202) 426-0175. | FR *September* 1980. |
| **Review:** Public Road Mileage for Apportionment of Highway Safety Funds, Safer Off-System Roads Funds and Hazard Elimination Funds. | The revised regulation would expand the existing one, which includes only Highway Safety Funds, to include the other listed programs in the revised title. (23 CFR pt. 460; FHPM 4-5-3). | D. W. Briggs, (202) 426-0199. | NPRM *September 1980.* |
| **Review:** Procedures for Abatement of Highway Traffic Noise and Construction Noise (Docket No. 78-33). | This revision would make substantial reductions in the detailed procedures and interpretive information in the existing regulation. This is being done pursuant to the FHWA Regulation Reduction Task Force recommendations. An ANPRM was published December 6, 1978 (43 FR 57161). (23 CFR pt. 772; FHPM 7-7-3). | H. M. Rupert, (202) 426-4836. | NPRM *August 1980.* |
| **Review:** General Policy and Definitions. | This regulation would prescribe the general policy of FHWA regarding the acquisition of real property for highway and related purposes and defines certain terms used in FHWA right-of-way acquisition regulations. (23 CFR pt. 710; FHPM 7-1-1). | Douglas A. Wubbels, (202) 426-0142. | To be withdrawn August 1980. |
| **Review:** State Highway Department Responsibilities (Docket No. 76-7). | This regulation would prescribe the general responsibility of a State highway department in the acquisition of rights-of-way for the Federal-aid highway systems. An amendment to the existing regulation was published on August 31, 1978, eliminating the requirement for State highway agencies to submit the annual Real Property Acquisition Report (43 FR 38818). (23 CFR pt. 710; FHPM 7-1-2). | Douglas A. Wubbels, (202) 426-0142. | NPRM *August 1980.* |
| **Review:** Reimbursement Provisions. | This regulation would set forth provisions governing reimbursement to a State highway department for right-of-way costs incurred in connection with Federal or Federal-aid highway projects. (23 CFR pt. 710; FHPM 7-1-3). | Douglas A. Wubbels, (202) 426-0142. | NPRM *August 1980.* |
| **Review:** Civil Rights ..... | This regulation would prescribe the general policy of the FHWA in the area of civil rights relative to the right-of-way acquisition function. (23 CFR pt. 710; FHPM 7-1-4). | Dougals A. Wubbels, (202) 426-0142. | To be withdrawn August 1980. |
| **Review:** The Real Property Acquisition Function-Policy. | This regulation would prescribe FHWA policy regarding the real property acquisition function. (23 CFR pt. 712; FHPM 7-2-1). | Tom Johns, (202) 426-0142. | NPRM *August 1980.* |
| **Review:** The Acquisition Function—General Provisions and project Procedures. | This regulation would prescribe FHWA project provisions and procedures regarding the acquisition of real property for highway and highway related projects. (23 CFR pt. 712; FHPM 7-2-2). | Tom Johns, (202) 426-0142. | NPRM *August 1980.* |

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| **Review:** The Acquisition Function—General provisions and Project Procedures—Functional Replacement Of Real Property in Public Ownership. | This regulation would prescribe FHWA policies on functional replacement of real property in public owership. (23 CFR pt. 712; FHPM 7-2-2-1). | Tom Johns, (202) 426-0142. | NPRM *August 1980.* |
| **Review:** The Acquisition Function—Negotiations. | This regulation will be combined with the regulation on general acquisition policy (FHPM 7-2-1). (23 CFR pt. 712; FHPM 7-2-3). | Tom Johns, (202) 426-0142. | To be withdrawn August 1980. |
| **Review:** The Acquisition Function—Administrative Settlements, Legal Settlements, and Court Awards. | This regulation will be combined with the regulation on reimbursement provisions (FHPM 7-1-3). (23 CFR pt. 712; FHPM 7-2-4). | Tom Johns, (202) 426-0142. | To be withdrawn August 1980. |
| **Review:** Appraisal and Appraisal Review Policy. | This regulation would establish FHWA requirements for the preparation and review of appraisal reports for the acquisition of lands necessary for Federal-aid highway projects. (23 CFR pt. 720; FHPM 7-3-1). | Gerald Kennedy, (202) 426-0142. | NPRM September 1980. |
| **Review:** Property Management ..... | This regulation would prescribe FHWA policies and procedures for the management of real property acquired in connection with Federal-aid highway projects. (23 CFR pt. 713; FHPM 7-4-1). | Tom Johns, (202) 426-0142. | NPRM *August 1980.* |
| **Review:** Disposal of Right-of-Way.. | This would prescribe FHWA polices and procedures for disposal of portions of highway right-of-way no longer needed for highway purposes. (23 CFR pt. 713; FHPM 7-4-2). | Tom Johns, (202) 426-0142. | NPRM *August 1980.* |
| **Review:** Junkyard Control and Abatement. | This regulation would provide definition of "effective control" of junkyards per 23 U.S.C. 136. It would identify alternative methods for abating nonconforming junkyards and establish the basic framework for State development of police power regulations and procedures. It would also identify items which are eligible for Federal participation in the various abatement techniques such as screening, removal, and relocation. An ANPRM published April 30, 1979 (44 FR 25387) and a Notice published May 17, 1979 (44 FR 28946) announced public hearings as part of an overall review of the Highway Beautification Program. These currently proposed regulations may be modified as a result of this review. (23 CFR pt. 751; FHPM 7-6-4). | Richard Moeller, (202) 245-0021. | NPRM *July 1981.* |
| **Review:** Relocation Assistance—General. | This regulation would prescribe the general provisions and procedures for the uniform implementation and conduct of the nationwide relocation assistance program to assure the fair and equitable treatment of persons displaced by highway programs. (23 CFR pt. 740; FHPM 7-5-1). | Robert Moore, (202) 426-0116. | NPRM *September 1980.* |
| **Review:** Relocation Assistance—Relocation Services. | This regulation would set forth the requirement for that portion of the relocation program dealing with the services and assistance to be made available to persons displaced by or adversely affected by highway and related projects. (23 CFR pt. 740; FHPM 7-5-2). | Robert Moore, (202) 426-0116. | NPRM *September 1980.* |
| **Review:** Relocation Assistance—Moving Payments. | This regulation would prescribe the moving payments and other benefits available to individuals, families, businesses, farm operations, nonprofit organizations, and owners of outdoor advertising devices forced to relocate due to highway activities. (23 CFR pt. 740; FHPM 7-5-3). | Robert Moore, (202) 426-0116. | NPRM *December 1980.* |
| **Review:** Relocation Assistance—Replacement Housing Payments. | This regulation would prescribe the payments and eligibility requirements for home owners and tenants forced to vacate their dwellings located on lands needed for highway purposes. (23 CFR pt. 740; FHPM 7-5-4). | Robert Moore, (202) 426-0116. | NPRM *December 1980.* |

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| **Review:** Relocation Assistance—Mobile Homes. | This regulation would set forth the special provisions for payments and benefits applicable to owners and occupants of mobile homes located on lands required for highway purposes. (23 CFR pt. 740; FHPM 7-5-5). | Robert Moore, (202) 426-0116. | NPRM *December 1980.* |
| **Review:** Relocation Assistance—Replacement Housing As Last Resort. | This regulation would implement Section 206 of Public Law 91-646 and prescribe the procedures and methods for providing replacement housing "as a last resort" when it is determined that a Federal or Federal-aid project cannot proceed to actual construction because comparable replacement housing is not available for persons to be displaced from their dwellings because of such construction. (23 CFR pt. 740; FHPM 7-5-6). | Robert Moore, (202) 426-0116. | NPRM *December 1980.* |
| **Review:** Land Service Facilities..... | This regulation would establish FHWA policy on participation in costs of facilities to provide or restore access to affected real property. (23 CFR pt. 712; FHPM 7-2-2-2). | Tom Johns, (202) 426-0142. | NPRM *August 1980.* |
| **Review:** Right-of-Way Revolving Fund. | This regulation would prescribe FHWA policy on acquisition of right-of-way with funding pursuant to 23 U.S.C. 108(c). (23 CFR pt. 712; FHPM 7-2-7). | Tom Johns, (202) 426-0142. | NPRM *August 1980.* |
| **Review:** Management of Airspace. | This regulation would prescribe FHWA policy on the use of airspace on Federal-aid highways for nonhighway purposes. (23 CFR pt. 713; FHPM 7-4-3). | Tom Johns, (202) 426-0142. | NPRM *August 1980.* |
| **Review:** Bond Issue Projects..... | This regulation would prescribe policies and procedures for the use of Federal funds in aiding the States in the retirement of the principal of bonds, pursuant to 23 U.S.C. 122. (23 CFR pt. 140; FHPM 1-4-8). | J. E. Lewis, (202) 426-0562. | FR *October 1980.* |
| **Review:** Advance Construction of Federal-aid Projects. | This regulation would prescribe procedures for the construction by a State of projects on any of the Federal-aid systems, in advance of apportionment of Federal-aid funds, or in lieu of apportioned funds for the Interstate System only, and for the subsequent reimbursement to the State of the Federal share of the cost of the project, pursuant to 23 U.S.C. 115 as amended. (23 CFR pt. 630; FHPM 6-3-2-7). | K. C. Kippley, (202) 426-0673. | FR *September 1980.* |
| **Review:** Reimbursement for Employment of *Public* Employees on Federal-aid Projects. | This regulation would prescribe policies and procedures governing the extent to which Federal funds may participate in the cost of salaries and wages and related labor costs, incurred by public forces of State highway departments, counties, cities, or other political subdivisions. (23 CFR pt. 140; FHPM 1-4-5). | J. E. Lewis, (202) 426-0562. | FR *September 1980.* |
| **Review:** Disqualifying Offenses, Drugs. | The FHWA is considering amending the Disqualification of Drivers regulation (49 CFR 391.15) by reviewing and enlarging that group of substances and drugs, whose use by drivers, operating commercial motor vehicles, is forbidden and is considered a disqualifying offense. (49 CFR pt. 391). | Gerald J. Davis, (202) 426-9767. | NPRM *August 1980.* |
| **Review:** Visual Acuity..... | The FHWA is considering amending the Physical Qualification for Drivers regulation (49 CFR 391.41) by reviewing and determining minimum visual acuity in each eye separately as well as binocular acuity for commercial vehicle drivers. (49 CFR pt. 391). | Gerald J. Davis, (202) 426-9767. | NPRM September 1980. |
| **Review:** Forest Highways..... | This regulation would contain administrative procedures applicable to Forest Highway projects administered by direct Federal Offices and State highway agencies. (23 CFR pt. 660; FHPM 6-9-2-1). | R. C. Coles, (202) 426-0460. | NPRM *August* 1980. |
| **Review:** Erosion and Sediment Control on Highway Construction Projects. | This regulation would prescribe practices for the prevention and abatement of erosion and sediment damage on highway projects. (23 CFR pt. 650; FHPM 6-7-3-1). | Stanley Davis, (202) 472-7690. | FR *December 1980.* |

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| **Review:** Permits for Highway Work in or Adjacent to Streams. | This regulation would contain procedures dealing with permits and include memoranda of understanding with the Coast Guard and the Corps of Engineers as appendices. (23 CFR pt. 650; FHPM 6-7-1-1). | Stanley Davis, (202) 472-7690. | FR *December 1980.* |
| **Review:** Coordination of Water Resources Development Projects. | This regulation would prescribe policy and procedures for the coordination and financing of highway—water resources development projects. (FHPM 6-1-1-4). | Edward D. Johnson, (202) 426-0334 or Stanley Davis, (202) 472-7690. | FR *August 1980.* |
| **Review:** Required Contract Provisions—Federal-aid Contracts. | This regulation would update and clarify the required contract provisions for Federal-aid construction contracts. (23 CFR pt. 633; FHPM 6-4-1-1). | K. L. Ziems, (202) 426-4847. | FR *September 1980.* |
| **Review:** Contract Procedures (Docket No. 78-16). | This regulation would simplify Federal-aid contract procedures. NPRM was published on August 18, 1978 (43 FR 36685). (23 CFR pt. 633; FHPM 6-4-1-6). | K. L. Ziems, (202) 426-4847. | FR *September 1980.* |
| **Review:** Contract and Force Account, Justifications Required for Force Account Work. | This regulation would simplify procedures relating to Federal-aid construction work performed by other than competitively awarded contract. (23 CFR pt. 635; FHPM 6-4-1-14). | K. L. Ziems, (202) 426-4847. | *FR August 1980.* |
| **Review:** General Materials Requirements. | This regulation would simplify procedures relating to general material requirements for Federal-aid construction work. (23 CFR pt. 635; FHPM 6-4-1-16). | K. L. Ziems, (202) 426-4847. | NPRM *August 1980.* |
| **Review:** Authorization to Proceed to Physical Construction. | This regulation would update procedures relating to authorization of physical construction. This revision will not be made within the next year. (23 CFR pt. 635; FHPM 6-4-2-1). | K. L. Ziems, (202) 426-4847. | *Withdrawn.* |
| **Review:** Landscape and Roadside Development (Docket No. 78-2). | This regulation would prescribe policies and procedures relating to highway landscaping and plant establishment, safety rest areas and information centers and systems, and scenic strips in connection with Federal-aid Highway Projects. *Joint use and joint development and access for the handicapped at Interstate Rest Area Facilities.* Interim Final Regulations published May 5, 1978 (43 FR 19390). (23 CFR pt. 752; FHPM 6-2-5-1). | Ken Rickerson, (202) 426-0314. | FR *November 1980.* |
| Resurfacing, Restoration and Rehabilitation (RRR) Work. | This regulation would set forth policy and project procedures for implementing RRR program as it relates to pavement design practices. (FHPM 6-2-4-2). | Leon M. Noel, (202) 426-0327. | FR *September 1980.* |
| **Review:** Skid Resistant Surface Design. | This regulation would set forth pavement design policy as it pertains to skid resistance on Federal-aid highway projects. An NPRM was published April 10, 1980 (45 FR 24505). (23 CFR 828) (FHPM 6-2-4-3). | Leon M. Noel, (202) 426-0327. | *FR date to be determined.* |
| *Selection of Pavement Type*..... | This regulation would set forth policy for the selection of pavement type on Federal-aid projects, (FHPM 6-2-4-4). | Leon M. Noel, (202) 426-0327. | *ANPRM August 1980.* |
| **Review:** Traffic Control Devices on Federal-aid and Other Streets and Highways. | This regulation would prescribe the policies and procedures of FHWA relative to obtaining basic uniformity in the visible features and functioning of traffic control devices on all highways open to public travel in accordance with the Manual on Uniform Traffic Control Devices for Streets and Highways. An NPRM was published September 27, 1979 (44 FR 55598). (23 CFR pt. 655; FHPM 6-8-3-1). | Donald P. Ryan, (202) 426-0411. | FR *August 1980.* |
| **Review:** Motorists Aid Systems..... | This regulation would provide policies and procedures relating to motorist-aid systems on Federal-aid highways. (23 CFR pt. 655; FHPM 6-8-3-3). | Robert Harp, (202) 426-0411. | FR *October 1980.* |
| **Review:** Traffic Surveillance and Control. | This regulation would establish policies and procedures relating to the expenditure of Federal-aid funds for traffic surveillance and control measures and equipment to reduce congestion, improve traffic flow and increase safety. (23 CFR pt. 655; FHPM 6-8-3-4). | Robert Harp, (202) 426-0411. | FR *October 1980.* |

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| **Review:** Relinquishment of Highway Facilities. | This regulation would prescribe Federal Highway Administration procedures relating to relinquishment of highway facilities. (23 CFR pt. 620; FHPM 6-1-1-8). | R. J. Kreklau, (202) 426-0334. | NPRM *September* 1980. |
| **Review:** Reimbursement for Railroad Work. | This regulation would prescribe policies and procedures on reimbursement to the States for railroad work done on projects undertaken pursuant to the provisions of 23 CFR pt. 646 B. (23 CFR pt. 140; FHPM 1-4-3). | J. A. Carney, (202) 426-0104. | NPRM *September 1980.* |
| **Review:** Utility Relocation and Adjustment. | This regulation would prescribe the policies and procedures for the adjustment and relocation of utility facilities on Federal-aid highway projects and projects under the direct supervision of the Federal Highway Administration. An ANPRM was published March 8, 1979 (44 FR 12209). (23 CFR pt. 645; FHPM 1-4-4). | J. A. Carney, (202) 426-0104. | *August 1980.* |
| **Review:** Accommodation of Utilities. | This regulation would prescribe policies and procedures for accommodating utility facilities on the rights-of-way of Federal and Federal-aid highway projects. *A NPRM was published April 17, 1980 (45 FR 26280).* (23 CFR pt. 645; FHPM 6-6-3-2). | J. A. Carney, (202) 426-0104. | *FR January 1981.* |
| **Review:** Railroad Highway Projects. | This regulation would prescribe policies and procedures for advancing Federal-aid projects involving railroad facilities. The FHWA has determined that issuance of an ANPRM would not benefit this rulemaking process. (23 CFR pt. 646; FHPM 6-6-2-1). | J. A. Carney, (202) 426-0104. | NPRM *September 1980.* |
| **Review:** Project Agreements..... | This regulation would prescribe the forms and procedures for the preparation and execution of the project agreements required by 23 U.S.C. 110(a) for Federal-aid projects. ANPRM published December 6, 1979 (44 FR 70191). (23 CFR pt. 630; Subpt. C; FHPM 6-3-1-1). | L. Pettigrew, (202) 426-0334. | NPRM December 1980. |
| **Review:** Exemption from Preparing Driver's Daily Logs for Operations Between Certain Fixed Locations (Docket No. MC-70-2). | This regulation would propose to exempt certain drivers from preparing the driver's log when they operate *from* specified fixed locations day after day within the allowable hours of service. ANPRM published on November 9, 1978 (43 FR 58418). (*49* CFR pt. 395). | Gerald J. Davis, (202) 426-9767. | NPRM *August 1980.* |
| **Review:** Rear End Underride Protection (Docket No. MC-77). | This regulation would propose to provide improved rear end protection on heavy motor vehicles manufactured after a certain date to prevent the underriding of vehicles which impact the rear of those vehicles. (49 CFR pt. 393). | Gerald J. Davis, (202) 426-9767. | NPRM *December 1980.* |
| **Review:** 100-Mile Exemption-Driver's Logs (Docket No. MC-78). | This regulation increases the present 50-mile radius exemption from the daily log requirement to a radius of 100-miles. NPRM published on October 13, 1978 (43 FR 55109). *Final rule published April 3, 1980 (45 FR 22042). (49 CFR pt. 395).* | Gerald J. Davis, (202) 426-9767. | *Action complete.* |
| Toxic Gases in Truck Cabs (Docket No. MC-80). | This regulation would set maximum toxic gas levels in truck cabs. ANPRM published January 1978 (43 FR 120). NPRM published June 18, 1979 (44 FR 34992). (49 CFR pt. 392). | Gerald J. Davis, (202) 426-9767. | *Further action to be determined.* |
| Ambient Temperature in Heavy Duty Truck Cabs (Docket No. MC-81). | This regulation would set maximum permissible ambient temperatures in truck cabs. ANPRM published on February 8, 1978 (43 FR 5397). (49 CFR pt. 399). | Gerald J. Davis, (202) 426-9767. | NPRM *November* 1980. |
| **Review:** Relocation Assistance-Moving Payments-Moving Expense Schedules. | This regulation would set forth the FHWA approved moving expense schedules which are applicable to all residential moves necessitated by all Federal programs administered by all Federal agencies. These schedules are reviewed and updated by each State highway agency on a semiannual basis and approved by FHWA prior to final publication in the Federal Register semiannually. (49 CFR pt. 25; FHPM 7-5-3). | Robert Moore, (202) 426-0116. | FR *August* 1980. |

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| Roadway Drainage | This regulation would provide FHWA policy and procedures for the design of roadway drainage systems for conveying runoff from highways. (23 CFR pt. 650). | Philip L. Thompson, (202) 472-7690. | NPRM *December* 1980. |
| Uniform Criteria for Warning Devices at Railroad-Highway Grade Crossings (Docket No. 78-13). | This regulation would issue uniform nationwide criteria for the selection of various types of warning devices to be installed at railroad-highway grade crossings. ANPRM published August 10, 1978 (43 FR 35491) and June 12, 1980 (45 FR 40062). (23 CFR 625, 646, and 655). | *Justin True,* (202) 426-0411. | *NPRM March 1981.* |
| **Review:** Guide for Bicycle Facilities (Docket No. 79-3). | This regulation establishes design and construction *guidelines* for bikeways. ANPRM published on February 8, 1979 (44 FR 7979). *NPRM published August 4, 1980 (45 FR 51720).* (23 CFR pts. 652 and 663). | *James Kirchensteiner,* (202) 426-0314. | NPRM *FR January 1981.* |
| **Review:** The General Part of the Federal Motor Carrier Safety Regulations. | The FHWA is considering amending Part 390 in the first step of a general revision of the FMCSR. The purpose of the revision is to improve and simplify the regulations (49 CFR pt. 390). | Gerald J. Davis, (202) 426-9767. | NPRM *August 1980.* |
| Appalachian Highway Procedures... | This regulation revision would reflect the recent legislative change in the participation percentage for Appalachian funds and would make several minor changes to existing procedures. *Recent policy decision by the Appalachian Regional Commission will delay publication of the NPRM by approximately six months.* (23 CFR pt. 633, subpt. B; FHPM 6-9-10-1). | R. B. Puckett, (202) 426-0175. | NPRM *December 1980.* |
| Carpool and Van Pool Projects..... | This regulation revision would reflect the required changes brought about by the Surface Transportation Assistance Act of 1978 plus related program modifications. NPRM published December 10, 1979 (44 FR 70753) (23 CFR pt. 656; FHPM 4-8-3). | Barbara Reichart, (202) 426-0210. | *FR August 1980.* |
| National Bridge Inspection Standards. | This regulation provides guidance and establishes procedures concerning the national bridge inspection standards in accordance with Section 124 of the Surface Transportation Assistance Act of 1978. Final Rule published May 1, 1979 (44 FR 25434). *Comments received on the final rule have been reviewed and no revisions will be published.* (23 CFR pt. 650 Subpt. C). | Stanley Gordon, (202) 472-7697. | *Action complete.* |
| State Highway Safety Agency (Docket No. 79-10). | This rule would replace the existing Joint FHWA/NHTSA Orders on State agencies with a new Part 1251, State Highway Safety Agency in Title 23, Code of Federal Regulations. It proposes to establish new requirements for the authority and function of State highway safety agencies. NPRM published June 21, 1979 (44 FR 36204) and a revised NPRM published December 6, 1979 (44 FR 70192). (23 CFR 1251). | FHWA J. L. Rummel, (202) 426-2131 NHTSA *George Reagle, (202) 426-0068.* | *FR September 1980.* |
| State Matching of Planning and Administration Cost. | This Notice establishes NHTSA and FHWA policy on State planning and administration costs associated with carrying out a highway safety program under the Highway Safety Act with a new Part 1252, State Matching of Planning and Administration Costs in Title 23, Code of Federal Regulations. It defines planning and administration costs, describes the expenditures that may be used to satisfy the State matching requirement, prescribes how the requirement will be met, and specifies when the State will have to comply with the requirement. NPRM was published on July 16, 1979 (44 FR 41244). An Amendment to the NPRM was published August 28, 1979 (44 FR 50063). *Final rule published on July 14, 1980 (45 FR 47144).* (23 CFR pt. 1252). | FHWA J. L. Rummel, (202) 426-2131. NHTSA *George Reagle, (202) 426-0068.* | *Action complete.* |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

AGENDA

## FHWA — Federal Highway Administration

Nonsignificant Regulations—Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| Innovative Project Grants | This rule would provide criteria, procedures, and policies for administration of Innovative Project Grants under 23 U.S.C. 407 when funds are appropriated. ANPRM published July 19, 1979 (44 FR 42233). NHTSA has primary responsibility for this action. (23 CFR pt. 1217). | FHWA J. L. Rummel, (202) 426-2131. NHTSA *Charles Livingston, (202) 426-0837.* | NPRM *September 1980.* |
| Bicycle Grant Program | This rule revises existing procedures for the Bikeway Demonstration Program to include the bicycle grants program authorized under Section 141 of the Surface Transportation Assistance Act of 1978. The FHPM title will be changed to Bicylce Grant Program. NPRM published January 3, 1980 (45 FR 952). *Final Rule published May 1, 1980. (45 FR 29015).* (23 CFR pt. 663; FHPM 6-9-14). | Tom Jennings or Ken Rickerson, (202) 426-0314. | *Action complete.* |
| Accessibility of Highway Rest Area Facilities to Handicapped Persons. | This proposed rule would require that rest area facilities on Interstate highways be made totally accessible to handicapped persons. The proposal would conform the language of the FHWA rule to the requirements of the Department's Section 504 regulation, which establishes requirements for handicapped accessibility. *This proposal is being combined with the rule on Landscape and Roadside Development listed above.* (23 CFR pt. 752). | Ken Rickerson, (202) 426-0314. | *Withdrawn.* |
| Manual on Uniform Traffic Control Devices. | The Manual on Uniform Traffic Control Devices (MUTCD) contains the national standards for traffic control devices erected on all streets and highways open to public travel. These standards are constantly under review and revisions of individual standards are published from time to time. This Agenda will now *provide notice of* the *standards that are currently under review as possible amendments to the MUTCO (23 CFR 625 and 655).* | | |
| | *(1) An ANPRM published January 3, 1980 (45 FR 982). Approximately 40 standard items. Docket closed July 1, 1980.* | *J. C. Partlow, (202) 426-0411.* | *NPRM October 1980.* |
| | *(2) An ANPRM published June 19, 1980 (45 FR 41600). Approximately 20 standard items. Docket closes February 1, 1981.* | *J. C. Partlow, (202) 426-0411.* | *NPRM April 1981.* |
| | *(3) A NPRM published January 24, 1980, (45 FR 5750). Docket closed March 24, 1980.* | *Robert E. Conner, (202) 426-0411.* | *FR August 1980.* |
| **Review:** Water Supply and Sewage treatment at Safety Rest Areas. | This regulation would update policy for providing safe and adequate water supply and sewage treatment at safety rest areas. (23 CFR pt. 650, subpt. E; FHPM 6-7-3-3). | R. Baumgardner, (202) 472-7690. | FR *August 1980.* |
| Application for and Obligation of Federal-Aid Funds for Education and Training. | This regulation increases the Federal share available for tuition and direct educational expenses, 23 U.S.C. 321(b). Public Law 96-106 increased the allowable Federal Share from 70 percent to 75 percent. *Final rule published January 28, 1980 (45 FR 6477). (23 CFR pt. 260).* | Jack T. Coe, (202) 426-9141. | *Action complete.* |
| **Review:** Federal-Aid Highway Systems. | This regulation would prescribe policy regarding Federal-aid Highway Systems to reflect amendments contained in the 1976 and 1978 Highway Acts. *The recent decision to combine this directive and FHPM 4-6-6-1. Priority Primary Routes (23 CFR pt. 470, subpt. c), will delay publication of the NPRM by approximately 90 days (23 CFR pt. 470, subpt. A).* | R. B. Puckett, (202) 426-0175. | NPRM *August 1980.* |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

AGENDA

**FHWA** **Federal Highway Administration**

Nonsignificant Regulations—Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| Design Standards for Highways..... | This regulation would amend the existing geometric design standards for highways for new construction and major reconstruction of Federal-aid highways by replacing several publications incorporated by reference in 23 CFR Part 625 with a single new publication. Public comments will be requested on the geometric design criteria as presented in a draft of the new publication *A Policy on Geometric Design of Highways and Streets* prepared by the American Association of State Highway and Transportation Officials. *NPRM published February 14, 1980 (45 FR 10236).* (23 CFR Part 625, FHPM 6-2-1-1). | Wilson B. Harkins, (202) *426-0313.* | *FR September 1981.* |
| Design and Construction Requirements for Highway Pedestrian Overpasses and Underpasses. | The intent of this regulation is to develop standards for the design and construction of pedestrian overpasses and underpasses for accessibility and usability by physically handicapped persons (per March 7, 1979, Agreements with Architectural and Transportation Barriers Compliance Board). | Ali Sevin and Larry King, (202) 426-0306 or Lee Burstyn, (202) 426-0761. | NPRM *October 1980.* |
| Assignment of Motor Carrier Safety Ratings. | The Federal Highway Administration is responsible for determining and reporting to the ICC a safety rating for each carrier applicant seeking operating authority from the ICC. This regulation formalizes current procedures. NPRM published November 23, 1979 (44 FR 67193). (49 CFR pt. 385). | James Jeglum, (202) 426-1724. | FR *August* 1980. |
| Payback Regulation Amendments.. | Federal Highway Administration regulations in 23 CFR Part 480 prescribe the circumstances under which states must repay the Federal Government for the Federal contribution to the purchase of property for Interstate highway projects that are later withdrawn. Congress, in Public Law 96-106, amended 23 U.S.C. 103(e) to change the circumstances under which repayment must be made. This regulation would incorporate the legislative changes in 23 CFR Part 480. | L. A. Staron, (202) 426-0404. | NPRM *September* 1980. |
| **Review:** Archeological and Paleontological Salvage. | This regulation *covers* procedures for implementing the provision of Title 23, U.S.C., Section 305, involving the use of Federal highway funds for archeological and paleontological salvage on Federal and Federal-aid highway projects. It *will be* withdrawn because the content is covered by other regulations. (23 CFR pt. 765; FHPM 7-7). | Larry Isaacson, (202) 426-9173. | *Regulation To Be Rescinded September 1980.* |
| Qualification of Drivers..... | This notice will request comments on continuing the regulation which provides that no waiver for handicapped drivers will be granted to drivers of buses or trucks transporting hazardous materials. *NPRM was published on June 12, 1980 (45 FR 39672).* (49 CFR pt. 391.49). | Gerald J. Davis, (202) 426-9767. | *Further action to be determined.* |
| **Review:** Compliance With Motor Carrier Noise Standards. | The FHWA is considering amending the noise emission standards to add a new minimum distance of 31 feet from which to measure highway noise. FHWA is also considering eliminating the correction factor which allowed a variance for noise tests taken at hard sites, e.g., asphalt, compared to those taken at soft sites, e.g., grassy areas. NPRM published April 3, 1980 (45 FR 22120). Further action will be determined following review of the comments to the docket. (49 CFR pt. 325). | Gerald J. Davis, (202) 426-9767. | *FR November 1980.* |
| Maximum Weight of Trucks on Interstate System Highways: Variable Local Suspension Axles: Dummy Axles: Interpretation and Application of the Bridge Formula. | This notice would provide guidance on the use of Variable Local Suspension Axles and Dummy Axles in the Bridge Formula, which is used to determine the maximum weight of motor vehicles permitted to use the Interstate System highways in accordance with 23 U.S.C. 127. ANPRM published December 6, 1979 (44 FR 69586). A Notice on March 10, 1980 (45 FR 15588) extended the comment period to June 2, 1980. (23 CFR pt. 657). | David Oliver (202) 426-0825. | Further action to be determined. |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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**FHWA**

## Federal Highway Administration

Nonsignificant Regulations—Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| *State Internal Audit Responsibility. | This rule would update existing requirements for internal audits conducted by the States under the Federal-aid highway program. (23 CFR 12; FHPM 1-9-1-1). | Harvey Wood, (202) 426-0563. | NPRM August 1980. |
| *Reimbursement Vouchers | This revision would establish uniform policy for withholding requirements to adequately protect the Federal interest in projects administered by State highway agencies. The revision would also incorporate current policies for closing projects and filing final vouchers. (23 CFR 104A; FHPM 1-4-6). | Harvey Wood, (202) 426-0563. | NPRM October 1980. |
| *Skid Accident Reduction Program. | This rule would set forth policy for development and implementation of a program in each State designed to reduce the number and severity of wet weather accidents. (FHPM 8-2-3-1). | Donald Kamnikar, (202) 426-2131. | NPRM August 1980. |
| *The use of 4-way flashers on slow moving vehicles. | This action will consider changing the regulations to allow the use of 4-way flashers to warn of potential hazards. | Gerald Davis, (202) 426-9767. | NPRM November 1980. |
| *Rear Vision Mirrors (Docket MC-80). | The regulation would serve to clarify the rule change published May 1, 1979. (49 CFR 393). | Gerald Davis, (202) 426-9767. | NPRM September 1980. |
| *Miscellaneous Amendments—FMCSR. | Clarifies and updates sections. FR issued July 10, 1980 (45 FR 46423). | Gerald Davis, (202) 426-9767. | Action complete. |
| *REVIEW: The need for first-aid kits on buses. | Comments will be requested on the need to continue requiring first-aid kits on interstate buses. (49 CFR 393). | Gerald Davis, (202) 426-9767. | NPRM November 1980. |
| *Transportation of Migrant Workers. | This rule would revise regulations for the transportation of migrant workers in interstate commerce to ensure their safe transportation. (49 CFR 398). | Gerald Davis, (202) 426-9767. | ANPRM August 1980. |
| *Education and Training Programs. | This amendment would extend the period of time for which a grant recipient may receive financial support from 12 months of full-time study to 24 months of full-time study. (23 CFR 260A). | Larry Jones, (202) 426-3100. | FR August 1980. |
| *Administrative Hearings | This rule is proposed to provide a general procedure for administrative hearings. This proposed rule would allow the Administrator to initiate administrative proceedings on discretion, or on complaint, and would govern procedure under such proceedings. (23 CFR 20). | Hugh T. O'Reilly, (202) 426-0780. | NPRM October 1980. |
| *Disqualification of Drivers (traffic records). | The proposed rule would require the disqualification of interstate truck and bus drivers based on the driver's traffic or accident record. | Gerald Davis, (202) 426-9767. | ANPRM October 1980. |
| *Selection of Motor Carriers for Survey. | FHWA is considering the publication of criteria for the selection of carriers for safety and hazardous materials surveys. | Gerald Davis, (202) 426-9767. | NPRM January 1981. |
| *Rulemaking Procedures | The proposed rule would provide procedures for processing petitions for rulemaking and related matters. | Stan Abramson, (202) 426-0761. | NPRM September 1980. |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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**NHTSA** **National Highway Traffic Safety Administration**

Significant Regulations

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| Light Truck Fuel Economy Rulemaking (Docket No. FE 78-01). | **A. Description:** Would set average fuel economy standards for *model years 1983-1985 light trucks with gross vehicles weight ratings of 8500 pounds or less.*<br>**B. Why Significant:** The rule is considered significant because of the impact on the automotive industry, the public, and energy consumption.<br>**C. Analysis:** Regulatory Analysis.....<br>**D. Need:** Conservation of petroleum.....<br>**E. Legal Basis:** Motor Vehicle Information and Cost Savings Act, as amended, 15 USC 2002.<br>**F. Chronology:** NPRM issued 12/31/79. (44 FR 77199). *Comment period closed December 31, 1979. Final Rule to be issued in October 1980. Model Year. 1982 Final Rule published March 31, 1980 (45 FR 20871).*<br>**G. Citation:** 49 CFR pt. 533..... | Richard Strombotne, (202) 426-0846. | *Model Years 1983 thru 1985, FR September 1980.* |
| Passenger Automobile Fuel Economy Rulemaking. | **A. Description:** *Analysis to determine what fuel economy standards should be established for the time frame beyond MY 1985. The primary constraint to the achievement of higher corporate average fuel economy (CAFE) is likely to be the industry's inability to support the requisite capital investments. Post-1985 actions require a comprehensive evaluation of total resources available to the manufacturers. Therefore, it is proposed that such action go forward simultaneously for passenger cars and trucks. The post-1985 fuel economy standards are being thoroughly considered as part of the Department's auto industry study and will not be pursued in rulemaking until that study is complete and submitted to the President.*<br>**B. Why Significant:** The rule is considered significant because of the impact on the automotive industry, the public, and energy consumption.<br>**C. Analysis:** Regulatory Analysis.....<br>**D. Need:** Conservation of petroleum.....<br>**E. Legal Basis:** Motor Vehicle Information and Cost Savings Act, as amended 15 USC 2002, *as amended 15 U.S.C. 2002 Sec 502(a)(4).*<br>**F. Chronology:** *NPRM for Model Years 1981-1984 issued February 17, 1977, (42 FR 19321). Final Rule for Model Years 1981-1984 issued June 27, 1977 (42 FR 33534). Report on Requests by General Motors and Ford to Reduce Fuel Economy Standards for MY 1981-85 Passenger Automobiles—June 1979.*<br>**G. Citation:** *49 CFR pt. 531*..... | Richard Strombotne, (202) 426-0846. | *Further action to be determined.* |
| Confidential Business Information (Docket No. 78-10). | **A. Description:** Would codify existing method of processing confidential information from manufacturers.<br>**B. Why Significant:** This rule considered significant because of the controversial nature of confidential business information.<br>**C. Analysis:** Regulatory Evaluation.....<br>**D. Need:** To assure the manufacturer a more predictable process of information gathering and to streamline and speed up NHTSA use of data. | Frank Berndt, (202) 426-9511. | Further action to be determined. |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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**NHTSA** **National Highway Traffic Safety Administration**

Significant Regulations—Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| | **E. Legal Basis:** National Traffic and Motor Vehicle Safety Act of 1966, as amended, and the Motor Vehicle Information and Cost Savings Act, as amended, 15 USC 1381; 15 USC 2002.<br>**F. Chronology:** NPRM issued 5/25/78. (43 FR 22412). The Agency is reconsidering the regulation in light of recent court decisions in this area and recent proposals by other agencies for similar regulations. Further action postponed indefinitely pending further analysis.<br>**G. Citation:** 49 CFR pt. 512 | | |
| Heavy Duty Vehicle Brake Systems (Docket 79-03). (Formerly Air Brake *Systems).* | **A. Description:** Would establish a new Air Brake Standard (No. 130) for trucks, buses, and trailers over 10,000 pounds gross vehicle weight rating, to replace Air Brake Standard No. 121. This new standard will include requirements for hydraulically braked heavy trucks and buses.<br>**B. Why Significant:** The rule is considered significant because of the level of public and Congressional interest.<br>**C. Analysis:** Regulatory Evaluation<br>**D. Need:** *To correct the inadequacies in Standard No. 121 resulting from many revisions and Court action,* and to include hydraulically braked heavy trucks and buses not previously included.<br>**E. Legal Basis:** National Traffic and Motor Vehicle Safety Act of 1966, as amended.<br>**F. Chronology:** ANPRM issued 2/15/79. (44 FR 9783). Comment period closed 4/16/79. Research is being conducted.<br>**G. Citation:** 49 CFR 571.121 | A. Malliaris, (202) 426-0842. | *Research underway.* |
| Heavy Duty Vehicle Brake Systems (Formerly Truck and Trailer Brake Systems). | **A. Description:** Would establish long term agency interest in such advanced braking systems concepts as antilock systems, automatic brake adjustors for heavy trucks and buses, and disc brakes for heavy trucks and buses.<br>**B. Why Significant:** This rule is considered significant because of the level of public and Congressional interest.<br>**C. Analysis:** Regulatory Analysis<br>**D Need:** To establish long term plans for truck braking regulations.<br>**E. Legal Basis:** National Traffic and Motor Vehicle Safety Act of 1966, as amended.<br>**F. Chronology:** *ANPRM issued February 28, 1980 (45 FR 13155), Research underway.*<br>**G Citation:** 49 CFR 571.121, 49 CFR 571.105-75 | A. Malliaris, (202) 426-0842. | *Research underway.* |
| Multipiece Rims on Trucks and Buses. (Docket No. 71-19). | **A. Description:** NHTSA is examining the need to issue a performance requirement for multipiece rims because of their potential for explosive separation. The requirement could result in the elimination of the multipiece rims on new vehicles.<br>**B. Why Significant:** This rulemaking is considered significant because of the level of interest shown by users and manufacturers of these rims, and because of the cost impacts.<br>**C. Analysis:** Regulatory Analysis | A. Malliaris, (202) 426-0842. | Further action to be determined. |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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**NHTSA** **National Highway Traffic Safety Administration**

Significant Regulations—Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| | **D. Need:** Balance the safety hazards associated with the use of these rims against the added costs of using safer single-piece rims.<br>**E. Legal Basis:** National Traffic and Motor Vehicle Safety Act of 1966, as amended.<br>**F. Chronology:** ANPRM issued March 5, 1979. (44 FR 12072). Comments received June 4, 1979. Cost and impact study *results are being analyzed.*<br>**G. Citation:** 49 CFR 571.120 | | |
| Bumper Standard | **A. Description:** NHTSA released an updated cost-benefit analysis on the bumper standard on June 1, 1979. It concluded that an amendment to the existing standard is not warranted at this time.<br>**B. Why Significant:** This rulemaking is considered significant because of the level of interest shown by Congress and bumper manufacturers, and because of the cost impacts to consumers.<br>**C. Analysis:** Regulatory Evaluation<br>**D. Need:** Congress has asked for a cost benefit study analyzing the merits of 2.5 mph bumpers vs. 5.0 mph bumpers.<br>**E. Legal Basis:** National Traffic and Motor Vehicle Safety Act of 1966, as amended, and Motor Vehicle Information and Cost Savings Act, as amended.<br>**F. Chronology:** ANPRM issued 3/1/79. (44 FR 11569). Comment period closed 4/30/79. Task Force organized and contractor began work on Bumper Study, April 2, 1979. Final report published June 1, 1979.<br>**G. Citation:** 49 CFR pt. 581 | Michael Brownlee, (202) 426-1740. | Further action to be determined. |
| Information Gathering Powers (Docket 78-01). | **A. Description:** Codifies the Agency's information gathering powers under its various authorizing statutes and set forth the rights of respondents to that process.<br>**B. Why Significant:** This rule is considered significant because of interest shown by manufacturers.<br>**C. Analysis:** Regulatory Evaluation<br>**D. Need:** To inform the public of the procedures to be followed by this Agency in connection with its information gathering efforts and of the rights they have with respect to those information gathering powers.<br>**E. Legal Basis:** National Traffic and Motor Vehicle Safety Act of 1966, as amended, and Motor Vehicle Information and Cost Savings Act, as amended.<br>**F. Chronology:** Interim FR published 12/27/77 (42 FR 64628). *Final Rule issued May 1, 1980 (45 FR 29032).*<br>**G. Citation:** 49 CFR Part 410 | Frank Berndt, (202) 426-9511. | *Action complete.* |
| Pedestrian Protection | **A. Description:** Would reduce adult pedestrian lower torso and leg injuries and child injuries through modification of the bumper, grille, and hood edges. (49 CFR 571).<br>**B. Why Significant:** The rule is considered significant because of the design impact on the automotive industry, and cost and other impacts. Preliminary reviews indicate that the rule would be costly as defined by Executive Order 12044. | A. Malliaris, (202) 426-0842. | NPRM *Early 1981.* |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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**NHTSA** **National Highway Traffic Safety Administration**

Significant Regulations—Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| | **C. Analysis:** Regulatory Analysis<br>**D. Need:** To develop a countermeasure to reduce a portion of the pedestrian fatalities and injuries resulting from pedestrian involvements with passenger cars.<br>**E. Legal Basis:** National Traffic and Motor Vehicle Safety Act of 1966, as amended.<br>**F. Chronology:** None yet<br>**G. Citation:** 49 CFR Part 571 | | |
| *Crashworthiness Ratings | **A. Description:** Would require manufacturers to disseminate crashworthiness performance information concerning their cars to the public.<br>**B. Why Significant:** This rulemaking is considered significant because of the impact on manufacturers, the interest shown by consumers, and the potential significant effects on the automotive marketplace.<br>**C. Analysis:** Regulatory Analysis<br>**D. Need:** To provide consumers with comparative information on the crashworthiness performance of new car models.<br>**E. Legal Basis:** National Traffic and Motor Vehicle Safety Act of 1966, as amended, and Motor Vehicle Information and Cost Savings Act, as amended. 15 U.S.C. 1941, Section 201(d); 15 U.S.C. 1401, Section 112(d).<br>**F. Chronology:** None yet.<br>**G. Citation:** 49 CFR Ch. 5 | Michael Brownlee, (202) 426-1740. | NPRM January 1981. |
| *Air Brake Systems | **A. Description:** Would reinstate the 60 mph stopping distance requirement in standard No. 121, without a no wheel lock-up requirement, to replace the one invalidated by the Ninth Circuit Court of Appeals decision: *PACCAR, INC. v. NHTSA 573 F 2d 632.* This will be an interim action while research and analysis is underway to develop requirements for a new Standard No. 130.<br>**B. Why Significant:** The rule is considered significant because of the level of public and Congressional interest.<br>**C. Analysis:** Regulatory Evaluation<br>**D. Need:** To prevent degradation of current braking performance as a result of the Court's action while research and analysis is underway to support a new Standard No. 130.<br>**E. Legal Basis:** National Traffic and Motor Vehicle Safety Act of 1966, as amended.<br>**F. Chronology:** None yet<br>**G. Citation:** 49 CFR 571.121 | A Malliaris, (202) 426-0842. | NPRM June 1981. |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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**NHTSA** **National Highway Traffic Safety Administration**

Nonsignificant Regulations

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| Seat Belt Assemblies (Docket No. 74-14). | Would improve seat belt comfort, convenience, reliability and effectiveness by prescribing parameters for performance of seat belt assemblies. (49 CFR 571.208). NPRM issued 12/20/79 (44 FR 77210). | A. Malliaris, (202) 426-0842. | FR November 1980. |
| School Bus Crash Protection (Docket No. 73-03). | Would amend *49 CFR* 571.3 definitions to include a subclassification for "School Activities Bus" and amend FMVSS 222 as it would apply to this vehicle class. (49 CFR 571.222). | A. Malliaris, (202) 426-0842. | *Withdrawn pending further action.* |
| Adjudicative Procedures Fuel Economy. | Would establish procedures and rules of practice for adjudications to enforce the fuel economy provisions in Title V of the Motor Vehicle Information and Cost Savings Act. This was issued as an interim final rule 10/16/78 (43 FR 47507-28). Public comments were invited. (49 CFR pt. 511). | Stephen Wood, (202) 426-2992. | FR *August* 1980. |
| Door Locks and Door Retention Components. | This technical amendment would clarify existing test procedures and extend the applicability of FMVSS 206 such that present side door requirements cover transverse rear doors. (49 CFR 571.206). | A. Malliaris, (202) 426-0842. | NPRM *November 1980.* |
| Fields of Direct View (Docket No. 70-7). | This proposal would establish requirements for the maximum allowable size of obstructions in the field of view of drivers, the luminous transmittance of glazing, and the location and functional characteristics of sun visors. NPRM issued 11/6/78. (43 FR 51677). | A. Malliaris, (202) 426-0842. | FR *May 1981.* |
| Rear View Mirrors (Docket No. 71-3a). | This proposal would amend FMVSS 111 to: a) reduce the blind areas by upgrading mirror visability using improved compliance testing procedures, b) upgrade occupant protection requirements and add pedestrian protection requirements using shatter resistant and breakaway or fold-away tests, c) set specifications for day-night reflectance requirements to reduce headlight glare, d) set specifications for convex mirror quality and use, and e) minimize obstruction of the forward view by establishing mirror location specifications. NPRM issued 11/6/78. (43 FR 51657). (49 CFR 571.111). | A. Malliaris, (202) 426-0842. | FR *May 1981.* |
| Hydraulic Brake Systems (Docket No. 70-27). | This proposal would extend the applicability of FMVSS 105-75 from passenger cars to cover on a general basis, multi-purpose passenger vehicles, buses, and trucks with a Gross Vehicle Weight Rating (GVWR) of 10,000 lbs. or less. The notice proposes extending the standard on a limited basis to trucks, buses, and MPVs (Motor Passenger Vehicles) with a GVWR of more than 10,000 lbs. NPRM issued 10/18/79, (44 FR 60113). (49 CFR 571.105-75). | A. Malliaris, (202) 426-0842. | FR *May 1981.* |
| Brake System Inspectability..... | Would require vehicle modifications in order to inspect for certain levels of brake degradation in accordance with proposed test procedures and criteria for measurement. | A. Malliaris, (202) 426-0842. | *Further action to be determined.* |
| Theft Protection (Docket No. 1-21). | Would amend existing standard to require separate keys for doors and ignition, door lock modifications, internal control of hood latch, modification in ignition wiring and ignition key alarm. Would apply to passenger cars, light trucks and vans. NPRM issued 5/1/78. (43 FR 18577). (49 CFR 571.114). | A. Malliaris, (202) 426-0842. | FR *November 1980.* |
| Lamps, Reflective Devices, and Associated Equipment (Docket No. 69-19). | This *will not* revise the minimum size requirement of lenses used on moped stop lamps. It is in response to a petition that the current requirements are excessively stringent. Interim final rule issued 8/31/78. (43 FR 38831), Comment period closed 10/30/78. Three comments received and reviewed for consideration in issuisng of final rule. *Final Rule issued March 3, 1980 (45 FR 13736).* (49 CFR 571.108). | A. Malliaris, (202) 426-0842. | *Action complete.* |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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**NHTSA**

**National Highway Traffic Safety Administration**

Nonsignificant Regulations—Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| Consumer Information—Wet Stopping Distance. | Develop a new rule for consumer information if tests indicate that there are significant differences in wet stopping distances among different models of cars on asphalt or concrete road surfaces. (49 CFR *575.105).* | Michael Brownlee, (202) 426-1740. | NPRM *March 1981.* |
| Bumper Standard | Extend the bumper height requirements to all vehicles under 10,000 lbs. GVWR. Increase the extent to which the vehicle population has matching bumpers, thereby reducing the underride/override problem in vehicle to vehicle accidents involving a light truck, van or multipurpose vehicle. (49 CFR pt. 581). Further action postponed indefinitely pending further analysis. | Michael Brownlee, (202) 426-1740. | *Withdrawn pending further action.* |
| Rear Lighting and Signalling | Would establish requirement for the separation of function of rear lighting and signalling and establish requirements for the location of brake lights. (49 CFR 571.108). | A. Malliaris, (202) 426-0842. | NPRM *February 1981.* |
| Battery Explosions | Would establish performance requirements and labeling of batteries to *reduce* the incidence of battery explosions while jump starting. (49 CFR 571). | A. Malliaris, (202) 426-0842. | NPRM *November 1980.* |
| Interior Noise Levels | Would establish maximum allowable interior noise levels in all heavy trucks by extending the current Bureau of Motor Carrier Safety requirement to new vehicles. NPRM was not issued in September 1979 as originally planned and is postponed indefinitely pending further analysis. | A. Malliaris, (202) 426-0842. | *Withdrawn pending further action.* |
| Controls & Displays (Docket No. 1-18). | Would amend the standard to include several symbols adopted by the International Standards Organization (ISO). *(49 CFR 571.101).* | A. Malliaris, (202) 426-0842. | *Further action to be determined.* |
| Speedometers and Odometers. (Docket No. 76-06). | A final rule issued 3/22/79 responded to petitions for reconsideration by deleting the 10% limit on distance between graduation on speedometer scales, increasing the leadtime for speedometer accuracy and odometer tamper resistance and clarifying the irreversibility option for odometers. (44 FR 17500). An NPRM was issued 3/22/79 (44 FR 17532) to amend FMVSS 127 with regard to replacement odometers and proposing refinements in irreversibility option for odometers. *FR issued June 16, 1980 (45 FR 90585).* (49 CFR 571.127) . | A. Malliaris, (202) 426-0842. | Action complete. |
| Truck Rear Underride Protection | Would require protective devices to *reduce* vehicle penetration under the rear-ends of heavy trucks and trailers *(without resulting in overly severe forces being transmitted to restrained and unrestrained occupants in vehicles that crash into the devices).* | A. Malliaris, (202) 426-0842. | *NPRM December 1980.* |
| Fuel System Integrity (Docket No. 73-20). | Would establish specific performance requirements in Safety Standard No. 301-75 for non-metallic fuel tanks (plastic tanks) used in motor vehicles. ANPRM issued 6/2/79. (44 FR 33441). Further action postponed indefinitely pending further analysis. | A. Malliaris, (202) 426-0842. | Further Action to be determined. |
| Tire Identification and Recordkeeping. | Would require ID on outward facing sidewall of motor vehicle tires. (49 CFR pt. 574). | A. Malliaris, (202) 426-0842. | NPRM *July 1981.* |
| Consumer Information—Acceleration and Passing Ability and Tire Reserve Load. | Amends the Consumer Information Regulations by deleting the acceleration and passing ability items and modifies the class of vehicles to which the tire reserve load provisions apply. NPRM issued 3/15/79 (44 FR 15748). *Final Rule published July 14, 1980 (45 FR 47152).* | Michael Brownlee, (202) 426-1740. | *Action complete.* |
| Motorcycle Helmets | This technical amendment increases the percentage of helmet sizes covered by FMVSS 218 by testing large and extra-large helmets with the medium (size "C") headform. Currently, only medium size helmets are covered. NPRM issued 9/27/79. (44 FR 55612). (49 CFR 571.218) *Final Rule issued March 10, 1980. (45 FR 15179).* | A. Malliaris, (202) 426-0842. | *Action complete.* |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

AGENDA

## NHTSA — National Highway Traffic Safety Administration

Nonsignificant Regulations—Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| Windshield Retention and Windshield Zone Intrusion. | This technical amendment changes the crash test requirements for FMVSS 212 and 219 for trucks manufactured in more than one stage. NPRM issued 8/2/79. (44 FR 45426). (49 CFR 571.212, 571.219). *FR published April 3, 1980 (45 FR 22044).* | A. Malliaris, (202) 426-0842. | *Action complete.* |
| Side Door Strength | This technical amendment *will* change the test requirements for FMVSS 214 to allow the seats to remain in the car during the side door crush test. The seats currently must be removed. NPRM issued 6/2/79 (44 FR 33444). (49 CFR 571.214). *Final Rule issued March 17, 1980. (45 FR 17015).* | A. Malliaris, (202) 426-0842. | *Action complete.* |
| Glazing Materials | This technical amendment would delete the abrasion resistance requirements for certain types of glazing used on side windows of light trucks and vans. NPRM issued 9/27/79. (44 FR 55610). (49 CFR 571.205). | A. Malliaris, (202) 426-0842. | FR *September* 1980. |
| Vehicle Speed Control (Docket No. 79-06). | Trailways Bus Company petitioned for a FMVSS to require road speed governors for all commercial vehicles. A request for comments was published in the Federal Register on 3/19/79 with a closing date of 8/17/79. (44 FR 16461). Further Agency action will await results from *long range* research. | A. Malliaris, (202) 426-0842. | Further action to be determined. |
| New Pneumatic Tires | Amendment would delete Appendix A (Tire Tables) of FMVSS 109 to ease introduction of new tire concepts and to add criteria to insure compatibility of new concepts with existing tire types. (49 CFR 571.109). The originally planned ANPRM will not be issued; instead, the Agency is proceeding with a less comprehensive NPRM. | A. Malliaris, (202) 426-0842. | NPRM *September 1980.* |
| Odometer Disclosure | Amends disclosure requirements to allow the States to use an abbreviated disclosure statement on all State-supplied transfer documents, as well as on certificates of title. NPRM issued 5/14/79 (44 FR 28032). *Final Rule issued January 3, 1980 (45 FR 784).* | John Womack, (202) 426-1834. | *Action complete.* |
| State Highway Safety Agencies | This Joint NHTSA-FHWA rule would replace the existing Joint FHWA/NHTSA Orders on State agencies with a new Part 1251, *State Highway Safety Agency* in Title 23, Code of Federal Regulations. It proposes to establish new requirements for the authority and function of State highway safety agencies. NPRM published June 21, 1979 (44 FR 36204) and a revised NPRM published December 6, 1979 (44 FR 70192). (23 CFR pt. 1251). | George Reagle, (202) 426-0068. | *FR September 1980.* |
| State Matching of Planning and Administration Costs (Docket 79-12). | This joint FHWA-NHTSA notice establishes NHTSA and FHWA policy on State planning and administration costs associated with carrying out a highway safety program under the Highway Safety Act with a new Part 1252, *State Matching of Planning and Administration Costs* in Title 23, Code of Federal Regulations. It defines planning and administration costs, describes the expenditures that may be used to satisfy the State matching requirement, prescribes how the requirement will be met, and specifies when the State will have to comply with the requirement. NPRM was published on July 16, 1979 (44 FR 41244) An Amendment to the NPRM was published August 28, 1979 (44 FR 50063). *Final Rule published July 14, 1980 (45 FR 47144)* (23 CFR pt. 1252). | George Reagle, (202) 426-0068. | *Action complete.* |
| Innovative Project Grants (Docket 79-11). | This joint FHWA-NHTSA rule would provide criteria, procedures, and policies for administration of Innovative Project Grants under 23 U.S.C. 407 when funds are appropriated. ANPRM published July 19, 1979 (44 FR 42233). NHTSA has primary responsibility for this action. (23 CFR pt. 1217). | Charles Livingston, (202) 426-0837. | *NPRM September 1980.* |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

AGENDA

**NHTSA**

**National Highway Traffic Safety Administration**

Nonsignificant Regulations—Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| Low Tire Pressure Warning | Would require installation of a tire low pressure warning indicator to warn drivers when inflation pressure drops below recommended pressure. | A. Malliaris, (202) 426-0842. | *ANPRM September 1980.* |
| Commercial Vehicle Conspicuity | Would improve the conspicuity of commercial vehicles by establishing in FMVSS 108 performance requirements for the total lighting and marking system of commercial vehicles (excluding headlights). *ANPRM issued May 27, 1980 (45 FR 35405)* (49 CFR 571.108). | A. Malliaris, (202) 426-0842. | *Further action to be determined.* |
| Side Door Strength | Would upgrade and extend FMVSS 214 requirements to light trucks, vans and MPVs. ANPRM issued 12/6/79. (44 FR 70204). *Public meeting held in Washington on January 31 and February 1, 1980.* | A. Malliaris, (202) 426-0842. | Further action to be determined. |
| Child Restraint Tether Anchorages. | Would require anchorages for use with child restraint systems equipped with a top tether strap. | A. Malliaris, (202) 426-0842. | *NPRM September 1980.* |
| Rear View Mirrors | Would require rearview mirrors in vans equipped with rear windows. *NPRM issued December 31, 1979. (44 FR 77224). Comments received February 14, 1980.* (49 CFR 571.111). | A. Malliaris, (202) 426-0842. | *FR May 1981.* |
| New Pneumatic Tires | Amendment to FMVSS 110 would specify a minimum tire reserve load. (49 CFR 571.110). | A. Malliaris, (202) 426-0842. | NPRM *August 1981.* |
| Heavy Duty Vehicle Brake Systems. | Requires brakes on all wheels of heavy duty trucks and buses. *FR issued 6/9/80 (45 FR 38380) (49 CFR 571.121).* | A. Malliaris, (202) 426-0842. | *Action complete.* |
| Lamps, Reflective Devices, and Associated Equipment. | This proposal would require the headlights and taillights of motorcycles to be illuminated at all times when the engine is running. This action resuslts from a granted rulemaking petition. (49 CFR 571.108). | A. Malliaris, (202) 426-0842. | NPRM *January 1981.* |
| Lamps, Reflective Devices, and Associated Equipment. | This proposal would remove the dimensional specifications for headlamp retaining rings. This action results from a granted rulemaking petition. (49 CFR 571.108). | A. Malliaris, (202) 426-0842. | NPRM *January 1981.* |
| *Test Dummies | This amendment allows the use of a new foaming agent in making dummy flesh parts and revises the adult dummy neck calibration. NPRM issued 12/18/78 (43 FR 58843). *Final Rule issued June 16, 1980 (45 FR 40595).* (49 CFR pt. 572). | A. Malliaris (202) 426-0862. | *Action complete.* |
| *Impact Protection for the Driver from the Steering Control System. | This technical amendment would revise the test requirements of FMVSS 203 to permit force loads in excess of 2,500 pounds for a cumulative period not to exceed 3 milliseconds. (49 CFR 571.203). | A. Malliaris (202) 426-0862. | NPRM *December* 1980. |
| *Tire Selection and Rims Non-Passenger Cars. | These technical amendments would clarify existing requirements or resolve minor specific technical problems. (49 CFR 571.120). | A. Malliaris, (202) 426-0842. | NPRM October 1980. |
| *Lamps, Reflective Devices, and Associated Equipment. | The technical amendment to FMVSS 108 requires that side marker photometric measurements be tested on the basis of vehicle length rather than width. This action results from a granted rulemaking petition (49 CFR 571.108). NPRM issued September 7, 1978 (43 FR 39839). Final Rule issued July 3, 1980 (45 FR 45287). | A. Malliaris, (202) 426-0842. | Action complete. |
| *Lamps, Reflective Devices, and Associated Equipment. | This proposal for a technical modification to FMVSS 108 would require that rear lamp reflex reflector tests be changed to require a 10 instead of a 7 inch test diameter size. The action results from a granted rulemaking petition (49 CFR 571.108). | A. Malliaris, (202) 426-0842. | NPRM December 1980. |
| *Lamps, Reflective Devices, and Associated Equipment. | This notice for comments is for a possible technical modification to FMVSS 108 to have special tests for waterproof boat trailer lights. This action results from a granted rulemaking petition (49 CFR 571.108). | A. Malliaris, (202) 426-0842. | Notice for Comments July 1980. |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

AGENDA

**NHTSA** **National Highway Traffic Safety Administration**

Nonsignificant Regulations—Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| *Glazing Materials | Would update FMVSS 205 by referring to latest edition of companion commercial standard (ANS Z-26), thereby permitting use of modern materials. | A. Malliaris, (202) 426-0842. | NPRM December 1980. |
| *School Bus Body Joint Strength | Would amend FMVSS 221 to modify the exempt status of maintenance access panels. | A. Malliaris, (202) 426-0842. | NPRM December 1980. |
| *Lamps, Reflective Devices, and Associated Equipment. | This notice for comments is for a possible amendment to FMVSS No. 108 to modify headlamp configurations and for a possible addition or tests for plastic headlamps (49 CFR 571.108). | A. Malliaris, (202) 426-0842. | Notice for Comments February 1981. |
| *Lamps, Reflective Devices, and Associated Equipment. | This proposal for a technical modification would correct a previous amendment that inadvertently modified a lamp vibration test when making other changes to FMVSS No. 108 (49 CFR 571.108). | A. Malliaris, (202) 426-0842. | NPRM October 1980. |
| *Glazing Materials | Interpretative amendment issued to remove inconsistencies which penalize use of higher performance glazing in lower performance applications. Final Rule published July 14, 1980 (45 FR 47150). | A. Malliaris, (202) 426-0842. | Action complete. |
| *Flammability of School Bus Interior Materials. | Would utilize guidelines prescribed by UMTA to define flammability characteristics of School Bus Interior Materials. | A. Malliaris, (202) 426-0842. | ANPRM August 1980. |
| *Seat Belt Assemblies | Would amend FMVSS 209 to exempt load limiting belts used with air bag systems from elongation requirements. | A. Malliaris, (202) 426-0842. | NPRM July 1980. |
| *Seat Belt Assemblies | Would amend FMVSS 209 to modify resistance to light test procedures. NPRM issued 5/1/80 (45 FR 29102). | A. Malliaris, (202) 426-0842. | FR December 1980. |
| *Highway Safety Plan | Would revise Volume 102, *Highway Safety Plan,* of the Highway Safety Program Manual to clarify confusing provisions, to eliminate redundancies, to establish program priorities, to improve management and financial processes, and to reflect the increase role mandated for the central state highway safety agencies. (23 U.S.C. § 402). | Chuck Livingston, (202) 426-0837. | NPRM September 1980. |
| **Fuel Economy Exemptions** | | | |
| Exemption from and Establishment of Fuel Economy Standards (Docket No. LVM 77-01). | Analysis of petition for exemption from 1979 and 1980 standards and setting of alternative standards for Avanti Motor Corp. (49 CFR pt. 525). | R. Strombotne, (202) 426-0846. | NPRM *August 1980,* FR *October 1980.* |
| Exemption from and Establishment of Fuel Economy Standards (Docket No. LVM 77-03). | Analysis of petition for exemption from 1979 and 1980 standards and setting of alternative standards for Checker Motors. NPRM issued 10/23/78 (43 FR 49336). *Final Rule issued February 14, 1980 (45 FR 9935).* (49 CFR pt. 525). | R. Strombotne, (202) 426-0846. | *Action complete.* |
| Exemption from and Establishment of Fuel Economy Standards (Docket No. LVM 77-02). | Analysis of petition for exemption from 1979 and 1980 standards and setting of alternative standards for Rolls-Royce Motors, Inc. (49 CFR pt. 525). | R. Strombotne, (202) 426-0846. | NPRM *August 1980, FR October 1980.* |
| Exemption from and Establishment of Fuel Economy Standards (Docket No. LVM 77-04). | Analysis of petition for exemption from 1979 and 1980 standards and setting of alternative standards for Aston Martin Lagonda. *NPRM issued April 10, 1980 (45 FR 24511).* (49 CFR pt. 525). | R. Strombotne, (202) 426-0846. | *FR August 1980.* |
| Exemption from and Establishment of Fuel Economy Standards (Docket No. LVM 77-05). | Analysis of petition for exemption from 1979 and 1980 standards and setting of alternative standards for Excalibur Automobile Corp. (49 CFR pt. 525). | R. Strombotne, (202) 426-0846. | NPRM *August 1980.* |
| Exemption from and Establishment of Fuel Economy Standard. | Analysis of petition for exemption from 1979 and 1980 standards and setting of alternative standards for Lamborghini, S.p.A. *Firm did not sell vehicles in 1979 or 1980.* (49 CFR pt. 525). | R. Strombotne, (202) 426-0846. | *Unknown.* |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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## NHTSA — National Highway Traffic Safety Administration

### Nonsignificant Regulations—Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| Exemption from and Establishment of Fuel Economy Standard. | Analysis of petition for exemption from 1979 and 1980 standards and setting of alternative standards for Maserati, S.p.A. (49 CFR pt. 525). | R. Strombotne, (202) 426-0846. | NPRM *August 1980*, FR *October 1980.* |

## FRA — Federal Railroad Administration

### Significant Regulations

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| Strobe Lights on Locomotives (Docket No. RSGC-2). | **A. Description:** Lighted warning devices that include strobe lights have been shown to be more readily visible than normal lighting devices. FRA is considering requiring the installation of strobe lights on locomotives.<br>**B. Why Significant:** Degree of controversy reflected by response to ANPRM.<br>**C. Analysis:** Regulatory Analysis.....<br>**D. Need:** Grade crossing accidents represent the single largest group of railroad related fatalities each year. Available data indicate that the conspicuity of locomotives may be a factor in many of these accidents. Limited research with one railroad has indicated that equipping locomotives with strobe lights will improve their conspicuity and may lead to a reduction in these accident statistics.<br>**E. Legal Basis:** The Federal Railroad Safety Act of 1970 (45 U.S.C. 431); Locomotive Inspection Act (45 U.S.C. 22 et seq.).<br>**F. Chronology:** The ANPRM was published March 7, 1978 (43 FR 9328). NPRM was published June 18, 1979 (44 FR 34982).<br>**G. Citation:** Will be 49 CFR pt. 222..... | John A. McNally, (202) 426-9178. | FR *September 1980.* |

## FRA — Federal Railroad Administration

### Nonsignificant Regulations

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| Railroad Bridge Safety Standards... | The proposed rule would establish safety standards for inspection and rating of load capacity for railroad bridges. | William R. Paxton, (202) 426-0912. | ANPRM *September 1980.* |
| Railroad Noise Emission Compliance Regulations (Docket No. RNE-1. | The proposed rule would amend FRA Railroad Noise Emission compliance Regulations to reflect EPA Standards for fixed railroad facilities that were published on January 4, 1980; 45 FR 1252 (49 CFR pt. 210). | John A. McNally, (202) 426-9178. | NPRM *December 1980.* |
| Rules, Standards, and Instructions for Railroad Signal Systems. | The proposed rule would seek to make miscellaneous technical amendments to the signal inspection rules (49 CFR pt. 236). To be included in general revision of Part 236 after completion of General Safety Inquiry; see FRA Reviews Under Consideration. | William R. Paxton, (202) 426-0912. | Action deferred pending completion of general safety inquiry. |
| Safety Standards for Cabooses (Docket No. RSC-76-6). | The proposed rule would seek to establish comprehensive safety standards for cabooses. | Robert E. Abbott, (202) 426-9186. | NPRM *July 1981.* |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

AGENDA

**FRA** **Federal Railroad Administration**

Nonsignificant Regulations—Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| Rail Services Assistance to States Under Section 5 of the DOT Act (FRA Economic Docket No. 4). | This action would amend 49 CFR pt. 266 to implement proposals offered by the grantees at a recent public meeting, and to make changes necessitated by the enactment of the Local Rail Services Assistance Act of 1978. Interim regulations published on August 30, 1979 (44 FR 51128). *FRA is currently working with interested parties to implement comments and suggestions.* | Larry A. Friedman, (202) 426-7737. | FR *August 1980.* |
| **Review:** Locomotives (Docket No. LI-6). | Outgrowth of regulatory review in general safety inquiry. Revision and updating of regulations to reflect technological advances and eliminate requirements that are no longer necessary for safety (49 CFR *pts. 229 and 230).* NPRM published May 21, 1979 (44 FR 29604). *Final rule published March 31, 1980 (45 FR 21092).* | Arthuer T. Ireland, (202) 426-9186. | *Action complete.* |
| **Review:** Track Safety Regulations. | Outgrowth of regulatory review in general safety inquiry. Revision and updating of current requirements (49 CFR pt. 213). NPRM published September 6, 1979 (44 FR 52104). | William R. Paxton, (202) 426-0912. | *Notice of withdrawl of NPRM September 1980.* |
| **Review:** Safety Appliance Standards. | Outgrowth of regulatory review in general safety inquiry. Revised standards for new and existing equipment (49 CFR pt. 231). | Ralph R. Smith, (202) 426-9187. | *September 1980.* |
| **Review:** Power Brake Rules..... | Outgrowth of regulatory review in general safety inquiry. Revision and updating of current requirements (49 CFR pt. 232). | Ralph R. Smith, (202) 426-9187. | *December 1980.* |
| **Review:** Signal and Communication Systems. | Outgrowth of regulatory review in general safety inquiry. Revision and updating of current requirements of Parts 235 and 236. | S.H. Stotts, (202) 426-0912. | *February 1981.* |
| Amendments to Regulations Implementing Section 905 of the 4R Act. | The amendments to 49 CFR pt. 265 would implement section 905 of the Railroad Revitalization and Regulatory Reform Act of 1976 for contracts on the Northeast Corridor Improvement Project by supplementing P.L. 95-507 to provide coverage for smaller contracts, for women-owned businesses, and for verification of a contractor's status. | Gregory B. McBride, (202) 472-5438. | FR *February 1981.* |
| *Final guidelines to Rock Island Railroad Transition and Employee Assistance Act Service Continuation. | Final guidelines issued by FRA stating procedures under which the public may submit applications for directed service under the Rock Island Railroad Transition and Employee Assistance Act (RITEA Act, Pub. L. 96-254). Proposed guidelines were published on June 26, 1980 (45 FR 43302). Final guidelines were published July 14, 1980 (45 FR 47296). | Douglas Taylor, (202) 472-5410. | Action complete. |

**FRA** **Federal Railroad Administration**

Routine and Frequent Nonsignificant Regulations

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| Rules for Use of Radio in Train Operations (Docket No. RSOR-5). | This final rule *establishes* a penalty schedule for violations of radio rule requirements (49 CFR pt. 220). *Final Rule published May 8, 1980 (45 FR 30443).* | John A McNally, (202) 426-9178. | *Action complete.* |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

AGENDA

## UMTA — Urban Mass Transportation

### Significant Regulations

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| Withdrawal of Interstate Segments and Substitution of Alternative Projects (Docket No. 77-9). | The regulation is being jointly developed by UMTA and FHWA and is summarized elsewhere in this agenda by the Federal Highway Administration. | Richard White, (202) 472-6991. | FR *October* 1980. |
| Private Enterprise Participation in Federally-Assisted Programs. | **A. Description:** Pursuant to Sections 3(e) and 8(e) of the UMT Act, as amended, UMTA plans to publish procedures regarding the involvement of private mass transit operators in federally-assisted programs.<br>**B. Why Significant:** While these regulations would implement statutory requirements, this is a controversial issue for both the transit industry and private operators.<br>**C. Analysis:** Regulatory Evaluation<br>**D. Need:** To resolve an area of continuing controversy<br>**E. Legal Basis:** Sections 3(e)(1) and (2), and Section 8(e) of the UMT Act, as amended.<br>**F. Chronology:** 8(e) was added to the Urban Mass Transportation Act by the Federal Public Transportation Act of 1978. NPRM to be prepared by *November* 1980.<br>**G. Citation:** 49 CFR pt. 619 | Edward Gill, (202) 426-1908. | NPRM *November* 1980. |
| Paratransit Policy | **A. Description:** UMTA will publish a policy regarding the availability of federal assistance for public and private operators in the provision of paratransit services. In addition, an ANPRM will be issued seeking comments on development of more specific guidelines concerning paratransit and the involvement of private operators in the planning and provision of service. Paratransit services addressed in the policy are meant to encompass those forms of collective passenger transportation which provide flexible, shared-ride service to the general public, or to special categories of users (such as elderly or handicapped persons) on a regular and predictable basis, but which do not necessarily operate on fixed schedules or over prescribed routes.<br>**B. Why Significant:** The regulation is expected to have a direct or indirect effect on competition.<br>**C. Analysis:** Regulatory Evaluation<br>**D. Need:** To provide uniform guidance to public and applicant.<br>**E. Legal Basis:** The UMT Act, 49 U.S.C. *1602 & 1604*<br>**F. Chronology:** ANPRM to be prepared and issued by *December* 1980.<br>**G. Citation:** None | Douglas Birnie, (202) 426-4060. | ANPRM *December* 1980. |
| Urban Transportation Planning Process/Transportation Improvement Program. | The regulation is being jointly developed by UMTA and FHWA and is summarized elsewhere in this agenda by the Federal Highway Administration. | Bob Kirkland, (202) 426-4991. | *Withdrawn.* |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

AGENDA

## UMTA — Urban Mass Transportation

Significant Regulations—Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| Environmental Procedures | **A. Description:** These regulations *would* prescribe UMTA procedures for environmental assessments and preparation of environmental impact statements on major agency actions significantly affecting the quality of the human environment.<br>**B. Why Significant:** UMTA policy in this area may be expected to be of substantial interest to both UMTA grantees and the public.<br>**C. Analysis:** Regulatory Evaluation<br>**D. Need:** To provide uniform guidance to the public and applicants.<br>**E. Legal Basis:** National Environmental Policy Act; DOT Order 5610.1; Section 14 of UMT Act; Council on Environmental Quality Regulations implementing NEPA (40 CFR pts. 1500–1508 (43 FR 55978)).<br>**F. Chronology:** An NPRM was issued on October 15, 1979 (44 FR 59438). Comments were originally invited through November 14, 1979. The comment period was extended to December 3, 1979 in a notice in the Federal Register on November 19, 1979 (44 FR 66213).<br>**G. Citation:** 49 CFR pt. 622 | John Collins, (202) 426–1908. | FR *September* 1980. |
| Public Transportation to Non-Urbanized Areas. | The regulation is being jointly developed by UMTA and FHWA and is summarized elsewhere in this agenda by the Federal Highway Administration. | Kay Regan, (202) 472–7037. | NPRM *October 1980.* |
| Major Urban Transportation Investment. | The regulation is being jointly developed by UMTA and FHWA and is summarized elsewhere in this agenda by the Federal Highway Administration. | Joel Ettinger, (202) 426–2360. | Further action to be determined. |
| "Buy America" Requirements of Surface Transportation Assistance Act of 1978. | **A. Description:** These regulations implement section 401 of the Surface Transportation Assistance Act of 1978, which provides, with exceptions, that funds authorized may not be obligated for urban mass transportation projects unless materials and supplies are of United States origin. These regulations were issued as a final rule but comments were solicited until February 15, 1979 and changes will be made based on the comments received. *A separate NPRM will also be issued addressing several issues raised during the comment period.*<br>**B. Why Significant:** There is substantial public interest concerning these regulations because of their impact in urban mass transportation projects.<br>**C. Analysis:** Regulatory Evaluation<br>**D. Need:** These regulations implement section 401 of the Surface Transportation Assistance Act of 1978.<br>**E. Legal Basis:** 49 U.S.C. 1602 note; P.L. 95–599, Section 401.<br>**F. Chronology:** The statute creating this provision was signed by the President on November 6, 1978 and required immediate implementation. The emergency final rule was published on December 6, 1978. (43 FR 57144) Comments were invited through February 15, 1979. UMTA is currently analyzing the comments received and will issue revised final regulations in *September 1980.*<br>**G. Citation:** 49 CFR pt. 660 | John Collins, (202) 426–1908. | Revised FR *September 1980.* |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

AGENDA

## UMTA — Urban Mass Transportation

Significant Regulations—Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| Regulation Implementing the Nondiscrimination Section of the Urban Mass Transportation Act. | **A. Description:** The proposed regulations would unify the civil rights regulations that recipients of funds under the Urban Mass Transportation Act must meet.<br>**B. Why Significant:** Substantial public interest is anticipated.<br>**C. Analysis:** Regulatory Evaluation<br>**D. Need:** Regulations are needed to implement a new statutory provision which consolidates UMTA's authority to assure effective and uniform compliance with civil rights and equal employment opportunity requirements in a manner comparable to other agencies within the Department of Transportation.<br>**E. Legal Basis:** Section 19 of the UMT Act (49 U.S.C. § 1615).<br>**F. Chronology:** Section 19 was added to the UMT Act in November 1978 by the Federal Public Transportation Act of 1978.<br>**G. Citation:** 49 CFR Chapter VI | Edward Gill, (202) 426-1906. | NPRM *December* 1980. |
| Minority Business Enterprise Requirements—Transit Vehicle Manufacturers. | **A. Description:** The recently issued DOT Rulemaking *concerning* Participation by Minority Business Enterprises (*March 31, 1980, 45 FR 21172*) contains a provision that transit vehicle manufacturers are required to have an UMTA-approved MBE program in order to be eligible to bid on UMTA-assisted transit vehicle procurements. UMTA is proposing guidelines for these MBE programs which will become part of the DOT regulations. Once the guidelines are finalized, transit vehicle contracts would be exempted from the MBE program of UMTA recipients. This regulation would be part of the DOT MBE regulations.<br>**B. Why Significant:** Substantial public interest is anticipated given the potential impact on transit vehicle manufacturers.<br>**C. Analysis:** Regulatory Evaluation<br>**D. Need:** To implement the DOT MBE requirements for application to transit vehicle manufacturers.<br>**E. Legal Basis:** 49 U.S.C. 1615; E.O. 11625<br>**F. Chronology:** DOT NPRM issued on May 17, 1979 (44 FR 28928); *DOT FR issued March 31, 1980 (45 FR 21172);* UMTA NPRM to be issued by *October 1980.*<br>**G. Citation:** 49 CFR pt. 23 | Irvin Bromall, (202) 426-2285. | NPRM *October 1980.* |
| *Materials Fire Safety Standards for Rail Rapid Transit and Light Rail Transit Vehicles. | **A. Description:** The proposed regulations would establish standards for flammability and smoke emission and toxicity of materials used in Rail Rapid Transit and Light Rail Transit Vehicles.<br>**B. Why Significant:** The proposed regulations could have a substantial impact on a major transportation safety problem.<br>**C. Analysis:** Regulatory Evaluation<br>**D. Need:** The proposal would establish materials fire safety standards to minimize the fire threat in Rail Rapid Transit and Light Rail Transit vehicles. The standards are directed primarily at new vehicle construction. | Robert Haught, (202) 426-9545. | NPRM September 1980. |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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**UMTA** **Urban Mass Transportation**

Significant Regulations—Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| | **E. Legal Basis:** Sections 3 and 5 of the UMT Act, as amended.<br>**F. Chronology:** NPRM expected to be issued by September 1980.<br>**G. Citation:** 49 CFR Chapter VI | | |
| *Safety Information Reporting and Analysis System for Rail Transit Systems. | **A. Description:** UMTA is proposing regulations that would establish a requirement for periodic reporting of accidents and casualty information that occur in Rail Rapid Transit and Light Rail Transit operations.<br>**B. Why Significant:** The proposed regulations could have a substantial impact on a major transportation safety problem.<br>**C. Analysis:** Regulatory Evaluation<br>**D. Need:** Information collected will be used to maintain cognizance of the status of rail transit safety, ascertain the need for improvements in rail transit safety, and establish research and development projects for safety improvements.<br>**E. Legal Basis:** Sections 3 and 5 of the UMT Act, as amended, and Section 107 of the National Mass Transportation Assistance Act of 1974.<br>**F. Chronology:** NPRM expected to be issued by September 1980.<br>**G. Citation:** 49 CFR Chapter VI. | Lloyd Murphy, (202) 426-6588. | NPRM September 1980. |
| *Maintenance Requirements | **A. Description:** UMTA is considering a policy along with implementing regulations that would require each mass transit operator to maintain facilities and equipment purchased with UMTA funds consistent with practices necessary to adequately provide for safety, comfort, and preservation and expansion of transit service.<br>**B. Why Significant:** This proposal concerns a matter on which there may be substantial controversy and it initiates a substantial change in policy.<br>**C. Analysis:** Regulatory Evaluation<br>**D. Need:** There is a substantial Federal interest in assuring that maximum use is made of Federal money. The contemplated policy and regulations would: (a) increase performance and useful life of equipment and facilities; (b) minimize replacement costs; and (c) result in cost savings.<br>**E. Legal Basis:** Sections 3 and 5 of the UMT Act, as amended.<br>**F. Chronology:** ANPRM to be issued in September 1980.<br>**G. Citation:** None. | Charlotte Adams, (202) 472-6997. | ANPRM September 1980. |
| *Bus Rehabilitation Program, UMTA Docket 80-A. | **A. Description:** UMTA is proposing regulations to implement a policy in which it will participate in the rehabilitation of older buses. The regulations would set out the guidelines for eligibility and participation in the program.<br>**B. Why Significant:** Substantial controversy was generated upon publication of the NPRM.<br>**C. Analysis:** Regulatory Evaluation | Charlotte Adams, (202) 472-6997. | FR September 1980. |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

AGENDA

**UMTA** — **Urban Mass Transportation Administration**

Significant Regulations—Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| | **D. Need:** To provide a national funding basis for a bus rehabilitation program and to ensure the prudent use and maximum effectiveness of Federal and local money.<br>**E. Legal Basis:** Sections 3 and 5 of the UMT Act, as amended.<br>**F. Chronology:** NPRM published February 11, 1980 (45 FR 9244). Comments were invited through May 2, 1980 (after an extension of the comment period). Based on the substantial controversy generated upon publication of the NPRM, this proposal was reclassified as a significant regulation.<br>**G. Citation:** 49 CFR pt. 640 | | |

**UMTA** — **Urban Mass Transportation Administration**

Nonsignificant Regulations

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| Charter Bus Regulations. | These regulations provide more detailed information regarding the restrictions placed on charter bus operations in section 3(f) of the UMT Act, 49 U.S.C. 1601. UMTA received considerable comments as a result of an ANPRM dated December 29, 1976 (41 FR 56680) and a hearing held thereafter and it is now planning to issue an ANPRM for comment. (49 CFR pt. 604). | Ernesto Fuentes, (202) 426-1906. | ANPRM *September 1980.* |
| Innovative Techniques and Methods Set-Aside. | These regulations would prescribe policies and procedures for administering the grant programs for projects using innovative techniques and methods in the management and operation of public transportation services *(49 CFR pt 645.*. | Joseph Goodman, (202) 426-4984. | NPRM *September 1980.* |
| Rail Transit Car Testing..... | These regulations would prescribe policy guidance for the testing of rail transit cars, the test schedule to be followed and requirements of the tests to be performed *(49 CFR Pt. 662).* | Robert Haught, (202) 426-9545. | NPRM *September 1980.* |
| Miscellaneous Amendments—Organization, Functions, and Procedures. | These amendments will reflect modifications in the organization and distribution of functions as well as changes in the delegations of authority within the Urban Mass Transportation Administration (49 CFR pt. 401). | Patricia Colbert, (202) 426-4011. | FR *September 1980.* |
| Public Hearing Requirements ..... | UMTA*'s* regulations implement Section 5(i)(3) of the Urban Mass Transportation Act of 1964, as amended. This section requires a public hearing or an opportunity for a public hearing prior to increases in general levels of transit fares or substantial changes in service. A notice of proposed rulemaking was published on July 16, 1979 (44 FR 41272). Comments *were* invited through August 30, 1979. *FR published April 17, 1980 (45 FR 26298) (49 CFR Part 635). The final rule invited comments through June 20, 1980 on UMTA's treatment of "substantial changes in service." The comments received are currently being reviewed and analyzed.* | Charlotte Adams, (202) 472-6997. | *Further Action to be Determined.* |
| Investigation of Safety Hazards in Urban Mass Transportation Systems. | These regulations would establish the policy and proceedings to be followed in the implementation of Section 107 of the National Mass Transportation Assistance Act of 1974, including the investigation of an unsafe condition, the requiring of a plan for correcting an unsafe condition, and the withholding of financial assistance until such a plan is approved or implemented. | William Rhine, (202) 426-9545. | NPRM *November 1980.* |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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## UMTA — Urban Mass Transportation Administration

Nonsignificant Regulations—Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| Human Resource Needs in Transit Industry. | Section 20 of the Urban Mass Transportation Act of 1964, as amended, provides that the Secretary of Transportation, through UMTA, may provide financial assistance for national and local programs that address human resource needs as they apply to public transportation activities. It is intended that the number of minority and female employees in the public transportation field will be increased and that the quality of opportunities will be increased through outreach, training, and management development. The proposed regulations would set out the types of potential eligible projects and the requirements that a project must meet to receive Section 20 funds. | Irvin Bromall, (202) 426-2285. | NPRM *October 1980.* |
| Maintenance of Effort Requirements. | These regulations would implement Section 5(f) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1604(f)), which deals with maintenance of effort by designated recipients of Federal mass transportation funds. The maintenance of effort requirement is imposed to ensure that state and local support and mass transportation non-farebox revenues will be maintained for provision of mass transportation services. The proposed regulations would implement 1978 legislative changes giving recipients of funds greater flexibility in meeting the requirements. A Notice of Proposed Rulemaking was published on August 27, 1979 (44 FR 50068). Comments were invited through October 11, 1979. *(49 CFR Part 635).* | Candace Noonan, (202) 472-6997. | *FR September 1980.* |
| Standards and Procedures for Thirty Party Contracts. | These standards and procedures would provide guidance on third party contracting by recipients of Federal assistance from UMTA. They would implement OMB Circular A-102, Attachment B and Attachment O. A Notice of Proposed Rulemaking was published on September 20, 1979 (44 FR 54513). Comments were invited through November 15, 1979. The comment period was extended to January 3, 1980 in a notice published in the ***Federal Register*** on November 1, 1979 (44 FR 62918). *(49 CFR Part 666).* | Arlan Eadie, (202) 426-2710. | FR *October* 1980. |
| Capital Assistance Grants to Meet Special Needs of Elderly and Handicapped (16(b)(2) Program). | UMTA is proposing regulations governing the administration of Section 16(b)(2) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1612(b)(2)). This program provides assistance in meeting the transportation needs of elderly and handicapped persons, where existing transportation services are unavailable, insufficient, or inappropriate. The regulations would set application procedures, and detail the role of the States in the program. | Al Lim, (202) 472-6997. | NPRM *September 1980.* |
| Bus Rehabilitation Program ..... | UMTA is proposing regulations to implement a policy in which it will participate in the rehabilitation of older buses. The regulations would set out the guidelines for eligibility and participation in the program. *NPRM published February 11, 1980 (45 FR 9244). Comments were invited through May 2, 1980. This regulation has been reclassified and now appers in the Significant portion of the Agenda. (49 CFR 640).* | Charlotte Adams, (202) 472-6997. | *FR August 1980.* |
| Regulations Governing Formula Operating Assistance Grants to Urbanized Areas. | These regulations would streamline the policies and procedures governing the Operating Grant Program of Section 5 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1604). Included in the regulations would be application procedures, general program requirements, and project management requirements. *(49 CFR pt. 650).* | *James McQueen, (202) 426-4050.* | NPRM *August 1980.* |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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## UMTA — Urban Mass Transportation Administration

Nonsignificant Regulations—Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| Project Management Guidelines for Grantees. | These regulations would provide grantees with guidelines and procedures to be applied in administering UMTA grants, cooperative agreements, and loans. These guidelines are intended to assist grantees in meeting various grant management responsibilities and reporting requirements. (*49 CFR pt. 658*). | Timothy Wolgast (202) 426-4011. | NPRM *August 1980.* |
| Guidelines for Preparation and Submission of Transportation Improvement Program (TIP). | These regulations would provide external guidance for the preparation and submission of the Transportation Improvement Program (TIP) pursuant to Joint Planning Regulations of UMTA and FHWA (23 CFR pt. 450; 49 CFR pt. 631). The information contained in these regulations presents current statutory and UMTA requirements pertaining to TIP. The intent of the regulations is to clarify and facilitate the preparation and submission of the TIP. | Timothy Wolgast, (202) 426-4011. | NPRM *September* 1980. |
| Application Instructions for Capital Assistance Projects. | These regulations would provide program information and application instructions and procedures for capital assistance under Sections 3 and 5 of the Urban Mass Transportation Act of 1964, as amended, and for assistance for Interstate Substitution and Federal-Aid Urban Systems (FAUS) non-highway Public Mass Transit Projects under the Federal-Aid Highway Act of 1973. | Charlotte Adams, (202) 472-6997. | NPRM *September* 1980. |
| Stockpiling of Buses *(UMTA Docket 80-B).* | These regulations would provide guidance concerning the evaluation of requests by grantees for permission to stockpile older buses being replaced with UMTA assistance. *NPRM published March 3, 1980 (45 FR 13994). Comments were invited through APril 16, 1980.* (*49 CFR 641*). | Charlotte Adams, (202) 472-6997. | *FR September* 1980. |
| *Application Procedures for Technical Studies Grants. | The regulations would provide guidance and set out requirements for the preparation of Technical Studies Grant applications for funds made available under Section 8 of the UMT Act, as amended. Section 8 funds are available for technical studies for the planning, engineering, design and evaluation of mass transportation systems and projects in urban and urbanized areas. | James Getzewich, (202) 426-4991. | NPRM August 1980. |

## SLSDC — Saint Lawrence Seaway Development Corporation

Nonsignificant Regulations

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| Tariff of Tolls Amendment | Incorporation of surcharge provisions of Seaway Closing Procedures into 33 CFR Part 402. | Robert D. Kraft, (202) 426-3574. | *FR July 1980.* |
| Operational Regulations | Periodic update of 33 CFR Part 401 operational regulations developed, for the most part, jointly with the Seaway Authority of Canada. | Frederick A. Bush, (315) 764-0271. | *FR July 1980.* |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

AGENDA

**RSPA** **Research and Special Programs Administration**

Significant Regulations

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| Highway Routing of Radioactive Materials (Docket No. HM-164). | **A. Description:** This regulation would establish routing requirements for the highway carriage of radioactive materials.<br>**B. Why Significant:** There is substantial public interest and controversy over the regulation and it would have a significant impact on the Federal Highway Administration.<br>**C. Analysis:** Regulatory Evaluation<br>**D. Need:** To provide a basis for deciding whether Federal routing requirements are necessary for the highway transportation of hazardous materials.<br>**E. Legal Basis:** 49 U.S.C. 1803, 1804, 1808<br>**F. Chronology:** Administrative ruling on Federal pre-emption: Published a public notice and invitation to comment on Aug. 15, 1977 (42 FR 41202): Public hearing (New York) was held on Nov. 10, 1977 (42 FR 64487); Ruling published April 20, 1978 (42 FR 16945); Rulemaking: ANPRM issued Aug. 17, 1978 (43 FR 36492); Public hearing (Washington) was held on Nov. 29, 1977. NPRM issued January 31, 1980 (45 FR 7140.) *Published NPRM announcing dates and locations of five public hearings on March 6, 1980 (45 FR 14609). Two additional hearings announced May 15, 1980 (45 FR 32030). All hearings completed..*<br>**G. Citation:** 49 CFR pt. 177 | M. Morris, (202) 426-2075. | FR November 1980. |
| Development of New Standards for Transportation of Hazardous Waste Materials (Docket No. HM-145A). | **A. Description:** *Establishes* new standards and procedures for the transportation of hazardous waste materials.<br>**B. Why Significant:** This regulation *has* a significant impact on the operating administrations and the Environmental Protection Agency (EPA).<br>**C. Analysis:** Regulatory Evaluation<br>**D. Need:** These standards are necessary to govern the transportation of hazardous waste materials and to provide consistency with the hazardous waste materials regulations promulgated by EPA under the Resource Conservation and Recovery Act.<br>**E. Legal Basis:** 49 U.S.C. 1803, 1804, 1808<br>**F. Chronology:** NPRM jointly developed with EPA; public hearing held on Oct. 26, 1977 (42 FR 51625); NPRM issued May 25, 1978 (43 FR 22626); public hearing on NPRM held on June 20, 1978 (43 FR 22626). *FR published May 22, 1980 (45 FR 34560). Effective November 20, 1980, unless otherwise stated..*<br>**G. Citation:** 49 CFR pts. 171, 172, 173, 174, 175, 176, and 177. | A. Roberts, (202) 426-0656. | *Action complete.* |
| Development of New Standards for Liquefied Natural Gas (LNG) Facilities (Docket No. OPSO-46). | **A. Description:** Comprehensive new standards would be proposed for the siting, design, construction, operation, and maintenance of LNG facilities.<br>**B. Why Significant:** Major rulemaking, due to substantial public interest and controversy, and due to potential danger of large-scale LNG spills. | L. Furrow, (202) 426-2392. | Action Complete for Siting, Design, and Construction; FR *October* 1980 for Operation and Maintenance. |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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**RSPA** — **Research and Special Programs Administration**

Significant Regulations—Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| | **C. Analysis:** Regulatory Evaluation<br>**D. Need:** The concerns of Federal, State, and local agencies over LNG safety.<br>**E. Legal Basis:** 49 U.S.C. 1672<br>**F. Chronology:** ANPRM published April 21, 1977 (42 FR 20076); NPRM (siting, design, and construction): published February 8, 1979 (44 FR 8142); NPRM (operation and maintenance): published February 11, 1980 (45 FR 9220); Final Rules (siting, design, and construction): Published February 11, 1980 (45 FR 9184)). Final rules (operation and maintenance): *October 1980. Petitions for reconsideration of seismic design standards under consideration, to be answered by Federal Register publication in August, 1980.*<br>**G. Citation:** 49 CFR pt. 193 (new) | | |
| *Tank Car Safety Improvements: Specifications and Retrofit (Docket No. HM-175). | **A. Description:** This project would extend the puncture and thermal protection systems now required for DOT 112 and 114 tank cars to existing DOT 105 tank cars and to other newly constructed tank cars. (New construction of DOT 105 tank cars is addressed in Docket No. HM-174, Safety Improvement Program for DOT 105 Tank Cars.)<br>**B. Why Significant:** There is substantial public interest in tank car safety and in retrofit issues.<br>**C. Analysis:** Regulatory Evaluation<br>**D. Need:** To determine the extent to which current thermal and puncture standards should be applied to the existing DOT 105 tank car fleet, and to other similarly used tank cars.<br>**E. Legal Basis:** 49 U.S.C. 1803, 1804, 1808<br>**F. Chronology:** ANPRM published July 21, 1980 (45 FR 48668); public comment period to close October 16, 1980. | L. A. Peterson, (202) 426-0897. | NPRM *January 1981.* |

**RSPA** — **Research and Special Programs Administration**

Nonsignificant Regulations

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| Intermodal Portable Tanks (Docket No. HM-167). | Proposed standards for new specifications for portable tanks and procedures for use of these portable tanks for certain hazardous materials. NPRM published Dec. 11, 1978 (43 FR 58050). (49 CFR 107.400-.407, 178.271, 178.272). | E. Altemos, (202) 426-0656. | FR *August 1980.* |
| **Review:** Recodification of Radioactive Requirements (Docket No. HM-169). | Proposed consolidation, simplication and recodification of the existing requirements applicable to the transportation of radioactive materials to make them compatible with latest revised international standards as promulgated by the International Atomic Energy Agency. NPRM published Jan. 8, 1979 (44 FR 1852). (New pt. 127 to 49 CFR). | R. Rawl, (202) 426-2311. | FR *April 1980.* |
| Safety Improvement Program for DOT 105 Tank Cars *(Docket No. HM-174).* | Consideration of possible changes to current safety performance standards of DOT 105 tank cars (49 CFR pt. 179). *NPRM concerning thermal standards for new tank cars, and coupler retrofit, published July 21, 1980 (45 FR 48671).* | W. Black, (202) 426-2748. | *FR November 1980.* |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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**RSPA** **Research and Special Programs Administration**

Nonsignificant Regulations—Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| Cryogenic Liquids (Docket No. HM-115). | Proposed standards and procedures for the transportation of cryogenic liquids, (NPRM published Mar. 8, 1979). (44 FR 12826) (49 CFR 172.101, 173.316). Hearing (Washington, D.C.) held on April 17, 1979. Comment period extended to October 9, 1979 to permit further consideration of issues raised in hearing. | P. Seay, (202) 755-4906. | FR *October* 1980. |
| Hazardous Materials Aboard Aircraft (Docket No. HM-168). | *Establishes* standards for the safe operation of aircraft having certain hazardous material aboard. NPRM published Dec. 11, 1978 (43 FR 57928). (49 CFR pts. 107, 171, 175). *FR published May 27, 1980 (45 FR 35329). Effective October 1, 1980.* | E. Mazzullo, (202) 426-2075. | *Action complete.* |
| Availability of Shipping Papers to Emergency Response Personnel (Project 259-78). | Proposal to require shipping papers covering hazardous materials to be made available by train crew to emergency personnel. This proposal has been reconsidered and has become a part of Project 289-79, Miscellaneous Hazardous Materials Communications Regulations (49 CFR pts. 171-177). | *L. Metcalfe, (202) 426-0656.* | NPRM June *1981.* |
| Use of United Nations Materials Shipping Descriptions (Docket No. HM-171). | *Incorporation of optional* shipping descriptions and serial numbers from United Nations regulations covering the transport of dangerous goods. NPRM published July 26, 1979 (44 FR 43864). (49 CFR 172.102). *FR published May 22, 1980 (45 FR 34560). Voluntary compliance date modified and public hearing scheduled for July 31, 1980 (45 FR 43761) while petition for reconsideration evaluated. Effective November 20, 1980, unless otherwise stated.* | E. Altemos, (202) 426-0656. | *Action complete.* |
| Definition of a Flammable Solid (*Project 118-71*). | *Consideration of new standards for classifying a material as a flammable solid. Previously part of Docket HM-118, which was terminated May 22, 1980 (45 FR 34560) to permit publication of ANPRM.* | C. Schultz, (202) 426-2311. | *ANPRM January 1981.* |
| Radiation Exposure for Transportation Workers (Project 263-78). | Consideration of methods which will reduce radiation exposure levels to transportation workers (New Sections). Proposal converted to ANPRM to permit development of basic data. | R. Rawl, (202) 426-2311. | ANPRM *September 1981.* |
| Requirements for Radioactive Materials (Docket No. HM-152). | Revision of certain sections of pt. 175 which will reduce the exposure to radioactive materials for passengers aboard aircraft (49 CFR pt. 175). NPRM published June 21, 1977 (42 FR 37427). *FR published March 27, 1980 (45 FR 20097). Effective October 1, 1980.* | R. Rawl, (202) 426-2311. | *Action complete.* |
| Forbidden Materials (Docket No. HM-159). | *Establishes* standards to add the names of materials to the Hazardous Materials Table that are known to be too hazardous to be permitted in commercial transportation. NPRM published July 26, 1979 (44 FR 43861). (49 CFR 172.101). *FR published May 22, 1980 (45 FR 34560). Effective November 20, 1980, unless otherwise stated.* | C. Schultz, (202) 426-2311. | *Action complete.* |
| Review: Reclassification of Operating Procedures For Motor Vehicles (Project 261-78). | Proposed simplification and recodification of the existing operating procedures for transportation of hazardous materials by motor vehicles as prescribed in Part 177 (49 CFR pt. 177). | *R. Toth,* (202) 426-1700. | NPRM *July 1981.* |
| Hazardous Polluting Substances (Docket No. HM-145B). | *Establishes* new classification for materials designated as hazardous polluting substances by EPA under the Clean Water Act. NPRM published Feb. 22, 1979 (44 FR 10676). (49 CFR pts. 171-177). *FR published May 22, 1980 (45 FR 34560). Effective November 20, 1980, unless otherwise stated.* | L. Metcalfe, (202) 426-0656. | *Action complete.* |
| Use of Interested Inspectors for Cylinder Inspections (Docket No. HM-74A). | Proposal would result in ending of "Interested" inspectors to perform inspections and testing of domestically manufactured low pressure gas cyclinders (NPRM published Mar. 17, 1976 (44 FR 11179). (49 CFR pt. 178). | H. Mitchell, (202) 426-2075. | NPRM *January 1981.* |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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**RSPA** — **Research and Special Programs Administration**

Nonsignificant Regulations—Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| Hazardous Materials Communications Regulations (Docket No. HM-126B). | Changes to shipping paper, marking, labeling, and placarding requirements (49 CFR pts. 171-177). NPRM published Nov. 8, 1979 (44 FR 65020). *FR published May 22, 1980 (45 FR 34560). Effective November 20, 1980, unless otherwise stated.* | A. Roberts, (202) 426-0656. | *Action complete.* |
| Display of Hazardous Materials Identification Numbers (Docket No. HM-126A). | *Establishes a* numerical identification code for hazardous materials for use in emergencies. NPRM published June 7, 1979 (44 FR 32972). Supplemental NPRM published on July 26, 1979 (44 FR 43858). (49 CFR pt. 172). *FR published May 22, 1980 (45 FR 34560). Effective November 20, 1980, unless otherwise stated.* | L. Metcalfe, (202) 426-0656. | *Action complete.* |
| Development of Training Requirements for Drivers of Cargo Tank Motor Vehicles (Project 270-78). | Development of minimum driver training requirements necessary to prevent unintentional releases of hazardous materials. (49 CFR pt. 177). *ANPRM delayed pending studies now in progress.* | *R. Toth,* (202) 426-1700. | ANPRM February *1981.* |
| Specification for 55-gallon Plastic Drum (Project 278-78). | Proposal to authorize use of 55-gallon capacity plastic drums with certain hazardous materials. (49 CFR pt. 178). | M. Gigliotti, (202) 755-4906. | NPRM *February 1981.* |
| Development of Standards and Requalification Tests for Cargo Tank Hoses (Project 271-78). | Development of standards and periodic tests to prevent rupture of hoses used to load and unload cargo tanks. (49 CFR pts. 173, 177). | *R. Toth,* (202) 426-1700. | ANPRM *March 1981.* |
| Consolidation and Revision of Requirements for the Carriage of Explosives by Vessel (Project 279-78). | Proposed consolidation and revision of requirements for the carriage of military and commercial explosives by vessel and adoption of United Nations scheme for classification and compatibility of explosives for the water mode. (49 CFR pt. 176). | L. Gibson, (202) 426-1577. | NPRM *September* 1980. |
| Oxidizing Materials Definition, Criteria and Proposed Regulations (Project 160-71). | Development of new standards for classifying a material as an oxidizing material. (49 CFR pt. 173). | C. Schultz, (202) 426-2311. | ANPRM *June 1981.* |
| Attendance of Cargo Tanks During Transportation (Project 272-78). | Proposed revision of attendance requirements to include transportation activities other than loading and unloading. (49 CFR pt. 178). | *R. Toth,* (202) 426-1700. | NPRM *May 1981.* |
| Consolidation of Specifications and Establishment of Performance Standards for Specification Bags (Docket No. HM-153). | Consolidation of specifications and development of performance standards for specification bags. Sufficient data have been developed to proceed with publication of NPRM. | M. Gigliotti, (202) 755-4906. | NPRM *November 1980.* |
| Organic Peroxide Requirements (Project 186-72). | Proposed listing of and packaging requirements for organic peroxides. (49 CFR Parts 172, 173). May be combined with Project 160-71, Oxidizing Materials Definition, Criteria and Proposed Regulations. (49 CFR pt. 173). | C. Schultz, (202) 426-2311. | ANPRM *June 1981.* |
| Odorization of Gas (Project 277-78). | Proposed odorization requirements for certain compressed gases. This proposal has been reconsidered and will become a part of Project 289-79, Miscellaneous Hazardous Materials Regulations. (49 CFR pt. 173). | L. Metcalfe, (202) 426-0656. | NPRM June *1981.* |
| Aluminum Cylinder Specification (Project 228-73). | Development of specifications for aluminum cylinders. (49 CFR pts. 173, 178). | A. Mallen, (202) 755-4906. | NPRM *August* 1980. |
| Matches (Project 281-78) | Proposed revision and simplification of requirements concerning matches (49 CFR pts. 172, 173). | H. Mitchell, (202) 426-2075. | NPRM *February 1981.* |
| Marking and Record Retention for Cylinders *(Docket No. HM-172).* | Proposed revision and clarification of cylinder marking requirements; deletion of approval for changes to owner markings, user markings, and serial numbers; deletion of submission requirements for cylinder test reports and substitute record retention requirement. *NPRM published Feb. 14, 1980 (45 FR 9960).* (49 CFR pts. 173, 178). | H. Mitchell, (202) 426-2075. | *FR November* 1980. |
| Fusion Welding of Multi-Unit Tank Car Tanks (Project 252-77). | Proposed requirements to authorize fusion welding of multi-unit tank car tanks. (49 CFR pt. 178). | A. Mallen, (202) 755-4906. | NPRM *May 1981.* |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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**RSPA** **Research and Special Programs Administration**

Nonsignificant Regulations—Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| Etiologic Agents (Docket No. HM-142). | Proposed new standards and procedures for the transportation of etiologic (ie. disease-causing) agents. (49 CFR pt. 173). | C. Schultz, (202) 426-2311. | NPRM *March 1981.* |
| Standards to Reduce Spill size Risks Associated with Pipeline Transportation of Highly Volatile Liquids such as Liquid Petroleum Gas (Docket No. PS-53). | Proposal would require valve spacing or other requirements to minimize the amount of commodity or vapor that can spread into populated areas in event of a spill, NPRM published September 5, 1978, (43 FR 39402). Amended NPRM published September 13, 1979. (44 FR 53187). (49 CFR pt. 195). | F. Robinson, (202) 426-2392. | FR *August* 1980. |
| Standards to Reduce Pipeline Failure Rates in Piplines carrying Highly Volatile Liquids ($LPG/NH_3$) (Docket No. PS-55). | Testing or operating requirements would be proposed to assure the safe operation of existing pipelines transporting highly volatile liquids. NPRM Published November 7, 1978, (43 FR 52500). (49 CFR pt. 195). | *F. Robinson,* (202) 426-*2392.* | FR *August 1980.* |
| Requirements for Reporting Gas Incidents (Docket No. OPS-49). | The present reporting forms would be revised to provide additional and more appropriate information about gas safety problems and to require reports from certain systems not now covered. NPRM issued June 5, 1978 (43 FR 24478). Comment period was extended to July 7, 1978 (43 FR 30590). Supplemental Notice to NPRM of June 5, 1978, published March 5, 1979. (44 FR 12070). (49 CFR pt. 191). | R. Langley, (202) 426-*2392.* | FR *November 1980.* |
| Design and Construction of Pipelines Carrying Hazardous Volatile Liquids (Docket No. PS-56A). | Additional or more stringent design and construction standards would be proposed for pipelines carrying highly volatile liquids. ANPRM published February 5, 1979, (44 FR 6961). Proposed NPRM would permit the addition of water to ammonia in pipelines. (49 CFR pt. 195). *NPRM published February 7, 1980 (45 FR 8323).* | K. Minhas, (202) 426-2082. | *FR September 1980.* |
| Retention of Radiographic Film..... | Recordkeeping requirement for radiographic film would be revoked for hazardous liquid pipelines (49 CFR pt. 195). | F. Robinson, (202) 426-2392. | NPRM October 1980. |
| Offsetting Longitudinal Weld Seams on Adjacent Pipe Lengths (Docket No. OPSO-48). | Construction requirement for offsetting weld seams on adjacent pipe lengths in hazardous liquid pipelines would be revoked (49 CFR pt. 195). NPRM published September 26, 1977. (42 FR 48900). | *K. Minhas,* (202) 426-*2082.* | FR *August* 1980. |
| Time Required to Hydrostatically Test a Hazardous Liquids Pipeline *(PS-63).* | An 8-hour minimum time period would be proposed for hydrostatically testing hazardous liquid pipelines. *NPRM published March 13, 1980 (45 FR 16230). (49 CFR pt. 195).* | *F. Robinson,* (202) 426-*2392.* | FR *August 1980.* |
| Placing Longitudinal Weld Seams in Upper Pipe Half *(PS-66).* | Proposal would require location of longitudinal weld seams in the upper half of pipe during construction of hazardous liquid pipe lines. *ANPRM published March 27, 1980, (45 FR 20142). (49 CFR pt. 195).* | F. Robinson, (202) 426-2392. | *NPRM December 1980.* |
| Heat Treatment of Hard Spots in Steel Pipe. *(PS-58).* | Allowable temperature for heat treating hard spots in steel pipe would be increased. NPRM published September 13, 1979, (44 FR 53185). (49 CFR pt. 192). | P. Cory, (202) 426-*2082.* | FR September 1980. |
| Qualifying Components for Use in Gas Pipelines. *(PS-64).* | General criteria would be proposed for qualifying the use of pipeline components other than the pipe itself. *NPRM published March 3, 1980 (45 FR 13783).* (49 CFR pt. 192). | *L. Furrow,* (202) 426-2392. | *FR February 1981.* |
| Transportation of Natural and Other Gas by Pipeline (PS-57). | Requirements for procedures and instrumentation for use in monitoring gas for odorants would be proposed. NPRM published February 22, 1979 (44 FR 10604). (49 CFR pt. 192). | P. Cory, (202) 426-*2082.* | FR *September* 1980. |
| Leak Survey (PS-62) ..... | Present leak survey requirements would be amended in accordance with practices necessary for safety. (49 CFR pt. 192). NPRM published December 13, 1979 (44 FR 72201). | P. Cory, (202) 426-*2082.* | FR November 1980. |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

AGENDA

**RSPA** **Research and Special Programs Administration**

Nonsignificant Regulations—Continued

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| Interior Piping (PS-67) | The adequacy of existing standards with regard to safety problems concerning interior piping would be examined and new standards may be proposed. *ANPRM published April 3, 1980 (45 FR 22118).* (49 CFR pt. 192). | R. Langley, (202) 426-*2392.* | *NPRM March 1981.* |
| Procedures To Guard Against Blasting Effects in Gas Pipelines. | Proposed standards requiring gas pipeline operators to have procedures to protect facilities affected by blasting. (49 CFR pt. 192). | *R. Langley, (202) 426-2392.* | NPRM *January 1981.* |
| Location, Size, and Operating Pressure of Pipelines (PS-61). | Operators would be required to maintain maps and records to identify the location, size, and operating pressure of all pipelines. ANPRM published November 29, 1979 (44 FR 68493). (49 CFR pt. 192). | R, Langley, (202) 426-*2392.* | NPRM April 1981. |
| Hot Taps in Gas Pipelines (PS-60). | Operators would be required to identify a pipeline by pressure monitoring or other means before performing a hot tap on it. (49 CFR pt. 192). NPRM published November 29, 1979 (44 FR 68491). | R. Langley, (202) 426-*2392.* | FR October 1980. |
| Excavation Damage (PS-59) | Operators would be required to participate in a program to prevent excavation damage to underground pipelines (49 CFR pts. 192 and 195). NPRM published November 15, 1979 (44 FR 65792). | R. Simmons, (202) 426-2082. | FR November 1980. |
| Reporting Abnormal Operations at LNG Facilities. | Requirements for reporting abnormal operations at LNG facilities would be proposed. (49 CFR pt. 193). | *L. Furrow,* (202) 426-*2392.* | ANPRM December 1980. |
| **Review:** Line Markers on Navigable Waterways for Pipelines. | The required number, size, and location of line markers along navigable waterways, including definition of "navigable waters" would be made more appropriate. (49 CFR pt. 192). | R. Simmons, (202) 426-2082. | *ANPRM August* 1980. |
| Cargo Tank Corrosion (Project 285-79). | Consideration of the effects of corrosion to the structural integrity of cargo tanks. Would establish a prescribed test for the degree of corrosion of cargo tanks (49 CFR pt. 178). | A. Mallen, (202) 755-4906. | NPRM August *1981.* |
| Miscellaneous Hazardous Materials Communications Regulations (Project 289-79). | Development of miscellaneous proposals dealing with the communications regulations such as odorization of gas and availability of shipping papers to emergency response personnel. (49 CFR pt. 172). | L. Metcalfe, (202) 426-0656. | NPRM June *1981.* |
| *Joining Plastic Pipe (Docket No. PS-54). | Qualifications for procedures and personnel in joining plastic pipe revised. NPRM published Oct. 23, 1978 (43 FR 49334). Final rule published July 23, 1979 (49 FR 42968). Revised final rule published Feb. 11, 1980 (45 FR 9931). (49 CFR pt. 192). | P. Cory, (202) 426-2392. | Action complete. |
| *Transportation of Wet Electric Storage Batteries (Docket No. HM-173). | Would establish new standards for transportation of wet cell electric storage batteries, and for wet cell battery equipped wheelchairs on passenger-carrying aircraft. Separated from Docket No. HM-166 due to public interest. NPRM published May 21, 1979 (44 FR 29503). Hearing announcement and request for comment published Feb. 28, 1980 (45 FR 13153). (49 CFR pt. 173). | E. Mazzullo, (202) 426-2075. | FR *November* 1980. |
| *Elimination of Certain Reporting Requirements (Docket No. HM-36A (49 CFR pt. 171). | The MTB has analyzed the hazardous materials incident data base and believes that continued reporting of incidents involving certain materials would be of minimal value when weighed against the burden placed upon the carriers who are required to prepare and submit incident reports. NPRM published June 16, 1980 (45 FR 40628). | R. Abis, (202) 472-2726. | FR November 1980. |

## DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

### AGENDA

**RSPA** — **Research and Special Programs Administration**

Routine and Frequent Nonsignificant Regulations

| Title | Summary | Contact | Earliest expected decision date |
|---|---|---|---|
| Conversion of Individual Exemptions to Regulations of General Applicability (Docket No. HM-139). | NPRM approximately every four months; with FR targeted approximately two months thereafter. | D. Raines, (202) 472-2726. | August 1980-August 1981. |
| Minor Regulatory Adjustments to Regulations of General Applicability (Docket No. HM-166). | NPRM approximately every four months; with FR targeted approximately two months thereafter. | D. Raines, (202) 472-2726. | August 1980-August 1981. |
| Matter Incorporated by Reference *(hazardous materials).* (Docket No. HM-22). | NPRM every six months; with FR targeted two months thereafter. | J. Horning, (202) 426-2075. | August 1980-August 1981. |
| Withdrawal of Certain Delegations of Authority to the Bureau of Explosives (Docket No. HM-163). | Prior responsibilities delegated to the Bureau of Explosives would be withdrawn in series of rulemaking actions. NPRM every three months; with FR targeted two months thereafter. The final rule under this docket is expected to be published in the first half of 1980. | D. Raines, (202) 472-2726. | August 1980-August 1981. |
| Matter Incorporated by Reference *(pipelines).* | Documents incorporated by reference would be updated to later published editions. NPRM every six months, with FR three months later. | R. *Simmons,* (202) 426-2082. | August 1980-August 1981. |

### REVIEW LIST

**USCG** — **U.S. Coast Guard**

| Regulations selected for review | Reasons for selection | Contact | Target date |
|---|---|---|---|
| Charges for Duplicate Medals and Sales of Personal Property, Equipment or Services and Rental (33 CFR 1.26). | Length of time since last evaluated: changing economic factors. | Mr. A. Bell, (202) 426-1863. | May 1980. |
| Agency regulations regarding the Coast Guard Reserve Program (33 CFR pt. 8). | Length of time since last evaluated and need to reflect changed procedures. | CAPT Grover, (202) 426-2348. | July 1979. |
| Boating Safety: Equipment Requirement Personal Flotation Devices (33 CFR 175.15). | Length of time since last evaluated; Research and Development project initiated to determine need for carriage regulations revision. | LCDR Schmect, (202) 426-4176. | August 1980. |
| Boats and Associated Equipment: Safe Loading (33 CFR pt. 183, subpart C). | Length of time since last evaluated; standards may not be effective for all boats to which these regulations apply. | Mr. L. Gray, (202) 426-4027. | January 1981. |
| Boats and Associated Equipment: Safe Powering (33 CFR pt. 183, subpart D). | Length of time since last evaluated; standards may not be effective for all boats to which these regulations apply. | Mr. L. Gray, (202) 426-4027. | July 1980. |
| Boats and Associated Equipment: Flotation Standards (33 CFR pt. 183). | Length of time since last evaluated; standards may be limited in applicability. | Mr. L. Gray, (202) 426-4027. | August 1980. |
| *Licensing of Merchant Seamen..... | Reporting requirements associated with licensing may be a burden for the public. | CAPT Hand, (202) 426-1500. | March 1981. |
| *Vessel Documentation..... | These regulations contain public reporting requirements which have been effect for many years and should be reviewed. | Mr. Yglesias, (202) 426-1494. | March 1981. |
| *Oil Transfer and Oil Pollution..... | These regulations may contain overlapping reporting requirements that could be eliminated. | CAPT Corbett, (202) 426-2010. | May 1981. |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

REVIEW LIST

## FAA — Federal Aviation Administration

| Regulations selected for review | Reasons for selection | Contact | Target date |
|---|---|---|---|
| *49 CFR Part 61, Certification of Pilots and Flight Instructors. | Evaluation of possibilities of reducing reporting burden impacts on users. | William Sullivan, (202) 755-8716. | March 1981. |

## NHTSA — National Highway Traffic Safety Administration

| Regulations selected for review | Reasons for selection | Contact | Target date |
|---|---|---|---|
| Side Door Strength (49 CFR 571.214). | Public Interest | Frank Ephraim, (202) 426-1574. | Published 8/30/79. (44 FR 50878). |
| Exterior Protection (49 CFR 571.215) and 49 CFR pt. 581). | Cost and Public Interest | Frank Ephraim, (202) 426-1574. | *Fall 1980.* |
| Fuel System Integrity (49 CFR 571.301). | Cost, Safety Benefits and Public Interest | Frank Ephraim, (202) 426-1574. | *Spring 1981.* |
| School Bus Protection (49 CFR 571.220). | Public Interest. An analysis of methods to evaluate the effects of these standards has, so far, not yielded a viable approach. The agency announced the withdrawals on July 10, 1980 (45 FR 46461). | Frank Ephraim, (202) 426-1574. | *Withdrawn.* |
| School Bus Body Joint Strength (49 CFR 571.221). | Public Interest. An analysis of methods to evaluate the effects of these standards has, so far, not yielded a viable approach. The agency announced the withdrawals on July 10, 1980 (45 FR 46461). | Frank Ephraim, (202) 426-1574. | *Withdrawn.* |
| School Bus Seating System (49 CFR 571.222). | Public Interest | Frank Ephraim, (202) 426-1574. | *Summer 1981.* |
| Tire Reserve Load (49 CFR 575.102). | Public Interest. Proposal to modify this requirement withdrawn. Notice published June 14, 1980 (45 FR 47512). | Michael Brownlee, (202) 426-1740. | *Completed.* |
| Acceleration and Passing Ability (49 CFR 575.106). | Public Interest. Requirement that manufacturers supply information on acceleration and passing ability to vehicle's first purchaser and prospective purchasers deleted. FR published June 14, 1980 (45 FR 47512). | Michael Brownlee, (202) 426-1740. | *Completed.* |
| Air Brakes (49 CFR 571.121) | Cost, Safety Benefits and Public Interest | Frank Ephraim, (202) 426-1574. | Contractor final report completed October 1979. |
| Hydraulic Brakes (49 CFR 571.105). | Cost and Safety Benefits | Frank Ephraim, (202) 426-1574. | Fall 1981. |
| Lamps, Reflective Devices and Associated Equipment (49 CFR 571.108). | Cost, Safety Benefits | Frank Ephraim, (202) 426-1574. | December 1980. |
| Head Restraints (49 CFR 571.202). | Costs | Frank Ephraim, (202) 426-1574. | Spring 1981. |
| Seating Systems (49 CFR 571.207). | Costs | Frank Ephraim, (202) 426-1574. | Summer 1981. |
| Child Seating Systems (49 CFR 571.213). | Public Interest | Frank Ephraim, (202) 426-1574. | Preliminary Review Spring 1981. |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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## NHTSA — National Highway Traffic Safety Administration

| Regulations selected for review | Reason for selection | Contact | Target date |
|---|---|---|---|
| Occupant Protection (49 CFR 571.208). | Cost, Safety Benefits and Public Interest | Frank Ephraim, (202) 426-1574. | Automatic Belts, Air Cushion Restraints or other Automatic Systems Plan update Fall 1980 First Report Spring 1981. |
| *Impact Protection for the Driver from the Steering Control System (49 CFR 571.203) and Steering Control Rearward Displacement (49 CFR 571.204). | Safety Benefits | Frank Ephraim, (202) 426-1574. | Fall 1980. |
| *Windshield Glazing Materials (49 CFR 571.205). | Costs, Safety Benefits | Frank Ephraim, (202) 426-1574. | Fall 1981. |
| *Windshield Mounting (49 CFR 571.212). | Costs, Safety Benefits | Frank Ephraim, (202) 426-1574. | Fall 1981. |

## FRA — Federal Railroad Administration

| Regulations selected for review | Reasons for selection | Contact | Target date |
|---|---|---|---|
| General Safety Inquiry | FRA has initiated a General Railroad Safety Inquiry to obtain information from the public to assist in evaluating and improving its safety program. A series of public hearings, each focused on a single regulatory topic, have been scheduled as indicated below. | | |
| Topic: Power Brakes (49 CFR pt. 232). | Hearing notice published August 8, 1978 (43 FR 36659). Hearing held on September 13 and 14, 1978. Rulemaking to be initiated; see listing under Nonsignificant Regulations. | R. Mowatt-Larssen (202) 426-0924. | Completion *July 1980.* |
| Topic: Signal and Communication Systems (49 CFR pts. 235 and 236). | Hearing notice published December 12, 1978 (43 FR 58100). Public hearing rescheduled for February 21 and 22, 1978. Notice of change in hearing dates published in Federal Register on January 3, 1979 (44 FR 925). Hearing held February 22 and 23, 1979. Rulemaking to be initiated; see listing under Nonsignificant Regulations. | R. Mowatt-Larssen (202) 426-0924. | Completion *July 1980.* |
| *Reducing Reporting and Recordkeeping Burdens (49 CFR Parts 228, 258, 260, and 268. | The Federal Railroad Administration (FRA) has selected the following regulations to be reviewed to determine whether the substantial reporting and recordkeeping burdens they impose on the public, including small businesses, can be decreased or eliminated. | Part 228—Mr. Lawrence I. Wagner (202) 426-8836. | Completion December 1980. |
| ..... | Part 228—Hours of Service for Railroad Employees | Parts 258, 260 and 268 Mr. Lawrence A. Freidman (202 426-7737. | |
| ..... | Part 258—Regulations Governing Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended. | | |
| ..... | Part 260—Regulations Governing Section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended. | | |
| ..... | Part 268—Merger and Consolidation Procedures | | |

## RSPA — Research and Special Programs Administration

| Regulations selected for review | Reasons for selection | Contact | Target date |
|---|---|---|---|
| Shippers-General Requirements for Shipments and Packagings (49 CFR pt. 173) (includes the following items):. | | | |

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

REVIEW LIST

**RSPA** **Research and Special Programs Administration**

| Regulations selected for review | Reasons for selection | Contact | Target date |
|---|---|---|---|
| Electric Storage Batteries Wet (49 CFR 173.260). | Due to inquiries requesting an interpretation of this section and to eliminate the possibility of noncompliance based on a misunderstanding of the requirements, there is a need to simplify and clarify present standards. *See Transportation of Wet Cell Electric Batteries (Docket No. HM-173).* | J. Horning, (202) 426-2075. | *September 1980.* |
| Charcoal (49 CFR 173.162) | .....do | J. Horning, (202) 426-2075. | September 1980. |
| Flammable solid; definitions criteria (49 CFR 173.150). | Inquiries; lack of objective regulatory standard | J. Horning, (202) 426-2075. | September 1980. |
| Toxic materials; definitions, criteria, and proposed regulations (49 CFR 173.326, 173.343). | Need for quantitative criteria | J. Horning, (202) 426-2075. | *September 1981.* |
| Welding of steel in Gas Pipelines (49 CFR pt. 192. subpt. E). | Present requirements to be examined in light of changes in technology. | L. Furrow, (202) 426-2392. | Action complete. |
| Maintenance of Gas Pipelines (49 CFR pt. 192, subpt. M). | The performance required by the maintenance standards needs clarification as indicated by extent of interpretations generated by these standards. | L. Furrow, (202) 426-2392. | Action complete. |
| Line Markers (49 CFR 195.410) | The requirement of installation of markers at navigable waterways needs clarification as indicated by extent of interpretations. NPRM scheduled in June 1980. | F. Robinson, (202) 426-2392. | Action complete. |
| Hydrostatic Testing (49 CFR pt. 195, Subpart E). | There is a need to clarify present standards as indicated by extent of interpretation. | F. Robinson, (202) 426-2392. | November 1980. |
| Welding Requirements (49 CFR pt. 195, Subpart D). | Present requirements to be examined in light of changes in technology. | F. Robinson, (202) 426-2392. | November 1980. |
| Petroleum Gas Systems (49 CFR pt. 192). | There is a need to *develop appropriate* regulations | W. Dennis, (202) 426-2392. | November 1980. |
| Master Meter and LPG Distribution Systems (49 CFR pt. 192). | There is a need to simplify current standards for small systems such as master meter systems. | R. Langley, (202) 426-2082. | December 1980. |

**Appendix A—Instructions for Obtaining Copies of Regulatory Documents**

*United States Coast Guard (USCG)*

Anyone desiring a copy of a USCG regulatory document listed in the Agenda should write to: U.S. Coast Guard, G—CMC/*TP24, 2100 Second St. S.W., Washington, D.C. 20593.*

The request should reference the name of the document and the associated regulatory docket (CGD) number which can be found in this Agenda together with the listing of the document. Persons wishing to be placed on mailing lists for all notices and rules to be issued by the USCG or for notices and rules dealing with a particular area should indicate this clearly for proper handling.

*Federal Aviation Administration (FAA)*

The FAA has a mailing list system for Notices and Advance Notices of Proposed Rulemaking (NPRMs and ANPRMs). Persons interested in obtaining future copies of all of those documents to be issued by the FAA or only of those concerning certain parts of the Federal Aviation Regulations should request a copy of Advisory Circular No. 11-2, which descibes the application procedure, by calling 202-426-8058 or by writing to: Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591.

*Federal Highway Administration (FHWA)*

The FHWA is in the process of establishing a consumer mailing list for individuals and agencies wishing to routinely receive Federal-aid highway related rulemaking actions. Persons may selectively choose to receive rulemaking materials in a number of separately identified program categories from the Code of Federal Regulations, Title 23. Those wishing to take advantage of the FHWA consumer mailing list may obtain additional information by writing to: Consumer Affairs Representative, Office of Public Affairs, Room 4208, Federal Highway, Administration, 400 7th Street, SW., Washington, D.C. 20590.

Persons who desire to obtain a copy of any regulatory document to be issued by the FHWA that is listed in this Agenda should communicate with the contact person listed with the regulation either by telephone or by letter to the contact person at the following address: (Name of contact person). Federal Highway Adminstration, 400 7th Street, SW., Washington, D.C. 20590.

*Federal Railroad Administration (FRA)*

Persons who desire to obtain a copy of any regulatory document to be issued by the FRA that is listed in this Agenda should communicate with the contact person listed with the regulation either by telephone or by letter to the contact person at the following address: (Name of contact person). Federal Railroad Administration, 400 7th Street, SW., Washington, D.C. 20590.

*National Highway Traffic Safety Administration (NHTSA)*

Persons who desire to obtain a copy of any other regulatory document to be issued by the NHTSA that is listed in this Agenda should communicate with the contact person listed with the regulation either by telephone or by letter to the contact person at the following address: (Name of contact person). National Highway Traffic Safety Administration, 400 7th Street, SW., Washington, D.C. 20590, (202) 426–0679.

*Urban Mass Transportation Administration (UMTA)*

Persons who desire to obtain a copy of any regulatory document to be issued by UMTA that is listed in this Agenda should communicate with the contact person listed with the regulation either by telephone or by letter to the contact person at the following address: (Name of contact person). Urban Mass Transit Administration, 400 7th Street, SW., Washington, D.C. 20590, (202) 426–1909.

*Saint Lawrence Seaway Development Corporation (SLSDC)*

Persons who desire to obtain a copy of any regulatory document to be issued by SLSDC that is listed in this Agenda should communicate with the contact person listed with the regulation either by telephone or by letter to the contact person at the appropriate address specified below: *For contact persons with (202), telephone area code:* (name of contact person), Saint Lawrence Seaway Development Corporation, 800 Independence Avenue, SW., Washington, D.C. 20591. *For contact persons with (315) telephone area code:* (name of contact person), Saint Lawrence Seaway Development Corporation, P.O. Box 520, Massena, New York 13662.

*Research and Special Programs Administration (RSPA)*

Persons wishing to be placed on mailing lists for regulatory documents to be issued by RSPA should contact: Mrs. Marge J. Sands, Information Services Division, DMT–43, Materials. Transportation Bureau, 2409 2nd Street, S.W., Washington, D.C. 20590.

*Office of the Secretary (OST)*

Persons desiring to receive future copies of the Regulations Agenda should submit their request to: Assistant General Counsel for Regulation and Enforcement, C–50, Office of the General Counsel, Department of Transportation, Washington, D.C. 20590, (202) 426–4723.

Persons who have an interest in specific regulatory documents to be issued by the Office of the Secretary should forward requests for copies of those documents to the same address. These requests should fully identify the document desired.

**Appendix B—General Rulemaking Contact Persons**

The following is a list of persons who can be contacted within the Department for general information concerning the rulemaking process within the various operating administrations.

USCG—Bruce Novak, Marine Safety Council, USCG Headquarters Building, *Room 2418, 2100 Second Street, S.W., Washington, D.C. 20593.* Telephone: 202/426–1477.

FAA—Edward Faberman, Office of Chief Counsel, Regulation and Enforcement Division, 800 Independence Ave., S.W., Room 915G, Washington, D.C. 20591. Telephone: 202/426–3644.

FHWA—Dennis Judycki, Office of the Administrator, 400 7th Street, S.W., Room 4218, Washington, D.C. 20590. Telephone: 202/426–0848.

FRA—Mike Haley, Office of Chief Counsel, 400 7th Street, S.W., Room 8211, Washington, D.C. 20590. Telephone: 202/472–9042.

NHTSA—Roger Tilton, Office of Chief Counsel, 400 7th Street, S.W., Room 5219, Washington, D.C. 20590. Telephone: 202/426–9511.

UMTA—Ed Gill, Office of Chief Counsel, 400 7th Street, S.W., Room 9320, Washington, D.C. 20590. Telephone: 202/426–1906.

SLSDC—Bob Kraft, Office of Chief Counsel, 800 Independence Ave., S.W., Room 814, Washington, D.C. 20591. Telephone: 202/426–3574.

RSPA—Doug Crockett, Office of Program Support, 400 7th Street, S.W., Room 8434, Washington, D.C. 20590. Telephone: 202/472–2698.

OST—Neil Eisner, Office of Regulation and Enforcement, 400 7th Street, S.W., Room 10421, Washington, D.C. 20590. Telephone: 202/426–4723.

**Appendix C—Public Rulemaking Dockets**

The following is a list of Rule Docket locations for the various operating administrations where the public may review regulatory dockets and hand deliver comments on advance notices and notices of proposed rulemaking:

USCG—Marine Safety Council, 2100 2nd Street, S.W., Room 2418, Washington, D.C. 20593. Working Hours: 7:00–5:00 [Monday–Thursday].

FAA—Rules Docket, Office of Chief Counsel, Regulation and Enforcement Division, 800 Independence Ave., S.W., Room 915G, Washington, D.C. 20591. Working Hours: 8:30–5:00.

FHWA—Docket Room, 400 7th Street, S.W., Room 4205, Washington, D.C. 29590. Working Hours: 7:45–4:15.

FRA—Docket Clerk, 400 7th Street, S.W., Room 8211, Washington, D.C. 20590. Working Hours: 8:30–5:00.

NHTSA—Docket Room, 400 7th Street, S.W., Room 5108, Washington, D.C. 20590. Working Hours: 7:45–4:15.

UMTA—Docket Clerk, 400 7th Street, S.W., Room 9320, Washington, D.C. 20590. Working Hours: 8:30–5:00.

SLSDC—800 Independence Ave., S.W., Room 814, Washington, D.C. 20591. Working Hours: 8:30–5:00.

RSPA—Docket Branch, 400 7th Street, S.W., Room 8426, Washington, D.C. 20590. Working Hours: 8:30–5:00.

OST—Docket Clerk, 400 7th Street, S.W., Room 10421, Washington, D.C. 20590. Working Hours: 9:00–5:30.

**Appendix D**

*Innovative Regulatory Techniques*

As explained in the preamble, the public's views are solicited with respect to the Department's regulatory programs where the innovative regulatory techniques can be applied effectively to reduce the burden on regulated entities or to reduce governmental costs. The following are descriptions of particular techniques noted by the President:

*Enhance Competition*

An agency seeks to achieve a valid regulatory goal through generally increasing its sensitivity to market structure by for example, removing barriers to and constraints on competition.

*Marketable Rights*

In place of detailed government controls, an agency limits private-sector rights to engage in a specific activity or to use scarce resources, but allows private parties to exchange, trade, or sell these rights. The agency maintains overall control while letting the affected parties arrange the detailed allocation of rights in the free market.

*Economic Incentives*

An agency provides economic incentives that are supplements or alternatives to government standards and regulations by structuring fees or subsidies to encourage the private sector to achieve regulatory goals. Incentives replace rigidly enforced regulatory standards.

*Performance Standards*

An agency replaces design standards which specify strict means of compliance with more general standards

based on overall performance levels. Firms or businesses are free to find the most efficient way of complying with the standards.

*Information Disclosure*

An agency requires that users or consumers be provided with information choices among competing goods and services and be free to choose on the basis of that information. The agency may provide information directly to the public (e.g., uniform tire grading quality standards).

*Voluntary Standard Setting*

An agency supplements or substitutes direct Federal regulation with voluntary standards developed and enforced by the regulated sectors.

*Compliance Reform*

An agency replaces or supplements government compliance monitoring and enforcement with other mechanisms, such as third-party monitoring, supervised self-certification, and economically-based penalties (e.g., third party inspection of emergency equipment aboard ships).

*Tiering*

An agency takes into account the size and nature of regulated organizations when it develops or revises its regulations (e.g., certain FAA, RSPA, and NHTSA exemptions).

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federal register

Monday
August 25, 1980

Part III

# Department of Transportation

## Federal Aviation Administration

## Airport Aid and Development Programs; Environmental Impact References and Handbook

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Parts 152, 154, and 155**

**[Docket No. 20580; Amdt. No. 152-11, 154-2, and 155-1]**

# Airport Aid Program, Acquisition of U.S. Land for Public Airports, Release of Airport Property From Surplus Property Disposal Restrictions; FAA Environmental Orders

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** These amendments revise Federal Aviation Regulations dealing with the airport aid program and the acquisition of public land for airport development by updating references to the FAA environmental orders. The orders contain detailed guidance for considering environmental impacts of Federal airport actions. These amendments also add a provision requiring compliance with those orders to Federal Aviation Regulations dealing with release of airport property from surplus property disposal restrictions. These amendments are necessary because of recent revisions in FAA environmental guidance required by the Council on Environmental Quality. The revisions are expected to result in a reduction of paperwork, the reduction of delays, and the production of better decisions.

**EFFECTIVE DATE:** August 25, 1980.

**FOR FURTHER INFORMATION CONTACT:** Lynne Sparks Pickard, Community and Environmental Needs Division (APP-600), Office of Airport Planning and Programming, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; telephone number (202) 426-3263.

**SUPPLEMENTARY INFORMATION:**

## General

These amendments revise references to procedures for processing airport development actions affecting the environment in Part 152, Airport Aid Program, and Part 154, Acquisition of U.S. Land for Public Airports under the Airport and Airway Development Act of 1970, of the Federal Aviation Regulations. Those procedures are contained in Appendix 6 to FAA Order 1050.1C, "Policies and Procedures for Considering Environmental Impacts," and in FAA Order 5050.4, "Airport Environmental Handbook." Part 155, Release of Airport Property from Surplus Property Disposal Restrictions, is also being amended to require the submission of an environmental assessment in conformance with those orders.

Interested persons were afforded an opportunity to comment on Appendix 6 of proposed FAA Order 1050.1C by a notice in the **Federal Register** on June 4, 1979 (44 FR 32094) and by direct mailing of advance copies of draft Appendix 6 to aviation organizations. Draft Appendix 6 contained procedural and substantive guidance for airport environmental documents and included the material that has now been printed separately in the new Airport Environmental Handbook. This handbook is being published elsewhere in this issue of the **Federal Register.**

In addition, the regulations of the Council on Environmental Quality (CEQ), which FAA Order 1050.1C implements, were published for comment in the **Federal Register** on June 9, 1978 (43 FR 25230). They had already received extensive input from the public, the business community, State and local governments, and Federal agencies. In view of these numerous opportunities for public review and comment and in light of the comments received in response to the June 4, 1979, notice, the FAA has determined that a formal notice of proposed rulemaking would not result in the receipt of additional useful information.

## CEQ Regulations

On November 29, 1978, the Council on Environmental Quality published its final regulations establishing uniform procedures for implementing the procedural provisions of the National Environmental Policy Act (43 FR 55978). The purpose of those regulations is to reduce paperwork, reduce delays, and produce better decisions. Under Part 1507 of the CEQ regulations (40 CFR Part 1507), Federal agencies must adopt any necessary implementing procedures, after public comment and CEQ review.

FAA Order 1050.1C, published in its final form on January 10, 1980 (45 FR 2244), amends FAA's environmental policies and procedures in response to the CEQ regulations. The order is a comprehensive treatment of the environmental process for the broad range of FAA programs and projects. Appendix 6 to the revised order, like Appendix 6 to the previous order (FAA Order 1050.1B), applies to specified Federal actions associated with airport programs. The FAA has also developed new Order 5050.4 which is a self-contained handbook for Federal airport actions. It includes the text of Appendix 6, material cross-referenced in that appendix, and substantive detailed guidance on the form and content of environmental assessments, environmental impact statements, and findings of no significant impact. Compliance with Order 5050.4 assures compliance with Appendix 6 to FAA Order 1050.1C.

## Changes in Environmental Order

Appendix 6 to FAA Order 1050.1C and the Airport Environmental Handbook differ in several ways from Appendix 6 of FAA Order 1050.1B. The changes are as follows:

A major runway extension has been redefined as a runway extension which upgrades an existing runway to permit usage by noisier aircraft. These are aircraft over 12,500 pounds that are at least three decibels louder than aircraft currently using the runway as measured at one or more of the measuring points used to determine compliance with Federal Aviation Regulations, Part 36.

In accordance with § 1506.5(c) of the CEQ regulations (40 CFR 1506.5(c), an airport sponsor may not assume any responsibility for the preparation of draft and final environmental impact statements, unless the sponsor qualifies as a joint lead agency.

In accordance with § 1506.5(c) of the CEQ regulations (40 CFR 1506.5(c)), a contractor preparing draft and final environmental impact statements must be selected by the lead agency or by a cooperating agency, rather than by the airport sponsor. The contractor must execute a disclosure statement specifying that it has no financial or other interest in the outcome of the project.

Additional airport actions have been specifically identified as categorically excluded from environmental processing requirements, based upon FAA experience with judging which types of actions have the potential for significant impacts and which do not.

The applicability of procedures to conveyances of airport land and to releases of airport land have been further explained to clarify previous uncertainties in interpretation.

The application of design, art, and architecture to airport projects has been provided for in accordance with Notice DOT N5610.4, "Implementation of Decision to Address Environmental Design Considerations in Environmental Impact Statements" (February 27, 1978).

The format and content of the environmental assessment, environmental impact statement, and finding of no significant impact have been revised to comply with the letter and spirit of the CEQ regulations as well as regulations implementing other environmental statutes.

Thresholds of significance have been delineated for each category of potential environmental impact in order to assist airport sponsors and FAA field personnel in evaluating whether or not impacts are significant. In addition, each environmental impact category has been updated to reflect recent environmental laws and regulations.

The Day/Night Level (Ldn) is the FAA's acceptable cumulative noise methodology for use in initial noise analysis. (An exception is the use of the Community Noise Equivalent Level where required to meet state requirements as in California.) Other cumulative noise methodologies, including Equivalent Noise Level (Leq) which would have been alllowed under the proposed revision of Order 1050.1C, have been deleted, in the interest of having one cumulative noise methodology which is acceptable to the FAA, the Environmental Protection Agency, and the Department of Housing and Urban Development.

Sponsors will no longer be required to make available for public hearings an environmental assessment on runway extensions which are not major runway extensions. Runway extensions that are not considered major are excluded from the requirement to prepare an environmental assessment, if they do not otherwise have likely significant impacts.

A new procedure has been provided for formal FAA acceptance of a sponsor's environmental assessment. After this acceptance the assessment becomes a Federal document in accordance with §§ 1506.5(b) and 1508.9 of the CEQ regulations (40 CFR 1506.5(b) and 1508.9).

Assurances, findings, and conclusions that may be required for an action have been made as part of the decision on the action, rather than part of the environmental approval. CEQ regulations require distinct separation of the environmental approval and the Federal decision on the proposed action.

The FAA's application of low capital or noncapital alternatives to proposed actions has been emphasized and clarified in accordance with commitments made to CEQ to strengthen this area.

The implementation of commitments to mitigate environmental impacts has been emphasized and expanded upon in accordance with § 1505.3 of the CEQ regulations (40 CFR 1505.3).

Tiering, as defined in 40 CFR 1508.28, has been specifically applied to types of airport actions.

Finally, in accordance with DOT Order 5610.1C "Procedures for Considering Environmental Impacts" (44 FR 56420; October 1, 1979), time limitations on the validity of draft and final environmental impact statements have been established; prior finding affirmations have been deleted and replaced by written re-evaluations; and the conditions for preparing supplements to draft final environmental impact statements have been expanded upon.

**Paperwork Reduction**

The reduction of paperwork and of administrative delay expected to result from these revisions of FAA environmental guidance are in harmony with the national policy expressed by the President in Executive Order 12044 on "Improving Government Regulations" and Executive Order 12174 on "Paperwork."

**Rule Changes**

Section 152.111(c)(7) requires that the sponsor submit an environmental assessment with its preapplication for Federal assistance, if one is required by Appendix 6 to FAA Order 1050.1C, "Policies and Procedures for Considering Environmental Impacts." The reference to this revised order was added to Part 152 by Amendment No. 152–10. The section is now being amended to require that the assessment also be prepared in conformance with FAA Order 5050.4, "Airport Environmental Handbook."

This same addition has been made to § 152.117(b)(4), of Part 152, which requires that a notice of opportunity for a public hearing state that an environmental assessment is available for review, if an assessment is required. It has also made to paragraph II B of Appendex D to Part 152, which requires a sponsor seeking FAA approval of a new or revised airport layout plan to submit an environmental assessment with the plan.

Section 154.7(b)(14) has required the submission of an environmental impact assessment report, prepared in conformance with applicable DOT and FAA orders, with an application for conveyance of a property interest under Part 154. This amendment updates that requirement by referencing FAA Orders 1050.1C and 5050.4. It also eliminates reference to the DOT order, since the handbook incorporates the applicable DOT requirements and compliance with it results in compliance with the DOT order. The terminology in this section has also been updated, and the section has been revised to make it clear that an environmental assessment must be submitted only if one is required by the FAA orders.

The requirement for an envirnomental assessment has been added to Part 155. New § 155.11(c)(12) will now require the submission of an environmental assessment, if one is required by Appendix 6 and the handbook, with a request for release from surplus property disposal restrictions.

Since these amendments relate to public grants, and the implementation target date set by CEQ was July 30, 1979, good cause exists for making them effective in less than 30 days.

**Cost Evaluation**

Compliance with FAA Order 5050.4 is expected to bring about the results which CEQ's regulations aim at, namely the reduction of paperwork, the reduction of delays, and the production of better decisions. The final regulatory evaluation prepared in connection with this project, and available in the regulatory docket, describes these benefits at length.

Changes that will reduce paperwork include reducing the length of environmental impact statements, narrowing the scope of the environmental impact statement process, and eliminating duplication wherever possible. Delays will be reduced by, among other things, integrating the assessment process into early planning, emphasizing interagency cooperation, and ensuring the swift and fair resolution of disputes. Finally, the quality of decisions is expected to be better because these revisions will help ensure that environmental information is of high quality, accurate, objective, subjected to public scrutiny, and available to public officials before decisions are made and before actions are taken.

The new procedures are expected to be somewhat more costly to the Federal Government than the previous procedures. The reason for this is CEQ's emphasis on and specific delineation of certain Federal responsibilities in the assessment process. Under the CEQ regulations, draft and final environmental impact statements must be prepared directly by the lead agency or under direct contract to the lead agency. Federal agencies are to serve as cooperating agencies for the preparation of the environmental impact statements. Interdisciplinary skills are demanded of impact statement preparers, and a list of the preparer's professional qualifications is required in impact statements. A greater emphasis has been placed on Federal independent evaluation of, and responsibility for, analyses of environmental impacts, and on monitoring mitigation measures and reporting on this monitoring. These and

other responsibilities will result in increased cost to the governmental sector.

In this connection the FAA has established a number of environmental positions within the Airports Program to augment skills and reduce environmental processing delays, However, these positions are being filled within authorized levels and will result in no increase in cost to the program.

There will be an increase needed in contract funds so that the FAA may directly contract for assistance in environmental impact statement preparation, in lieu of allowing airport sponsors to contract for this work, and for assistance in evaluation of environmental analyses as necessary, Approximately $1 million in contract funds is estimated to be required annually. In addition, to comply with the CEQ's instructions to fund the support of cooperating agencies, an amount of $450,000 is estimated to be required annually.

The increase in the economic burden on the Federal Government will be offset to an unquantified extent by a decrease in the economic burden on airport sponsors. This decrease will result primarily from the streamlining of the environmental assessment required to be submitted to the FAA by sponsors and the preparation of more environmental documentation by, or under direct contract to, the FAA, instead of by, or under direct contract to, sponsors. A decrease in the economic burden on sponsors will be reflected in a decrease in the amount of Federal grant-in-aid funds (Airport Development Aid Program and Airport Planning Grant Program) paid to sponsors to fund the allowable Federal percentage of environmental study efforts.

An allowable alternative which the CEQ regulations and FAA Order 5050.4 recognize is for a draft and final impact statement to be prepared by a contractor selected and guided by the FAA, but paid by the sponsor. To the extent that Federal funds are insufficient to accommodate the demand, sponsors may elect this option. The total dollar value estimated to be required under the new regulation is not affected by this option.

In summary, to the extent that there will be increased direct Federal costs in preparing environmental documents for the Airports program, there will be decreased expenditures on the part of airport sponsors and the FAA's airport grant programs.

**Clearinghouse Review**

Part 152 of the Federal Aviation Regulations applies to the Airport Development Aid Program and the Planning Grant Program. These programs are listed in the Catalogue of Federal Domestic Assistance as program numbers 20.102 and 20.103, respectively. The procedures of Office of Management and Budget Circular A-95 regarding state and local clearinghouse review of Federal and Federally-assisted programs and projects apply to these programs.

**Adoption of the Amendment**

Accordingly, Parts 152, 154, and 155 of the Federal Aviation Regulations (14 CFR Parts 152, 154, and 155) are amended, effective August 25, 1980, as follows:

## PART 152—AIRPORT AID PROGRAM

1. By revising § 152.111(c)(7) to read as follows:

**§ 152.111 Application requirements: airport development.**

* * * * *

(c) * * *

(7) The sponsor's environmental assessment prepared in conformance with Appendix 6 to FAA Order 1050.1C, "Policies and Procedures for Considering Environmental Impacts" (45 FR 2244; January 10, 1980), and FAA Order 5050.4, "Airport Environmental Handbook" (45 FR —; August 24, 1980), if an assessment is required by Order 5050.4. Copies of these orders may be examined in the Rules Docket, Office of the Chief Counsel, FAA, Washington, D.C., and may be obtained on request at any FAA regional office headquarters or any airports district office.

* * * * *

2. By revising § 152.117(b)(4) to read as follows:

**§ 152.117 Public hearings.**

* * * * *

(b) * * *

(4) State that a copy is available of the sponsor's environmental assessment, if one is required by Appendix 6 of FAA Order 1050.1C, "Policies and Procedures for Considering Environmental Impacts" (45 FR 2244; January 10, 1980), and FAA Order 5050.4, "Airport Environmental Handbook" (45 FR —; August 25, 1980), and will remain available, at the sponsor's place of business for examination by the public for a minimum of 30 days, beginning with the date of the notice, before any hearing held under the notice.

* * * * *

3. By amending paragraph II B of Appendix D to Part 152 to read as follows:

**Appendix D**

* * * * *

II. * * *

B. *Airport Layout Plan Approval.* A sponsor seeking FAA approval of a new or revised airport layout plan shall submit with the plan an environmental assessment prepared in conformance with Appendix 6 of FAA Order 1050.1C, "Policies and Procedures for Considering Environmental Impacts" (45 FR 2244; January 10, 1980) and FAA Order 5050.4 "Airport Environmental Handbook" (45 FR —; August 25, 1980), if an assessment is required by Order 5050.4.

* * * * *

## PART 154—ACQUISITION OF U.S. LAND FOR PUBLIC AIRPORTS

4. By amending § 154.7 by revising paragraph (b)(14) to read as follows:

**§ 154.7 Form and content of application for conveyance.**

* * * * *

(b) * * *

(14) The sponsor's environmental assessment prepared in conformance with Appendix 6 of FAA Order 1050.1C, "Policies and Procedures for Considering Environmental Impacts" (45 FR 2244; January 10, 1980), FAA Order 5050.4, "Airport Environmental Handbook" (45 FR —; August 25, 1980), if an assessment is required by Order 5050.4. Copies of these orders may be examined in the Rules Docket, Office of the Chief Counsel, FAA, Washington, D.C., and may be obtained on request at any FAA regional office headquarters or any airports district office.

* * * * *

## PART 155—RELEASE OF AIRPORT PROPERTY FROM SURPLUS PROPERTY DISPOSAL RESTRICTIONS

5. By amending § 155.11 by adding new paragraph (c)(12) to read as follows:

**§ 155.11 Form and content of requests for release.**

(c) * * *

(12) The sponsor's environmental assessment prepared in conformance with Appendix 6 of FAA Order 1050.1C, "Policies and Procedures for Considering Environmental Impacts" (45 FR 2244; January 10, 1980), and FAA Order 5050.4, "Airport Environmental Handbook" (45 FR ; August 25, 1980), if an assessment is required by Order 5050.4. Copies of these orders may be examined in the Rules Docket, Office of the Chief Counsel, FAA, Washington, D.C., and may be obtained on request at any FAA regional office

headquarters or any airports district office.

(Secs. 11 through 27 of the Airport and Airway Development Act of 1970, as amended (49 U.S.C. 1711 through 1727); § 1.47(f)(1), Regulations of the Office of the Secretary of Transportation (49 CFR § 1.47(f)(1)); 50 U.S.C. App. §§ 1622–1622c)

**Note.**—The FAA has determined that this document involves regulations which are 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 final regulatory evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by writing to Lynne Sparks Pickard, Community and Environmental Needs Division (APP–600), Office of Airport Planning and Programming, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591.

Issued in Washington, D.C., on July 29, 1980.

**Langhorne Bond,**

*Administrator.*

[FR Doc. 80-25669 Filed 8-22-80; 8:45 am]
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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Airport Environmental Handbook

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Publication of FAA Airport Environmental Handbook.

**SUMMARY:** The FAA Airport Environmental Handbook provides instructions and guidance for preparing and processing the environmental documents for airport development proposals and other airport actions.

**EFFECTIVE DATE:** March 21, 1980.

**FOR MORE INFORMATION CONTACT:** Lynne Sparks Pickard, Community and Environmental Needs Division (APP–600), Office of Airport Planning and Programing, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C., 20591; telephone number (202) 426–3263.

**SUPPLEMENTARY INFORMATION:** FAA Order 5050.4, "Airport Environmental Handbook," provides instructions and guidance for preparing and processing environmental documents for airport development proposals and other airport actions under Part 152, Airport Aid Program, Part 154, Acquisition of U.S. Land for Public Airports under the Airport and Airway Development Act of 1970, and Part 155, Release of Airport Property from Surplus Property Disposal Restrictions, of the Federal Aviation Regulations. Amendments to these parts which require compliance with the Airport Environmental Handbook are being published elsewhere in this issue of the **Federal Register** (Amendments 152–11, 154–2, and 155–1).

This handbook is part of the FAA's response to the regulations of the Council on Environmental Quality (CEQ) which establish uniform procedures for implementing the procedural provisions of the National Environmental Policy Act (43 FR 55978; November 29, 1978). The purpose of those regulations is to reduce paperwork, reduce delays, and produce better decisions. Under Part 1507 of the CEQ regulations (49 CFR Part 1507), Federal agencies must adopt any necessary implementing procedures, after public comment and CEQ review.

FAA Order 1050.1C entitled "Policies and Procedures for Considering Environmental Impacts," published in its final form on January 10, 1980 (45 FR 2244), amends FAA's environmental policies and procedures in response to the CEQ regulations. The order is a comprehensive treatment of the environmental process for the broad range of FAA programs and projects. Appendix 6 to the revised order, like Appendix 6 to the previous order (FAA Order 1050.1B), applies to specified Federal actions associated with airport programs.

The Airport Environmental Handbook, FAA Order 5050.4, is a self-contained handbook for Federal airport actions. It includes the text of Appendix 6, material cross-referenced in that appendix, and substantive detailed guidance on the form and content of environmental assessments, environmental impact statements, and findings of no significant impact. Compliance with Order 5050.4 assures compliance with Appendix 6 to FAA Order 1050.1C.

Accordingly, FAA publishes the following Order 5050.4 entitled "Airport Environmental Handbook."

(National Environmental Policy Act of 1969 as amended [42 U.S.C. 4321 et seq.]; the Environmental Quality Improvement Act of 1970, as amended [42 U.S.C. 4371 et seq.]; Section 309, Clean Air Act, as amended [42 U.S.C. 7609]; Sec. 4(f), Department of Transportation Act of 1966, as amended [49 U.S.C. 1653(f)]; Executive Order 11514, dated March 4, 1970, as amended by Executive Order 11991, dated May 24, 1977; 40 CFR Parts 1500–1508; DOT Order 5610.1C [44 FR 56420; September 18, 979])

Issued in Washington, D.C., on August 15, 1980.

**Robert J. Aaronson,**

*Associate Administrator for Airports.*

### Airport Environmental Handbook

*March 21, 1980*

Department of Transportation, Federal Aviation Administration

### Foreward

Order 1050.1C, Policies and Procedures for Considering Environmental Impacts, was published in the **Federal Register** on January 10, 1980 (45 FR 2244). It was prepared in response to the Council on Environmental Quality's (CEQ) Regulations to amend FAA's environmental policies and procedures. Order 1050.1C provides in a single comprehensive document the essential treatment of the environmental process for the broad range of FAA programs and projects. Appendix 6 of Order 1050.1C prescribes environmental requirements and procedures in conjunction with specified Federal actions associated with airport programs. It includes several cross-references to the basic text of the order and references to the CEQ Regulations which would need to be consulted for a comprehensive understanding of the requirements for compliance with NEPA in considering airport actions. Appendix 6 does not contain detailed information on the form and content of environmental assessments and environmental impact statements.

This order includes the text of Order 1050.1C, Appendix 6 (we have added Purpose and Distribution paragraphs to Chapter 1), plus most of the cross-referenced material and extensive instructions on the form and content of environmental documents. It is intended for use by FAA Airports personnel, airport sponsors, and others involved in airport actions as a self-contained document including all the essential information needed to meet both procedural and substantive environmental requirements. Compliance with this order constitutes compliance with Order 1050.1C for airport actions.

Order 1050.1C establishes policy and procedures for agency-wide compliance with environmental requirements. Any changes in Order 1050.1C which pertain to airport actions will be reflected by appropriate changes in this order.

**Paul L. Galis,**

*Acting Director, Office of Airport Planning and Programming.*

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Appendix 1—Flow Diagram of Environmental Process (4 pages).

**Chapter 1. Introduction and Definitions**

1. *Purpose.* This order provides instructions and guidance for preparing and processing the environmental assessments of airport development proposals and other airport actions as required by various laws and regulations.

2. *Distribution.* This order is distributed in Washington headquarters to the branch level in the Offices of Airport Planning and Programming, Airport Standards, Environment and Energy, and the Chief Counsel; to all regional Airports divisions to the branch level; and to all Airports district/field offices and the Airports and Logistics Branch.

3. *Council on Environmental Quality (CEQ) Terminology.* CEQ Regulations implementing the National Environmental Policy Act of 1969 (NEPA) were published in the **Federal Register** on November 29, 1978. (Hereinafter, references to the CEQ Regulations shall simply identify the paragraph; e.g., CEQ 1508.1.) CEQ 1508.1 states "The terminology of this part shall be uniform throughout the Federal government."

4. *Federal Aviation Administration (FAA) Terms.* Order 1000.15A, FAA Glossary, dated December 18, 1975, contains terms which recur most often in agency communications. This order includes several terms used in airport planning and development.

5. *Airports Program Environmental Definitions.* The following terms used for airport actions are in addition to those defined in CEQ 1508.

a. *Federal Action.* The Federal action as far as the Airports Program is concerned may be any of the following:

(1) Adoption of the National Airport System Plan.

(2) Approval of an airport location.

(3) Approval of an airport layout plan or revisions to an airport layout plan.

(4) Approval of funding for airport development.

(5) Requests for the conveyance of government land under section 23 of the Airport and Airway Development Act of 1970, as amended, (Airport Act) for development or improvement of a public airport.

(6) Approval of release of airport land.

b. *Federal Environmental Approval.* This is a determination by the approving official that the requirements imposed by applicable environmental statutes and regulations have been satisfied by a finding of no significant impact or a final environmental impact statement. It is not an approval of the Federal action.

c. *Finding of No Significant Impact with Section 16(c)(4) Coordination.* This is a finding of no significant impact as defined in CEQ 1508.13 which, because the project involves airport location, a major runway extension, or runway location, must be coordinated with the Department of the Interior (DOI) and the Environmental Protection Agency (EPA) in accordance with the Airport Act, section 16(c)(4).

d. *Written Reevaluation.* This is an evaluation prepared by the FAA

responsible official of a draft or final impact statement or a finding of no significant impact with section 16(c)(4) coordination which has exceeded the three-year time limitation specified in paragraph 102, Chapter 10. This evaluation will either conlcude that the contents of previously prepared environmental documents remain valid or that significant changes require the preparation of a supplement or new environmental document.

e. *Approving Official.* This is the FAA official who has the authority to approve findings of no significant impact or final environmental impact statements per Chapters 6 and 9.

f. *Responsible Official.* This is an FAA employee designated with overall responsibility to furnish guidance and participate in the preparation of environmental impact statements, to evluate the statements, and to take responsibility for the scope and content of the statements. This person may be authorized to evaluate and accept environmental assessments prepared by airport sponsors and may direct scoping activities for the FAA.

g. *Decisionmaker.* This is the FAA official who has authority to approve airport layout plans, approve funding for airport development, or otherwise approve the Federal action.

h. *Sponsor.* This is any public agency eligible to receive Federal financial assistance under the Airport Act or anyone proposing an airport action for which a Federal authorization is required.

i. *Major Runway Extension.* This is a runway extension which upgrades an existing runway to permit usage by noisier aircraft.

j. *Major New Construction or Expansion of Passenger Handling and Parking Facilities.* This is development on an airport to accommodate one or more increments of a planned total increase in scheduled air carrier enplanements of at least 25 percent over current enplanements. This increase shall also be at least 100,000.

k. *Design, Art, and Architectural Application.* Design is the process of arranging physical spaces, materials, and objects to perform specific functions with emphasis on the relationship of the resulting product to human and environmental factors. Design quality is judged by broader criteria than functional performance alone. Design includes architecture, landscape architecture, graphics, interior design, and engineering. Art includes objects or works of art which are placed in or on an airport facility primarily for aesthetic reasons. Architectural application means the arrangement of structural materials, landscaping, or site development to produce an aesthetically pleasing and functional environment.

l. *NEPA Section 102(2)(D) States.* Such states are those whose agencies or officials, having statewide jurisdiction and responsibility for implementing major Federal actions funded under a program of grants to states, prepare environmental impact statements required by NEPA, section 102(2)(C).

m. *"NEPA-Like" State or Local Agencies.* Such states or agencies are those which are subject to state or local requirements comparable to NEPA requirements for environmental impact statements according to CEQ 1506.2(c). Such agencies, unless specifically barred by other law, shall be joint lead agencies with the FAA and to the fullest extent possible jointly prepare environmental impact statements.

n. *Noisier Aircraft.* For purposes of this order, noisier aircraft are aircraft over 12,500 pounds which are at least three decibels louder than aircraft currently using a runway as measured at one or more of the measuring points used to determine compliance with Federal Aviation Regulations, Part 36. (An aircraft more heavily loaded than the same aircraft currently using the runway under similar conditions may be a noisier aircraft under this definition.)

o. *Project Involving Airport Location.* This is a project by a public sponsor for land acquisition or other development at an airport which has not previously been eligible for Airport Development Aid Program funds because:

(1) It did not exist, or

(2) It was privately owned.

6. *Funding.* Resources to implement the provisions of this order shall be requested through the normal annual budget process.

7.–9. *Reserved.*

**Chapter 2. General Requirements and Responsibilities**

10. *General.* a. Airport sponsors and the FAA shall carefully consider and weigh environmental amenities and values in a timely manner in evaluating proposed Federal actions relating to airport planning and development, utilizing a systematic interdisciplinary approach and involving local and state officals and individuals having expertise. The environmental assessment and consultation process is to provide officials and decisionmakers, as well as members of the public, with an understanding of the potential environmental impacts of the proposed action. The final decision is to be made on the basis of a number of factors. Environmental considerations are to be weighed as fully and as fairly as non-environmental considerations. The FAA's objective is to enhance environmental quality and avoid or minimize adverse environmental impacts that might result from a proposed Federal action in a manner consistent with the FAA's principal mission to provide for the safety of aircraft operations.

b. Unless categorically excluded by this order, an environmental assessment and environmental impact statement or finding of no significant impact are required for proposed Federal actions related to airports. In accordance with Department of Transportation (DOT) policy and with the CEQ Regulations, it is intended that a single environmental document meet Federal, State, and local requirements.

11. *Overview of Environmental Process.* a. The process for consideration of the environmental effects of a proposed action involves a number of steps, beginning with the airport proprietor or sponsor. The relative responsibilities of the sponsor and the FAA are summarized in the following paragraphs. Intergration of environmental considerations in early planning and involvment of the public are discussed in Chapter 5. Subsequent chapters present detailed instructions on content, processing, and approval of environmental documents.

b. To facilitate an understanding of the process, a flow diagram (Appendix 1) is presented at the end of this handbook. Appendix 1 is broken down into four sheets:

(1) Sheet 1 depicts the process from identification of the problem by the sponsor, through initial review of the sonsor prepared environmental assessment, to development of the environmental assessment as an FAA document. This sheet also identifies an early decision point on whether or not the action falls in the categorical exclusion category per the listing in paragraph 23. If the FAA determines after initial review of the sponsor's proposal that the action is in this category, no environmental assessment is necessary.

(2) Sheet 2 begins with a key FAA determination based on the environmental assessment on whether the action requires preparation of an environmental impact statement. If this answer is yes, sheet 2 outlines the process of scoping, developing, and processing of a draft environmental impact statement by FAA through review of comments and preparation of the proposed final document.

(3) Sheet 3 describes the process if it is determined that an environmental impact statement is not necessary. In

this case, it is first determined if limited Federal agency coordination is necessary pursuant to section 16(c)(4) of the Airport Act. If it is, a proposed finding of no significant impact is prepared, coordinated, and approved as indicated in the flow diagram. Otherwise, a finding of no significant impact may be prepared and approved without further coordination. A final decision on the action is then made after environmental approval.

(4) Sheet 4 is a continuation of Sheet 2. It represents the environmental and funding approval processes for actions which have required the preparation of an environmental impact statement. Environmental approval action is taken in either headquarters or the region depending on approval authority as described in paragraph 95. A final funding decision is made subsequently and includes a record of decision incorporating assurances and mitigation measures identified in the environmental impact statement (reference paragraph 98). The funding decision may also be made in headquarters or the region depending on approval authority. Note that the environmental and funding approvals are not necessarily made at the same level or by the same official. These distinctions are amde in the flow diagram and in the definitions in Chapter 1, paragraphs 3e and g.

12. *Sponsor's Responsibility.* Sponsors of airport projects are responsible for identifying the problem, developing conceptual alternatives, and preparing an environmental assessment as more fully explained in Chapter 5. In the Airports Program, an environmental assessment prepared by the sponsor shall systematically examine each potential impact to determine if the impact is significant. The document shall be developed in coordination with appropriate local, state, and Federal agencies, with community involvment as described in this handbook, and in direct consultation with FAA. It is important that the material contained therein be objective, complete, and accurate in order for it to serve as the basis for the preparation of the FAA's environmental documents. The sponsor's resonsibility also extends to providing additional data and information to the FAA when required to assist in its review of environmental impacts and in the preparation of environmental documents. The environmental assessment shall draw upon the appropriate disciplines of the natural and social sciences and the environmental design arts.

13. *FAA Responsibility.* In brief, under the Airports Program the FAA is responsible for analyzing the environmental impacts and consequences of a proposed Federal action involving airports, for the environmental assessment and related documents, and ultimately for approving or disapproving the environmental documents and the Federal action. Although an environmental assessment submitted by an airport sponsor may be used in whole or in part, the FAA is responsible for the facts, opinions, and judgments upon which the environmental determination is based. It is, therefore, incumbent upon the FAA to assure that all documentation presents a full, accurate, and fair assessment of the environmental consequences of the proposed action.

14. *Use of Contractors.* If contractors are to be involved, see paragraph 76 for details.

15. *Role of Lead and Cooperating Agencies. The various roles of the lead agency are described in CEQ 1501.5 through 1501.8. CEQ 1501.5 generally describes the role of the lead agency when more than one agency is involved in an action. CEQ 1501.6 describes the relationship with cooperating agencies. CEQ 1501.7 and 1501.8 define the role of the lead agency in the scoping process and in setting time limits. More specific information on the involvement of the lead and cooperating agencies in the preparation of environmental impact statements is contained in paragraphs 74 and 75.*

16. *Preparation of Environmental Documents.* Responsibilities and authority of state and local agencies will vary depending upon the state or local requirements, jurisdictional responsibilities, and expertise. This is discussed in Chapter 7.

17. *Early NEPA Involvement in Planning.* In accordance with NEPA, environmental consideration shall be identified early in the planning process. Chapter 5 discusses the implementation of this requirement in airport planning.

18. *Public Involvement.* a. Citizen involvement, where appropriate, should be initiated at the earliest practical time and continued throughout the development of the proposed project in order to obtain meaningful input. Examples of citizen groups are: environmental, conservation, public service, education, labor, business, or aviation and airspace user organizations, and citizen advisory committees.

b. While requests for Federal airport actions originate with a local public agency, the involvement of the community at large is a necessary element in the decisionmaking process. An effective opportunity to comment at appropriate stages in the decisonmaking process shall be provided to communities, citizen groups, and other individuals affected by airport proposals submitted to the FAA. They shall also be provided an oportunity to review and comment on draft and final statements. In order to provide an effective opportunity for comment when significant portions of the affected public have a native language other than English, environmental documents may be provided or public hearings conducted in such native language.

c. In accordance with section 16(d) of the Airport Act, the opportunity for public hearings shall be offered on any action involving location of a new airport, location of a new runway, or extension of a runway. For other actions, a public hearing shall be considered in accordance with the guidelines contained in paragraph 49, FAA Advisory Circular 150/5050-4, Citizen Participation in Airport Planning, has additional specific guidance on community involvement. Standard procedures for Federal agency public involvement are stated in CEQ 1506.6.

19. *Reserved.*

**Chapter 3. Environmental Action Choices**

20. *General. a. In the Airports Program, Federal actions which require environmental processing generally involve the approval of specific projects at specific airports. A series of projects may be grouped into an overall plan for development, with successive phases being contingent upon other events such as a projected increase in traffic or a change in the aircraft using the airport. Such programs for development will usually be the subject of tiered environmental actions (see paragraph 101 and CEQ 1508.28).*

b. On occasion, such as for the development of a new National Airport System Plan which is based upon new criteria for the inclusion of airports in the plan, an environmental impact statement will be prepared for a broad action. This action is the adoption of a formal plan upon which future agency actions will be based.

c. All Federal actions fall in one of three categories:

(1) Those normally requiring an environmental impact statement (CEQ 1508.11).

(2) Those requiring an environmental assessment (CEQ 1508.9).

(3) Those which are normally categorically excluded (CEQ 1508.4).

21. *Actions Normally Requiring an Environmental Impact Statement. a. The following Federal actions will normally require an environmental impact statement:*

(1) Adoption of a new National Airport System Plan which is based upon significantly different criteria for inclusion of specific airports from criteria used in the previous plan.

(2) First time airport layout plan approval or airport location approval (see paragraphs 30 and 32) for an air carrier airport located in a standard metropolitan statistical area.

(3) A new runway capable of handling air carrier aircraft at an air carrier airport in a standard metropolitan statistical area.

b. Even though these actions normally require an environmental impact statement, the preparation of the environmental impact statement will usually be preceded by an environmental assessment. If the environmental assessment demonstrates that there are no significant impacts, the action shall be processed as a finding of no significant impact instead of an environmental impact statement.

22. *Actions Normally Requiring an Environmental Assessment.* a. Federal financial participation in, or airport layout plan approval of, the following categories of development actions shall be subject to the analysis of an environmental assessment and subsequent decision as to whether to prepare an environmental impact statement or a finding of no significant impact.

(1) Airport location.

(2) New runway.

(3) Major runway extension.

(4) Runway strengthening which would permit use by a noisier aircraft than that for which the pavement was previously designed.

(5) Major new construction or expansion of passenger handling or parking facilities with Federal funding.

(6) Land acquisition associated with all the above items plus any land acquisition which causes relocation of residential or business activities or involves land covered under section 4(f) of the Department of Transportation Act of 1966, as amended (hereinafter section 4(f)).

(7) Establishment or relocation of an instrument landing system, an approach lighting system, or runway end identification lights (when airport development aid funds are used).

(8) An airport development action that falls within the scope of paragraph 24 or which involves any of the following:

(a) Use of section 4(f) land.

(b) Effect on property included in or eligible for inclusion in the National Register of Historic Places or other property of state or local historical, architectural, archeological, or cultural significance.

(c) Wetlands, coastal zones, or floodplains.

(d) Endangered or threatened species.

b. FAA requests for conveyance of government land for airport purposes under section 23 of the Airport Act (see paragraph 34 for more detailed instructions).

c. Federal release of airport land (see paragraph 35).

d. The actions identified in this paragraph shall be supported through one of the following action choices based upon an environmental assessment.

(1) Environmental impact statements.

(2) Findings of no significant impact (see paragraphs 27 and 28).

e. Actions identified in this paragraph may be the subject of written reevaluations of previously approved environmental impact statements or findings of no significant impact. (See paragraph 103).

23. *Categorical exclusions.* Paragraphs 21 and 22 identify specific airport actions such as major runway extensions which require, as a minimum, an environmental assessment. Paragraph 24 identifies extraordinary circumstances which create a requirement for environmental assessment of actions otherwise excluded. For any specific FAA airport project or program action, paragraphs 21, 22, 24, and 26 shall be reviewed. Unless specifically covered by those paragraphs, the following items are categorically excluded from the requirement for formal environmental assessment.

a. Runway, taxiway, apron, or loading ramp construction or repair work including extension, strengthening, reconstruction, resurfacing, marking, grooving, fillets and jet blast facilities, except where such action will create environmental impacts off airport property.

b. Installation or upgrading of airfield lighting systems, including beacons and electrical distribution systems.

c. Installation of miscellaneous items including segmented circles, wind or landing direction indicators or measuring devices, or fencing.

d. Construction or expansion of passenger handling or parking facilities including pedestrian walkway facilities.

e. Construction or repair of entrance and service roadway within airport property and relocation of these type roads except where they connect to a public highway or street.

f. Grading or removal of obstructions on airport property and erosion control actions with no off-airport impacts.

g. Landscaping generally, and landscaping or construction of physical barriers to diminish impact of airport blast and noise.

h. Land acquisition associated with any of the above items.

i. Acquisition of: noise suppression or measuring equipment, security equipment required by rule or regulation for the safety or security of personnel and property on the airport (14 CFR Part 107), safety equipment required by rule or regulation for certification of an airport (14 C.F.R. Part 139) or snow removal equipment.

j. Issuance of airport planning grants.

k. Airport Development Aid Program actions which are tentative and conditional and clearly taken as a preliminary action to establish a sponsor's eligibility under the Program.

l. Retirement of the principal of bond or other indebtedness for terminal development.

m. Issuance of airport policy and planning documents including advisory circulars on planning, design, and development programs not intended for direct implementation or issued by FAA as administrative and technical guidance to the public.

n. Issuance of certificates and related actions under the Airport Certification Program (14 CFR Part 139).

o. Advisory actions as described in paragraph 25.

p. Any items identified in other appendices of this order as categorical exclusions. These items are not normally included in airport actions. There may be circumstances when such items, especially those associated with airways facilities, may be shown on an airport layout plan or included in an airport development action.

24. *Extraordinary Circumstances.* Proposed Federal actions, normally categorically excluded, which have any of the following characteristics shall be the subject of an environmental assessment. The FAA will determine, in accordance with paragraph 51, whether the action will be the subject of an environmental impact statement or finding of no significant impact.

a. An action that is likely to have an effect that is not minimal on properties protected under section 106 of the Historic Preservation Act of 1966, as amended, or section 4(f).

b. An action that is likely to be highly controversial on environmental grounds. A proposed Federal action is considered highly controversial when the action is

opposed by a Federal, state, or local government agency or by a substantial number of the persons affected by such action on environmental grounds. If the responsible official has any doubt whether a given number of opposing persons is "substantial," that doubt shall be resolved by discussion with APP–600 to determine if the action should be processed as a highly controversial one.

c. An action that is likely to have a significant impact on natural, ecological, cultural, or scenic resources of national, state, or local significance, including endangered species, wetlands, floodplains, coastal zones, prime or unique farmland, energy supply and natural resources, or resources protected by the Fish and Wildlife Coordination Act.

d. An action that is likely to be highly controversial with respect to the availability of adequate relocation housing. In an action involving relocation of persons or businesses, a controversy over the amount of the acquisition or relocation payments is not considered to be a controversy with respect to availability of adequate relocation housing.

e. An action that is likely to:

(1) Cause substantial division or disruption of an established community, or disrupt orderly, planned development, or is likely to be not reasonably consistent with plans or goals that have been adopted by the community in which the project is located; or

(2) Cause a significant increase in surface traffic congestion.

f. An action that is likely to:

(1) Have a significant impact on noise levels of noise sensitive areas;

(2) Have a significant impact on air quality or violate the local, state, or Federal standards for air quality;

(3) Have a significant impact on water quality or contaminate a public water supply system; or

(4) Be inconsistent with any Federal, state, or local law or administrative determination relating to the environment.

g. Other action that is likely to directly or indirectly affect human beings by creating a significant impact on the environment.

25. *Advisory Actions.* Some Federal actions, such as airspace actions, are of an advisory nature and are neither permissive nor enabling. Actions of this type are not ordinarily major Federal actions, and environmental assessments or statements are not required as a condition for accomplishing the action. If it is known or anticipated that some subsequent Federal action would require processing in accordance with environmental procedures, the FAA shall so indicate in the advisory action.

26. *Cumulative Impact.* a. In determining whether an environmental impact statement is required for a proposed Federal action, it is necessary to consider the overall cumulative impact of the proposed action and the consequences of subsequent related actions. CEQ 1508.7 states that "'Cumulative impact' is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time."

b. CEQ 1508.25 defines three types of actions to be considered in determining the scope of an EIS as follows:

"(a) Actions (other than unconnected single actions) which may be: (1) Connected actions, which means that they are closely related and therefore should be discussed in the same impact statement. Actions are connected if they: (i) Automatically trigger other actions which may require environmental impact statements. (ii) Cannot or will not proceed unless other actions are taken previously or simultaneously. (iii) Are interdependent parts of a larger action and depend on the larger action for their justification. (2) Cumulative actions, which when viewed with other proposed actions have cumulatively significant impacts and should therefore be discussed in the same impact statement. (3) Similar actions, which when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental consequencies (sic) together, such as common timing or geography. An agency may wish to analyze these actions in the same impact statement. It should do so when the best way to assess adequately the combined impacts of similar actions or reasonable alternatives to such actions is to treat them in a single impact statement."

c. For airport actions, the effect of a number of decisions about a complex of projects can be individually limited to the extent that a finding of no significant impact or categorical exclusion would appear to be appropriate for each project; however, when considered together, the projects may have a considerable cumulative impact. In both environmental assessments and environmental impact statements, the total proposal must be considered. In the context of the CEQ Regulations, the total proposal includes the proposed action and all other actions related to it. The following are some examples:

(1) Land acquisition and a future runway extension.

(2) Runway extension and road relocation, when the road needs to be moved to accommodate the extension.

(3) Grading for an Instrument Landing System and future installation of the ILS.

(4) Apron work for terminal area relocation which necessitates highway rerouting which in turn involves housing relocation. Terminal area relocation is the principal action justifying the project, but the effect on community disruption or other impacts due to the highway or housing relocation must be included in assessing the total proposal.

(5) An initial runway extension and a second phase extension when the total length is predicated on reasonable foreseeable demand forecasts (e.g., 10 years).

d. In determining when to consider the effects of actions by other agencies in the airport vicinity, the potential for combined significant impact shall be evaluated. For example, new highway construction and airport expansion in combination may create significant air quality impacts. Extensive earth moving from more than one project may combine to cause severe erosion or flooding problems.

e. For further detail on the treatment of present and related future actions, see Chapter 10.

27. *Findings of No Significant Impact Requiring Airport Act Section 16(c)(4) Coordination.* a. This action choice occurs when the proposed action involves the location of an airport, the location of a runway, or the major extension of a runway but does not have significant impacts. A finding of no significant impact shall be supported by an environmental assessment, prepared in accordance with Chapter 5, substantiating the determination that the proposed action will not significantly alter the airport's impact on its surrounding environment.

b. Pursuant to section 16(c)(4) of the Airport Act, DOI and EPA shall be consulted. The FAA shall forward a copy of the proposed finding of no significant impact (and environmental assessment) to both agencies and advise them that, although the project is not expected to significantly affect the quality of the human environment, they are being consulted pursuant to section 16(c)(4).

c. FAA processing and approval of this action choice are described in Chapter 6.

28. *Findings of No Significant Impact Not Requiring Section 16(c)(4) Coordination.* This action choice applies to those projects which do not have significant impacts, do not fall under section 16(c)(4) of the Airport Act, and are not categorically excluded under paragraph 23. Content, processing, and approval of this action choice are described in Chapter 6.

29. *Supplements.* The choice of preparing a supplement to a previously prepared draft or final environmental impact statement or to a finding of no significant impact with section 16(c)(4) coordination is appropriate in some instances of tiering, or when significant changes occur affecting the validity of previously prepared documents, or when significant new information is brought to light. Paragraph 104 discusses requirements for supplements.

**Chapter 4. Special Instructions**

30. *Airport Layout Plan Approvals.* a. *Applicability.* This paragraph applies to approvals of new or revised airport layout plans showing development actions identified in paragraphs 21 and 22a. It does not affect airport layout plan approvals prior to January 1, 1970. Other paragraphs of this handbook apply to Federal participation in development actions even if shown on an airport layout plan approved prior to January 1, 1970. (See CEQ 1506.12(b).)

b. *General.* Proposals to construct new runways, runway extensions, terminal buildings, or other major and supportive development are shown on an airport layout plan. Inclusion on the plan signifies that the proposed development has been identified by public sponsors for planning purposes. It does not represent a commitment by the sponsor to implement the indicated development. FAA reviews the planned development with respect to safety, efficiency, utility, and environmental impact. FAA's approval does not represent a commitment to provide financial assistance to implement the proposed plan. Environmental documents for airport layout plan approvals are subject to tiering as explained in detail in paragraph 101b(4). Tiering results in either an unconditionally or a conditionally approved airport layout plan.

c. *Approval.* (1) When all items of development covered by paragraphs 21 and 22a have been the subject of environmental approvals pursuant to the provisions of this order, the airport layout plan may be approved unconditionally.

(2) When such environmental action has not been completed, the airport layout plan may be approved subject to the following condition which shall be included in the airport layout plan approval letter:

"The approval indicated by my signature is given subject to the condition that the proposed airport development identified by item herein as requiring environmental processing shall not be undertaken without prior written environmental approval by the FAA."

(3) The approval letter shall identify, by item, those items shown on the airport layout plan which are covered by paragraphs 21 and 22a which have not yet been environmentally approved by FAA.

(4) The FAA approval of an airport layout plan shall be indicated as follows:

(a) The FAA unconditional approval shall be shown on the face of the airport layout plan by use of the term "approved."

(b) The FAA conditional approval shall be shown on the face of the airport layout plan by use of the term "conditionally approved," with a cross-reference to the airport layout plan approval letter.

31. *Planning Grants.* a. Planning grants are not considered major Federal actions for purposes of section 102(2)(C) of NEPA. Neither are planning grants considered to be airport development projects for purposes of section 16(c)(4) of the Airport Act. Therefore, a finding of no significant impact or an environmental impact statement is not required for issuance of the grant. However, environmental considerations should be included as an integral part of master planning. The airport layout plan, which is one element of a master plan, is the vehicle through which the FAA acts with respect to airport planning and which is subject to the requirements in paragraph 30. Environmental actions may be taken to cover either the ultimate plan as developed by the study or stages of such development, depending on the independent utility of each stage and the certainty of ultimate development. Two major elements of an environmental assessment—noise and land use—are included in studies conducted under a planning grant for airport noise control and land use compatibility. See paragraph 41 for more information on the sponsor's planning process.

b. In the context of airport development, public meetings or other planning meetings held in conjunction with master planning may be expanded to incorporate some of the principles of scoping as described in paragraph 74, especially when it is reasonable to expect that the master plan will identify needed development which has the potential for significant environmental impacts.

32. *Airport Location Approval.* The location of new airports or existing privately owned airports is subject to the appropriate environmental approval prior to receiving first time Federal aid. If location selection is made as an initial phase of a master planning study, the environmental assessment shall take into account enough of the ultimate planned development to assure that, with the best available information, the selection is based upon considerations that the need for and benefits of future development of the site outweigh any adverse environmental impacts.

33. *Land Acquisition.* Public sponsors may have the authority to acquire land adjacent to existing airports or for new airports without prior approval by the FAA. Such action could prejudice or preclude a favorable decision by the FAA on proposed changes in airport layout or development which would use the land thus acquired or on requests for reimbursement for the property. When FAA is notified or becomes aware of a possibility that such a situation may be occurring, FAA shall advise the public sponsor that such action must be consistent with pertinent environmental policy as expressed in this order, that the manner in which the particular property was acquired will be carefully considered by the FAA prior to approval of future FAA actions involving the property, and that particular attention will be given by the FAA to its responsibilities under section 4(f) to insure that a special effort is made to preserve the natural beauty of the countryside, public parks and recreation lands, wildlife and waterfowl refuges, and historic sites. Particular attention shall also be given by the FAA to actions by a sponsor involving wetlands, floodplains, coastal zones, endangered species, properties in or eligible for inclusion in the National Register of Historic Places, and the provisions of Title VI of the Civil Rights Act of 1964 and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. A sponsor which has acquired land without prior approval by the FAA shall demonstrate to the satisfaction of the FAA that the acquisition was consistent with the policies expressed in this order and has not prejudiced full and objective consideration of alternatives or limited possible implementation of a preferable alternative.

34. *Conveyances of Land.* a. Airport sponsors may request conveyance of government owned land under section

23 of the Airport Act for the development, improvement, or future use of a public airport. This covers land for a new airport, expansion of an existing airport, protection of aerial approaches, and future airport projects. FAA Order 5170.1, entitled Transfer of Federal Lands, Section 23, of the Airport and Airway Development Act of 1970, contains FAA's procedures for such land transfers. The sponsor shall normally be required to include with the request to FAA for the land an environmental assessment in accordance with Chapter 5. An environmental assessment is not required if the use of the land falls within the scope of paragraph 23, Categorical Exclusions. The FAA responsible official shall consult with the Federal agency controlling the land to assure that environmental documentation meets the needs of the controlling agency as well as of the FAA. If an environmental impact statement is required, the FAA may act as either joint lead agency with the controlling agency or as a cooperating agency with jurisdiction by law and may request further information from the sponsor in order to complete the analysis of significant impacts.

b. The FAA may include environmental mitigation measures as covenants in the deed or patent which transfers the land or in an Airport Development Aid Program grant agreement for a project on the land.

c. FAA Order 5170.1 instructs "Where there is other Government land adjoining that which is being requested for an airport, an easement interest should be requested as necessary to protect the airport. This involves sufficient control to clear and protect the aerial approaches to the airport, to maintain freedom from electronic interference, or smoke-producing activities, and the right to overfly any land or any interest therein necessary to insure that such land is used only for purposes which are compatible with the noise levels of the operation of a public airport." The FAA responsible official shall pay particular attention to recommending that the FAA request such additional land as allowed and as determined necessary for compatible land use.

35. *Releases of Airport Land.* a. When a sponsor accepts a Federal airport development grant or a conveyance of Federal surplus property for airport purposes, the sponsor incurs specific obligations with respect to the uses of the property. FAA action is required to release a sponsor from obligations in the event the sponsor desires to sell the airport land. This action requires an appropriate environmental assessment in accordance with the provisions of this order. The assessment shall address the known and immediately forseeable environmental consequences of the release action and, as with other Federal actions regarding land, appropriate coordination with Federal, state, or local agencies shall be completed for applicable areas of environmental consideration (e.g., historic and archeologic site considerations, section 4(f) lands, wetlands and coastal zones, endangered species). In all cases, coordination with the State Historic Preservation Officer is required.

b. In making the final determination, the responsible Federal official shall consider the effects of covenants which will encumber the title and the extent of Federal ability to enforce these covenants subsequent to the release action. The standard conditions of release relative to the right of flight, including the right to make noise from such activity and the prohibition against erection of obstructions or other actions which would interfere with flight of aircraft over the land released, may be considered as mitigating factors in the environmental assessment especially regarding noise impacts and land use compatibility. When the intended use of released land is consistent with uses described and covered in a prior environmental assessment, the prior data and analysis may be used as input to the present assessment. When the conditions as set forth in Chapter 10 apply, a written reevaluation may be used to support the property release.

c. In some cases, another Federal agency may be the lead agency that is responsible for the preparation of an environmental asessment and environmental impact statement, if required. In these circumstances, the FAA may be a cooperating agency. To support the release action, the FAA may then adopt the environmental document prepared by the other agency in accordance with the provisions of CEQ 1506.3.

d. Long term leases which are not related to aeronautical activities or airport supprt services (i.e., convenience concessions serving the public such as shelter, ground transportation, food and personal services) and which require the FAA's consent for the conversion of dedicated airport property to the status of revenue producing property have, for all practical purposes, the effect of a release and shall be subject to an environmental asessment. Long term leases are normally those exceeding 20 years.

36.–39. *Reserved.*

**Chapter 5. Early Planning, Preparation of Environmental Assessments, A–95 Review, Public Hearings**

40. *Initiation of Environmental Process.* The environmental process begins at the local level with the airport sponsor. An overview of the process is discused in paragraph 11 and a flow diagram is presented in Appendix 1 at the end of this handbook with the steps numbered for ease of reference. CEQ 1501.2 states "Agencies shall integrate the NEPA process with other planning at the earliest possible time to insure that planning and decisions reflect environmental values, to avoid delays later in the process, and to head off potential conflicts." At this early point in time, the sponsor may be engaged in any one of the following activities which may be expected to result in a Federal action:

a. An airport master planning study (presumably leading eventually to approval of a new or revised airport layout plan or of a grant for construction).

b. An airport site selection study.

c. A new airport layout plan or a revision.

d. Formulation of an airport development project.

e. Plans to obtain government land for airport purposes through a conveyance under section 23 of the Airport Act.

f. Plans to obtain a release of airport land.

41. *Sponsor's Planning Process.* a. *General.* Steps 1, 2, and 3 in Appendix 1 indicate the minimum action expected from the sponsor to start the process. The sponsor identifies a problem and develops conceptual alternatives to solve it. These first three steps may involve a considerable amount of effort. In the case of a master planning study, for example, problem identification would involve inventory, forecasts, demand/capacity analyses, and the determination of facility requirements. The possible alternative ways to provide the required facilities would constitute the planning alternatives. From these alternatives, the sponsor may make a choice which is identified as the proposed action. In choosing among alternatives, environmental factors play a role. CEQ 1501.2(b) states "Identify environmental effects and values in adequate detail so they can be compared to economic and technical analyses." Consequently, in developing alternatives and in choosing a proposed course of action, environmental feasibility should influence choices, as should safety, economic, and technical feasibility. The amount of environmental detail at this early planning stage should

be commensurate with other planning analyses being undertaken by the sponsor and will obviously vary greatly between a comprehensive master planning study, for example, and a small development proposal. When a master planning study is done, the sponsor is encouraged to incorporate aircraft nose control land use compatibility planning and other environmental planning techniques in the study as a basis for subsequent environmental assessment. Whether it is possible at this stage for the sponsor to choose a proposed action among alternatives depends upon the type and complexity of the problem. If the identified problem is lack of sufficient airfield runway capacity or need for a new airport, the alternatives may be numerous and sufficiently complicated to preclude an obvious solution at this early stage. On the other hand, a problem such as providing additional apron space or locating a crash/fire/rescue building may be simple enough that relatively little effort is required to identify the problem, explore the relatively limited options, and choose the proposed action.

b. *Design, Art, and Architectural Application.* (1) Design, art, and architectural considerations are applicable to airport actions involving airport location; extensive earthmoving or other disruption of the natural environment or aesthetic integrity of an area; terminal and access road develoment; and to any development which may affect sensitive locations such as parks historic sites, or other public use areas. Such considerations shall be reflected in any environmental assessment prepared to the extent relevant.

(2) Applicability may best be determined by early consultation with appropriate local or state art or architecture councils or other organizations having special interest or experience in design, art, and architecture. The environmental assessment shall reflect such consultation which may be done directly or through the A–95 clearinghouse coordination.

(3) Consideration of the design arts in the preliminary design stage of project development is encouraged and shall be reflected in the environmental assessment to the extent information is available. Emphasis should be placed on design factors which will complement and support establishment of functional, efficient, and safe airport facilities while reflecting local, cultural, and architectural heritage considerations.

(4) Examples of the application of design, art, and architecture in airport actions include the following:

(a) The adverse effects of encroachment into residential or recreational area or disruption of scenic vistas may be minimized through appropriate design considerations. Architectural treatment of facilities can reflect and blend in with nearby architectural style. Painting or shielding of structures such as landing aid supports may reduce adverse visual impact as long as there is no interference with the safe performance of the facility.

(b) Actions which involve extensive earthmoving may create disruption of the landscape visible from great distances. Normal application of sound design and engineering principles will assure the control of erosion and provide adequate drainage. Extra care in slope design and plantings will help minimize adverse visual and other environmental impacts.

(c) Relocation of streams or other water courses in channels which reflect the natural characteristics of the existing stream may be more aesthetically pleasing and cost less than replacement by concrete sluiceways. Bank stabilization by appropriate plantings may improve appearance as well as control erosion.

(d) New facilities or major terminal expansion may provide an excellent means to recognize and reflect notable architectural, cultural, or ethnic assets of the area. Such influences may be reflected in interior design, landscaping, or architectural treatment.

(5) Whether or not a particular airport action requires the preparation of an environmental assessment, the FAA shall encourage airport sponsors to apply the principles of good design, art, and architectural treatment in anything they do which affects interface between the airport facilities and the public. To facilitate a better understanding of such policy and to provide advice, the FAA has available through its regional offices a slide/sound presentation entitled "First and Lasting Impression" and a companion report, "Design, Art and Architecture—A Study of Airports."

42. *FAA's Initial Advice and Review.* FAA personnel in regional offices and airports district offices will advise sponsors during the planning process. The locations and phone numbers of these offices are contained in Advisory Circular 150/5000–3D (or subsequent updates). The FAA's first required environmental review is indicated in step 4 of Appendix 1. This review has two basic objectives. The first objective is to determine whether the FAA agrees that a problem exists, that the problem has been correctly identified, and that appropriate alternative solutions have been proposed. In evaluating whether the proposal has been properly defined and whether the appropriate range of actions and alternatives is being considered, FAA will apply CEQ 1502.4 and 1508.25. If the FAA is not satisfied, further consultation with the sponsor will be undertaken to resolve areas of disagreement. The second objective of this review is to determine whether the proposed action is one of categorical exclusion. Both paragraphs 23 and 24 shall be examined before a final determination is rendered by the FAA that a proposed action is a categorical exclusion. A categorical exclusion requires no further environmental processing, and the proposed Federal action may be approved by the FAA decisionmaker.

43. *Requirement for Environmental Assessment.* All proposed actions which are not categorical exclusions require an environmental assessment prepared by the airport sponsor. An environmental assessment is defined in CEQ 1508.9 and further elaborated on in 1501.3 and 1501.4. The completion of an environmental assessment shall normally precede the FAA's decision to prepare an environmental impact statement since the environmental assessment is a document used by the FAA to determine whether potential impacts appear to be significant. There are proposals, however, which normally require the preparation of an environmental impact statement per paragraph 21 or on which the FAA and the sponsor agree initially that impacts will be significant. In these cases, the FAA and sponsor may determine that the scoping process should not await completion of the environmental assessment. For these proposals, the sponsor's preparation of the environmental assessment shall be done concurrently with scoping as allowed in CEQ 1501.7(b)(3). If tiering is involved, sponsors should consult Chapter 10 and request special advice from the FAA prior to preparing an environmental assessment.

44. *FAA Role in Environmental Assessment.* The environmental assessment process is shown in steps 7 through 12 of Appendix 1. The FAA has responsibility in four ways:

a. Advice and assistance to the airport sponsor during the environmental assessment preparation.

b. Review of the environmental assessment (per step 8, Appendix 1) to determine its adequacy for a public hearing and review pursuant to Office of Management and Budget (OMB) Circular A–95 (Revised). At this time, the FAA will insure that the cover page of the environmental assessment contains a

notification that the environmental assessment has been prepared by the sponsor and that it will become a Federal document only after it is evaluated and signed on the cover page by the FAA responsible official.

c. Final review of the environmental assessment (per step 12, Appendix 1) at which point the FAA independently evaluates and takes responsibility for the environmental assessment per CEQ 1506.5(b). If not satisfied with the environmental assessment, the FAA may request the sponsor to correct deficiencies and resubmit it.

d. The decision to prepare either an environmental impact statement or a finding of no significant impact (step 13, Appendix 1) based on final review of the environmental assessment and completion of certain impact categories as necessary to make judgments on the significance of anticipated impacts.

45. *Early Coordination.* CEQ 1501.4(b) states, "The agency shall involve environmental agencies, applicants, and the public, to the extent practicable, in preparing [environmental] assessments . . ." and in section 1506.2(b) "Agencies shall cooperate with State and local agencies to the fullest extent possible to reduce duplication between NEPA and State and local requirements, unless the agencies are specifically barred from doing so by some other law." The FAA encourages the sponsor to undertake early coordination with appropriate Federal, state, and local agencies, industry groups, environmental agencies, and the community in the environmental assessment process. Such coordination shall be initiated as appropriate during the sponsor's planning process and development of alternatives and continue during the preparation of the environmental assessment prior to the formal coordination during the A–95 review process. Early coordination can serve a number of purposes. It is an aid in the identification of environmental impacts and can help trigger advance planning of measures to mitigate environmental effects, including changes in project design. The community can be provided with timely information and have its opinions heard at the earliest formative stage of the project, which may avoid serious controversy later on. The amount of early coordination advisable will depend on the complexity, sensitivity, and anticipated environmental impacts of the proposal. Information received during early coordination may be used in the environmental assessment.

46. *Purposes of Environmental Assessment.* CEQ 1508.9 indicates that the environmental assessment is a concise document. It is the FAA's intention to adhere strongly to this instruction and to require only enough analysis in the environmental assessment for the following purposes:

a. To understand the problem and identify reasonable alternative solutions, including the proposed action.

b. To determine whether any potential impacts are significant, which would trigger the environmental impact statement process.

c. To provide the basis for the FAA's finding of no significant impact if the proposed action has no significant impacts.

d. To identify and satisfy special purpose Federal laws, regulations, and executive orders.

e. To identify and satisfy state and local laws and regulations applicable to the proposal.

f. In completing the above, to indicate agencies consulted (and to identify cooperating agencies for environmental impact statement preparation purposes).

In airport actions, inclusion of the proposed action in a. above would apply if the sponsor had chosen an action among alternatives. In reference to d. above, more specific information is included in paragraph 47e. Another purpose, not included above, is to identify any permits, licenses, or other entitlements required by the proposal.

47. *Format and Content of Environmental Assessment.* The environmental assessment shall incorporate some selected items of information required for an environmental impact statement in CEQ 1502.10. The information in the environmental assessment will, however, be in more abbreviated form than in an environmental impact statement. The following information is required:

a. *Cover Sheet.* This page is labeled "Environmental Assessment," identifies the airport, indicates that the environmental assessment was prepared by the airport sponsor (or for the sponsor by a contractor), and has the following notification at the bottom:

"This environmental assessment becomes a Federal document when evaluated and signed by the responsible FAA official.

Responsible FAA Official _____

Date" _____

b. *Purpose and Need.* This section shall identify the problem, the requested Federal action, and the timeframe for such action. Relevant statistical information supporting the fact that a problem exists shall either be included here or appended. Current and projected activity statistics shall be provided.

c. *Alternatives (Including Proposed Action).* (1) The CEQ Regulations include specific directions on the consideration of alternatives. While these directions are concerned with the environmental impact statement, they are also applicable to an environmental assessment, although in less finished detail than in an environmental impact statement. Applicable CEQ sections are:

(a) *Section 1502.1.* The environmental impact statement ". . . shall inform decisionmakers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment."

(b) *Section 1502.2(e).* "The range of alternatives discussed in environmental impact statements shall encompass those to be considered by the ultimate agency decisionmaker."

(c) *Section 1502.14.* The environmental impact statement ". . . should present the environmental impacts of the proposal and the alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice among options by the decisionmaker and the public."

(d) *Section 1502.14(a).* Agencies shall "Rigorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated."

(e) *Section 1502.14(b).* Agencies shall "Devote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate their comparative merits."

(f) *Section 1502.14(c).* Agencies shall "Include reasonable alternatives not within the jurisdiction of the lead agency."

(g) *Section 1502.14(d).* Agencies shall "Include the alternative of no action."

(h) *Section 1502.14(f).* Agencies shall "Include appropriate mitigation measures not already included in the proposed action or alternatives."

(2) The FAA responsible official shall apply the above CEQ directions and shall judge whether the alternatives put forward by the sponsor are sufficient for the environmental assessment. The range of alternatives considered shall be commensurate with the identified problem and the anticipated impacts. In any case, the no action alternative shall be considered. Low capital or noncapital alternatives such as the development and upgrading of reliever/satellite airports, the establishment of quotas, and the use of pricing systems shall be considered for proposed actions involving the addition of airfield

capacity to high activity air carrier airports where there exists one or more of the following constraints—safety, airspace limitations, land limitations, airport ground access, environmental impacts, financial limitations, political constraints.

(3) The Alternatives section of the environmental assessment shall include:

(a) A list of alternatives considered, including the proposed action, with only enough description to explain them. For each alternative, any connected or cumulative actions shall be included (CEQ 1508.25(a)(1) and (2)).

(b) Identification of the sponsor's proposed action if one has been chosen.

(c) A concise statement explaining why any initial planning alternatives have been elimiated from study.

(d) A listing under each alternative of any areas of potential significant impact or a statement that the alternative has no significant impacts per the threshold analyses performed under paragraph 47e below. The environmental assessment shall indicate whether an alternative is being analyzed on the basis of mitigation measures assumed to be built into it.

(e) A listing under each alternative of any applicable Federal, state, or local special purpose laws and regulations and potentially required permits and licenses (reference CEQ 1502.25(a)).

(f) Graphics as appropriate to aid in understanding the alternatives. These would be of value in showing alternative runway configurations, for example, although not useful in dealing with alternative transportation modes.

d. *Affected Environment.* CEQ 1502.15 shall be followed, in particular the sentence in this section which directs that "The descriptions [of the affected environment] shall be no longer than is necessary to understand the effects of the alternatives." This section may highlight important background material, such as previous development and environmental actions which help to explain the present proposal. It may also include such items as bond actions, action by the community or citizen groups pertinent to the proposal, or any other unique factors associated with the project which do not properly belong in another section of the document. The Affected Environment section of the environmental assessment includes:

(1) A location map, vicinity map, and airport layout plan.

(2) Existing and planned land uses and zoning in the affected airport vicinity, including affected residential areas, public parks, wildlife and waterfowl refuges, wetlands, floodplains, farmlands, coastal zones, recreation areas, and historic facilities and archeological sites.

(3) Nearby schools and places of public assembly, hospitals, shopping areas, and adjacent political jurisdictions affected by the proposed development.

(4) Population, industrial and commercial growth characteristics, and assumptions used to justify the project and determine secondary impacts only if these are relevant to the proposal.

(5) Any contemplated future actions, including facility installations and procedural actions, which have not been included in the Alternatives section and which should be described to show their relationship to the proposal and to show the sponsor's intentions regarding their environmental assessment and development.

(6) Other planned and developed activities in the affected area (e.g., highways and other transportation projects, housing development and relocation, etc.) which are interrelated to the proposal and/or which would produce cumulative impacts.

e. *Environmental Consequences—Specific Impact Categories.* A brief examination of each of the applicable potential impact areas below shall be done and documented to determine if the impact may be significant. During the environmental assessment process, required specific consultation such as historic and cultural resource consultation with the State Historic Preservation Officer shall be accomplished. For the proposed action and reasonable alternatives, including the no action alternative, each of the following applicable impact categories shall be systematically examined.

(1) *Noise.*

(a) No noise analysis is needed for proposals involving utility or basic transport type airports whose forecast operations in the period covered by the environmental assessment do not exceed 90,000 annual adjusted propeller operations or 700 annual adjusted jet operations ("adjusted" as defined in Report No. FAA–AS–75–1, Developing Noise Exposure Contours for General Aviation Airports). These numbers of propeller aircraft operations result in cumulative noise levels not exceeding 60 Day/Night Level (Ldn) more than 5,500 feet from start of takeoff roll or 65 Ldn on the runway itself. Adjusted jet operations of 700 or less do not produce a 60 Ldn contour using this method. Note that the Cessna Citation 500, the Gates Learjet 35A, and any other jet aircraft producing equivalent or less levels of noise are quieter than many propeller aircraft under 12,500 pounds and therefore may be counted as propeller aircraft rather than jet aircraft.

(b) A noise analysis is needed for proposals which individually or cumulatively involve airport location, runway location, major runway extension, or runway strengthening at any airport which is either:

*1* Larger than basic transport,

*2* Utility or basic transport at which forecast operations exceed those defined in (a) above,

*3* Highly controversial because of noise impacts (reference paragraph 24b), or

*4* Anticipated frequent usage by special aircraft such as helicopters in proximity to noise sensitive areas.

(c) When required by (b), an initial noise analysis may be accomplished by using Report No. FAA–AS–75–1 to develop contours of equal noise exposure using the Ldn cumulative noise methodology or by making a single point analysis using Report No. EPA 550/9–77–450, Calculation of Day/Night Levels (Ldn) Resulting from Civil Aircraft Operations. Such analyses shall be sufficient to identify whether any existing or planned noise sensitive areas outside airport boundaries would be exposed to noise levels exceeding 65 Ldn for present conditions and forecast conditions with and without the preferred alternative. Single point analysis where the flight paths cross airport boundaries may be sufficient for making this determination. The analysis shall consider the effects of other related actions, including installation of navigational aids and air traffic control procedures, reflecting as applicable the results of coordination with affected FAA operating services.

(d) If the initial noise analysis indicates that there are no existing or planned noise sensitive areas (as described in paragraph 85b) within the current or projected 65 Ldn OR that the cumulative increase in noise levels in such areas within 65 Ldn does not exceed 3 Ldn over that created without the project, no further analysis is necessary and it may be assumed that there would be no significant noise impact. To determine the amount of increase, it is necessary to consider the cumulative effects of related actions as more particularly described in paragraph 26 as well as the effects of any noise abatement procedures which exist. If these thresholds are exceeded, additional noise analysis is needed, as described in paragraph 85a.

(e) The text of the environmental assessment shall include a description of any mitigation measures existing or planned to minimize noise impacts. If a noise analysis is required, sufficient

information shall be presented to permit lay and technical readers to relate the noise level data used to an understanding of its potential effects. The text and graphics shall support the conclusions reached on noise impacts. The graphics shall include map(s) of the existing airport, proposed airport development, and the airport vicinity. Existing and planned land uses shall be illustrated, including the location of the nearest noise sensitive area(s). The illustrations shall be large enough and clear enough to be readily understood. When noise contours are developed, they shall be superimposed on a land use map(s) by prominent, legible lines and be clearly labeled.

(f) The above paragraphs refer to Ldn as the methodology to use for noise analysis. An acceptable exception is use of the Community Noise Equivalent Level (CNEL) where required to meet state requirements as in California. The Noise Exposure Forecast (NEF) methodology may also be used in environmental assessments or other analyses begun prior to the effective date of the order.

(2) *Compatible Land Use.*

(a) The compatibility of existing and planned land uses in the vicinity of an airport is usually associated with the extent of noise impacts related to that airport. In this context, if the noise analysis described above concludes that there is no significant impact, a similar conclusion usually may be drawn with respect to compatible land use. However, if the proposal would result in other impacts exceeding thresholds of significance which have land use ramifications (for example, disruption of communities, relocation, induced socioeconomic impacts, wetlands, floodplains, coastal zones, critical habitat of endangered or threatened species), the effects on land use shall be analyzed in this context and described accordingly under the appropriate impact category with any necessary cross-refereces to the Compatible Land Use section to avoid duplication.

(b) The Land Use section of the environmental assessment shall include documentation to support the required sponsor's assurance under section 18(a)(4) of the Airport Act that appropriate action, including the adoption of zoning laws, has been or will be taken, to the extent reasonable, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. The assurance must be related to existing and planned land uses.

(c) FAA officials shall contact the sponsor and representatives of affected communities to encourage the development of appropriate compatible land use controls early in the project planning stage. The environmental assessment shall document what is being done by the jurisdiction(s) with land use control authority, including an update on any prior assurance. It is recognized that not all airport sponsors have direct jurisdictional control. However, sponsors are public agencies with a voice in the affairs of the community in which the airport development is undertaken and should be required, as a minimum, to use their best effort to assure proper zoning or other land use controls near the airport. Depending on the sponsors' capability, "appropriate action" could range from extension of such influence to acquisition of land in fee. It is the FAA official's responsibility to determine that appropriate action constituting reasonable assurance, has been or will be taken. FAA Advisory Circular 150/5050-6, Airport-Land Use Compatibility Planning, presents guidance for airport sponsors and planners to help achieve compatibility between airports and their environs.

(3) *Social Impacts.*

(a) The principal social impacts to be considered are those associated with relocation or other community disruption which may be caused by the proposal. If the proposal will not involve the need to relocate any residence or business; alter surface transportation patterns; divide or disrupt established communities; disrupt orderly, planned development; or create an appreciable change in employment, then no specific analysis is needed and a summary statement to this effect will be sufficient in the environmental assessment.

(b) If relocation of residences is involved, the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 must be met. Sufficient information is needed in the environmental assessment to assure that the relocation can be managed. Such information may need to be obtained from secondary or community sources. If the assessment indicates any insufficiency in available housing or a high degree of controversy with respect to availability (reference paragraph 24d), the action shall be construed as having potential significant social impacts and will require additional analysis as indicated in paragraph 85c. For purposes of the environmental assessment, the following information shall be provided.

*1* Estimate of the numbers of individuals and families as well as the characteristics of the households to be displaced (e.g., minorities, income levels, renter or owner, tenure, elderly, large families).

*2* Impact on the neighborhood and housing to which relocation is likely to take place.

*3* Indication of ability to provide adequate relocation housing for the types of families to be displaced. Include a discription of special relocation advisory services to be provided, if any, for the elderly, handicapped, or illiterate regarding interpretation of benefits or other assistance available.

(c) If relocation of any business (including farm operations) is involved, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 requires that the owner be offered assistance in finding a location and reestablishing the business. Evidence to this effect shall be included in the environmental assessment. If the business relocation will create a severe economic hardship on the community, additional analysis is required in an environmental impact statement.

(d) If the proposal would result in alteration of surface transportation patterns or otherwise divide or disrupt established communities or orderly, planned development, such disruption shall not be considered significant unless there is a noticeable increase in congestion or access time to community facilities, recreation areas, or places of residence or business or other disruption which cannot be prevented or minimized. The environmental assessment shall document, to the extent applicable, measures taken to avoid significant disruption by such means as rerouting, street widening, or changes in land use patterns to minimize the effects of the project.

(e) The environmental assessment shall reflect the results of any consultation with local officials or with relocation or other social agencies or community groups regarding the social impacts of the proposed action.

(4) *Induced Socioeconomic Impacts.* For major airport development proposals there is the potential for induced or secondary impacts on surrounding communities. When such potential exists, the environmental assessment shall describe in general terms such factors as shifts in patterns of population movement and growth, public service demands, and changes in business and economic activity to the extent influenced by the airport development. Induced impacts will normally not be significant except where there are also significant impacts in other categories, especially noise,

land use or direct social impacts. In such circumstances, a more thorough analysis of induced effects may be needed in an environmental impact statement.

(5) *Air Quality.*

(a) Section 176(c) of the Clean Air Act Amendments of 1977 states in part that no Federal agency shall engage in, support in any way or provide financial assistance for, license or permit, or approve any activity which does not conform to a State Implementation Plan after it has been approved or promulgated under section 110. The Act requires that, in developing the Plan, the states must designate all areas as Nonattainment for those pollutants which do not meet air quality standards and as Prevention of Significant Deterioration for those pollutants which do currently meet standards but are controlled to prevent further significant deterioration beyond acceptable limits. State Implementation Plans may include one or more Transportation Control Plans approved by the metropolitan planning organization(s). It is FAA's responsibility to assure that Federal airport actions conform to state Plans for controlling areawide air pollution impacts.

(b) If the proposed Federal action involves airport location, development which would cause or allow an increase in aircraft operations, or major new construction or expansion of passenger handling or parking facilities with Federal funding, paragraph (c) below shall be reviewed to determine if an air quality analysis needs to be done for the environmental assessment. For other types of airport proposals, no air quality analysis is normally required for the environmental assessment; normally it may be assumed that there is no potential for significant air quality impacts. There may be exceptional actions, such as a proposed release of airport property for an industrial complex, which occur very infrequently and require FAA judgment on a case-by-case basis of how much and what kind of air quality information is needed.

(c) For the following four conditions, if *1* applies, then *2* and *3* do not. However, if *1* is not applicable, then *2* and *3* must be examined since an airport may be located in an area which is designated Nonattainment for some pollutants and Prevention of Significant Deterioration for other pollutants. An analysis pursuant to the National Ambient Air Quality Standards may be necessary per *4*.

*1* If the proposed Federal action meets the conditions in *a* or *b* below, no air quality analysis is needed unless there is doubt raised by the state air quality board, the designated air quality region, the EPA, or others regarding inclusion in the Transportation Control Plan or conformity with the State Implementation Plan OR the state has established aircraft activity thresholds that trigger indirect source review. In such a situation, the airport sponsor shall contact the FAA for guidance. The environmental assessment shall include a letter from the air quality board or region supporting the applicable condition.

*a* The action is included in and consistent with an areawide Transportation Control Plan as determined by the state air quality board or designated air quality region.

*b* The action is not included in a Transportation Control Plan OR is in a location where there is no approved Transportation Control Plan or State Implementation Plan AND review by the air quality board or region ascertains that no analysis is needed.

*2* If the proposed Federal action is in an area designated as Prevention of Significant Deterioration for pollutants subject to Prevention of Significant Deterioration review (presently only sulfur dioxide and particulates), no analysis of these pollutants is needed unless a large point source, such as a power plant on the airport, is involved in the action. Airport actions generally are not considered to be large point sources subject to Prevention of Significant Deterioration review.

*3* If the airport location or proposed development is NOT in a Transportation Control Plan, is NOT otherwise exempted, and IS in an area designated as Nonattainment for a particular pollutant or pollutants, the Clean Air Act Amendments of 1977 require that, prior to development, the agency must demonstrate that there will be an improvement in air quality with regard to that pollutant or that the increased emissions of the pollutant are within the available growth increment of the approved State Implementation Plan. To demonstrate either of these conditions, an emission inventory or modeling exercise of the Nonattainment pollutants for existing and forecast conditions shall be done for the environmental assessment. If this analysis shows that either condition would be met, it may be assumed that there would be no significant impact with regard to the Nonattainment pollutant or pollutants. If neither condition would be met, further detailed analysis in an environmental impact statement is required under paragraph 85e.

*4* No Air quality analysis is needed to ascertain conformance with National Ambient Air Quality Standards unless such need is indicated by the air quality board or air quality region. If needed, the analysis usually can be limited to an emissions inventory for each alternative considered in the enviromental assessment. Contact with the state or local air pollution control agency will provide information and requirements for a specific area.

(d) In any case, the environmental assessment shall include any measures to be incorporated in the action to minimize adverse air quality effects, including control of air pollution during construction.

(e) The Airport Act requires that Airport Development Aid Program applications for projects involving airport location, runway location, or a major runway extension shall not be approved unless the governor of the state in which the project is located certifies that there is "reasonable assurance" that the project will be located, designed, constructed, and operated in compliance with applicable air and water quality standards.

*1* To establish a "reasonable assurance," applicable standards and implementation requirements must have been established and an official designated who has authority to enforce compliance with the standards. When standards have not been approved but applicable standards have been promulgated by the EPA, EPA's approval shall be obtained. Lack of objection to air and water quality considerations as set forth in the environmental assessment or environmental impact statement may be construed as EPA approval.

*2* While the air and water quality certifications shall be included in the environmental assessment or environmental impact statement whenever possible, their inclusion is not a prerequisite to approval of a finding of no significant impact or final environmental impact statement if the document includes evidence from the governor or appropriate state official indicating a reasonable expectation that the certification will be given. The state's certification or the EPA's approval must be received, however, before the project can be approved by the FAA.

(6) *Water Quality.*

(a) The Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977 (commonly referred to as the Clean Water Act), provides the authority to establish water quality standards, control discharges into surface and subsurface waters, develop waste treatment management plans and practices, and issue permits for discharges (section 402) and for dredged

or fill material (section 404). The environmental assessment shall include sufficient description of design, mitigation measures, and construction controls applicable to the proposal to demonstrate that state water quality standards and any Federal, state, and local permit requirements can be met. Such factors as storm and sanitary sewer design, requirements for additional water supplies or waste treatment capacity, erosion controls to prevent siltation, provisions for containing fuel spills and waste water from aircraft washing, designs to preserve existing drainage or to minimize dredge and fill, and location with regard to an aquifer or sensitive ecological area such as a wetlands area shall be considered to the extent applicable to the individual proposal.

(b) Early consultation with local, state, and Federal agencies charged with implementation of water quality regulations and issuance of permits will normally identify any deficiencies in the proposal with regard to water quality or any additional information necessary to make judgments on the significance of impacts. The environmental assessment shall reflect the results of consultation with regulating and permitting agencies and with agencies that must review permit applications, such as the U.S. Fish and Wildlife Service, which may have specific concerns. Such consultation should be started at an early stage of the environmental assessment and may be completed during the A–95 review.

*1* A water quality certification is required under the Airport Act for approval of an Airport Development Aid Program application for a project involving airport location, a major runway extension, or a runway location. The requirement for information in the environmental asssessment concerning this certification is the same as for an air quality certification as described in paragraph 47e(5)(e) above.

*2* Consultation with the EPA regional office shall be undertaken if there is the potential for contamination of an aquifer designated by the EPA as a sole or principal drinking water resource for the area pursuant to section 1424(e) of the Safe Water Drinking Act, as amended.

*3* The Fish and Wildlife Coordination Act applies to any proposal which would affect water resources (i.e., wetlands; groundwater; impoundment, diversion, deepening, controlling, modifying, polluting, dredging or filling of any stream or other body of water). For this situation instructions in paragraph 47e(9)(c) below apply.

*4* A National Pollutant Discharge Elimination System permit under section 402 of the Clean Water Act is required for discharges into navigable waters, a section 404 permit is required for dredged or fill material in navigable waters, and a section 10 permit under the Rivers and Harbors Act of 1899 is required for obstruction or alteration of navigable waters. "Navigable waters" have been very broadly defined in EPA regulations (reference 40 C.F.R. Part 230, Appendix A) and encompass most bodies of water (including wetlands) and their tributaries. EPA is charged with the overall responsibility for section 402 permits, and the U.S. Army Corps of Engineers for section 404 and section 10 permits. States, under specified conditions, have the authority to issue these permits. Other state and local permits pertaining to water quality may also be required. Consultation with appropriate officials is necessary to determine which permits apply; what information is needed to obtain permits; and whether a permitting agency anticipates a problem given the nature, location, and possible impacts of the proposal.

(c) For most airport actions, significant impacts on water quality can be avoided by design considerations, controls during construction, and other mitigation measures. If the environmental assessment, the appropriate consultation as described in paragraph (b) above, and the A–95 coordinatioin demonstrate that water quality standards can be met, that no special water related problem exists, and that no anticipated permit difficulty is indicated, it may be assumed that there would be no significant impact on water quality. The environmental assessment shall include documentation from regulating and permitting agencies and list required permits. No further analysis is necessary.

(d) If the environmental assessment and early consultation show the potential for exceeding water quality standards, identify water quality problems which cannot be avoided or satisfactorily mitigated, or indicate difficulties in obtaining required permits, an environmental impact statement may be required. Further analysis is described in paragraph 85f.

(7) *Department of Transportation Act, Section 4(f).*

(a) Section 4(f) provides that the Secretary shall not approve any program or project which requires the use of any publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge of national, state, or local significance, or any land from a historic site of national, state, or local significance as determined by the officials having jurisdiction thereof unless there is no feasible and prudent alternative to the use of such land and such program includes all possible planning to minimize harm.

*1* Any part of a publicly owned park, recreation area, refuge, or historic site is presumed to be significant unless there is a statement of insignificance relative to the whole park by the Federal, state, or local official having jurisdiction thereof. Any such statement of insignificance is subject to review by the FAA.

*2* Where Federal lands are administered for multiple uses, the Federal official having jurisdiction over the lands shall determine whether the subject lands are in fact being used for park, recreation, wildlife, waterfowl, or historic purposes. National wilderness areas may serve similar purposes and shall be considered subject to section 4(f) unless the controlling agency specifically determines that section 4(f) is not applicable.

*3* Where property is owned by and currently designated for use by a transportation agency and a park or recreation use of the land is being made only on an interim basis, a section 4(f) determination would not ordinarily be required.

*4* Where the use of a property is changed by a state or local agency from a section 4(f) type use to a transportation use in anticipation of a request for FAA approval, section 4(f) shall be considered to apply, even though the change in use may have taken place prior to the request for approval or prior to any FAA action on the matter. This is especially true where the change in use appears to have been undertaken in an effort to avoid the application of section 4(f).

(b) If the action involves the taking or other use of any section 4(f) land as described in (a), the initial assessment shall determine if the requirements of section 4(f) are applicable. When there is an actual physical taking of section 4(f) land in conjunction with an airport proposal, there is no latitude for judgment regarding section 4(f) applicability. When there is no physical taking but there is the possibility of use of or adverse impacts to section 4(f) land, the FAA must determine if the activity associated with the proposal conflicts with or is compatible with the normal activity associated with this land. The proposed action is compatible if it would not affect the normal activity or aesthetic value of a public park, recreation area, refuge, or historic site. When so construed, the action would not constitute use and would not,

therefore, invoke section 4(f) of the DOT Act.

(c) If is is determined that section 4(f) is applicable and there are no feasible or prudent alternatives which would avoid such use under the criteria indicated in paragraph 83d, the effect on the 4(f) land shall be discribed in detail. The description of the land shall include size, activities, patronage, access, unique or irreplaceable qualities, relationship to similarly used lands in the vicinity, or other factors necessary to determine the effects of the action and measures needed to minimize harm. Such measures may include replacement of land facilities and design measures such as planting or screening to mitigate any adverse effects. Replacement satisfactory to the Secretary of the Interior is specifically required for recreation lands aided by the DOI's Land and Water Conservation Fund and for certain other lands falling under the jurisdiction of the DOI. The environmental assessment shall include evidence of concurrence or efforts to obtain concurrence of appropriate officials having jurisdiction over such land regarding actions proposed to minimize harm.

(d) If Federal grant money was used to acquire the land involved (i.e., open space under HUD, various conservation programs under DOI), the environmental assessment shall include evidence or reference to appropriate communication with the grantor agency.

(e) Whether or not Federal agency lands are involved, the documentation shall reflect consultation with the DOI and, as pertinent, HUD or USDA.

(f) The above instructions apply regardless of the extent of impact and shall be reflected in the environmental assessment. When section 4(f) applies and agencies which have jurisdiction agree that the effects of the action will be satisfactorily mitigated (e.g., by replacement "in kind" of a park or portion thereof), the action may be considered not to have significant section 4(f) impacts and no further analysis is needed. No objection by affected agencies may be construed as agreement for this purpose. If an agency which has jurisdiction advises that mitigation measures will not avoid significant effects, additional in-depth study and consultation may be necessary for inclusion in an environmental impact statement as described in paragraph 85g.

(8) *Historic, Architectural, Archeological, and Cultural Resources.*

(a) Two basic laws apply to this category of impact. Thresholds concerning both of these laws must be examined in the environmental assessment.

*1* The first law is the National Historic Preservation Act of 1966, as amended, which established the Advisory Council on Historic Preservation to advise the President and the Congress on historic preservation matters, to recommend measures to coordinate Federal historic preservation activities, and to comment on Federal actions affecting properties included in or eligible for inclusion in the National Register of Historic Places. The Advisory Council's most recent procedures for the "Protection of Historic and Cultural Properties" (36 CFR Part 800) were published in the Federal Register on January 30, 1979. Subparagraph (b) below specifies requirements under the National Historic Preservation Act of 1966, as amended.

*2* The second law is the Archeological and Historic Preservation Act of 1974 which provides for the survey, recovery, and preservation of significant scientific, prehistorical, historical, archeological, or paleontological data when such data may be destroyed or irreparably lost due to a Federal, federally licensed, or federally funded project. The DOI Heritage Conservation and Recreation Service's "Statement of Program Approach" was published in the Federal Register on March 26, 1979, (40 F.R. 18117) to advise on the manner in which this latter law will be implemented. Subparagraph (c) specifies requirements under the Archeological and Historic Preservation Act of 1974.

(b) The following are requirements under the National Historic Preservation Act of 1966, as amended.

*1* An initial review shall be made to determine if any properties in or eligible for inclusion in the National Register of Historic Places are within the area of the proposed action's potential environmental impact. The "area of the proposed action's potential environmental impact" is that geographic area within which direct and indirect impacts generated by the proposed action could reasonably be expected to occur and thus cause a change in the historic, architectural, archeological, or cultural qualities possessed by the property. The National Register criteria shall be applied to all such identified properties. The Secretary of the Interior will advise, upon request, whether properties are eligible for the National Register. If no properties in or eligible for inclusion in the National Register have been identified within the area of the proposed action's environmental impact, this information shall be documented in the environmental assessment with the letter from the State Historic Preservation Officer and a record of any other analysis or survey undertaken. No further analysis is needed.

*a* To aid in identifying properties, the Heritage Conservation and Recreation Service publishes the complete National Register listing each February in the Federal Register with updates each month. In addition, the State Historic Preservation Officer must be consulted for advice. State Historic Preservation Officer coordination may be accomplished through the A-95 process. Assistance may also be obtained from local officials, historical societies, museums, or academic institutions having jurisdiction or expertise with regard to such properties.

*b* If the State Historic Preservation Officer recommends the need for a professional cultural resource survey of the environmental impact area, the airport sponsor shall contact the FAA for a determination on whether such a survey is required for the environmental assessment. The FAA, in making this determination, should follow the recommendations of the State Historic Preservation Officer if the Officer provides good reason for believing that previously unidentified eligible historic, architectural, archeological, or cultural properties are within the area of the proposed action's environmental impact.

*2* If any property in or eligible for inclusion in the National Register has been identified within the area of the proposed action's environmental impact, the Advisory Council on Historic Preservation's Procedures for the Protection of Historic and Cultural Properties shall be used to determine if the proposed action will have any effect on the property. Initially the Criteria of Effect (36 C.F.R. Part 800.3(a)) shall be applied in consultation with the State Historic Preservation Officer. If this criteria indicates and the Officer agrees that the proposal would not directly or indirectly affect those historic, architectural, archeological, or cultural characteristics of the property that qualified it to meet National Register criteria, a Determination of No Effect shall be documented in the environmental assessment with the relevant State Historic Preservation Officer letter. No further analysis is needed. If the airport sponsor and the State Historic Preservation Officer disagree on a proposed Determination of No Effect, the matter shall be referred to the FAA for resolution.

*3* If the application of the criteria in 36 C.F.R. Part 800.3(a) indicates an effect on properties, the Criteria of Adverse

Effect (36 C.F.R. 800.3(b)) shall be applied. If it is determined and the State Historic Preservation Officer agrees that there would be no adverse effect, supporting documentation for a Determination of No Adverse Effect as specified in 36 C.F.R. 800.13(a) together with the written views of the State Historic Preservation Officer shall be forwarded to the Advisory Council on Historic Preservation for review by the Executive Director. Unless an objection is noted by the Executive Director within 30 days of receipt of adequate documentation, such documentation shall be included in the environmental assessment and no further analysis is needed. Disagreement on the determination of No Adverse Effect between the sponsor and the State Historic Preservation Officer or the Advisory Council shall be referred to the FAA for resolution as provided for in 36 C.F.R. 800.6(a)(2).

*4* If an adverse effect on properties is indicated, a Determination of Adverse Effect shall be included in the environmental assessment with supporting documentation. A preliminary case report shall be prepared as specified in 36 C.F.R. 800.13(b), either as part of the environmental assessment or as a separate document, and submitted to the FAA for the Advisory Council's consultation process. It cannot be assumed that impacts are insignificant on properties in or eligible for inclusion in the National Register of Historic Places. Further consultation and analysis under the guidance of the FAA will be necessary as described in paragraph 85h.

(c) Following are the requirements under the Archeological and Historic Preservation Act of 1974.

*1* If no information is made available through the National Register of Historic Places, the State Historic Preservation Officer, the A–95 review, or other persons or organizations with expertise that there is reason to believe that significant scientific, prehistoric, historic, archeological, or paleontological resources will be lost or destroyed by the proposed action, no further analysis under this Act is needed for the environmental assessment. It may be assumed that there would be no impact on such resources.

*2* If the above consultation indicates the need for a professional resource survey of the area to be impacted, the airport sponsor shall contact the FAA for advice as described under subparagraph (b)*1* above. If a survey is performed and indicates no significant resources within the area, the results of the survey shall be documented in the environmental assessment. The survey itself shall be appended to the environmental assessment or referenced if it is voluminous. No further analysis is necessary to show that the impact is not significant.

*3* If consultation and/or a survey are inconclusive with regard to the location of resources or the significance of resources, the airport sponsor may include a commitment in the environmental assessment to halt construction if resources are uncovered in order for a qualified professional to evaluate the importance of the resources and for recovery activity to occur. Such a commitment may enable the environmental document to be approved and the action to proceed without more extensive preliminary investigation. It is a matter of FAA judgment on a case-by-case basis whether such an approach is reasonable. If the FAA agrees, no further analysis is necessary; it may be assumed for purposes of the environmental assessment that the impact is not significant.

*4* If consultation and/or a survey identify significant resources within the area of the proposed action's potential environmental impact, the National Register criteria shall be applied and the steps outlined under subparagraphs (b) *1* through *4* followed pursuant to the provisions of the National Historic Preservation Act of 1966, as amended. If a Determination of No Effect or No Adverse Effect can be made per subparagraph (b)*2*, or (b)*3*, *respectively, it may be assumed that the impact is not significant. The environmental assessment shall document the appropriate determination. No further analysis is necessary.*

*5* If an adverse effect on significant resources is indicated, the sponsor shall consider project modifications that will avoid the loss or destruction of the resources and thereby not necessitate salvage. Resource salvage is generally less preferable than preservation in situ. If a commitment by the sponsor to preservation in situ reverses an adverse effect determination, the environmental assessment shall include the commitment and the supporting documentation of no adverse effect. No further analysis is necessary.

*6* If a determination of adverse effect cannot be avoided, the instructions in subparagraph (b)*4* apply and further consultation and analysis under the guidance of the FAA will be necessary as described in paragraph 85h.

(d) If the proposal involves the taking or use of any publicly or privately owned land from a historic or archeological site of national, state, or local significance which is included in or eligible for inclusion in the National Register of Historic Places, section 4(f) of the DOT Act also applies. The section 4(f) instructions and paragraph 47e(7) above must be followed.

(9) *Biotic Communities (including both flora and fauna).*

(a) If the proposal would take or impact a publicly owned wildlife or waterfowl refuge of local, state, or national significance, the instructions in paragraph 47e(7) are to be followed to prepare the appropriate documentation required by section 4(f) of the DOT Act.

(b) Consideration of endangered and threatened species is required for all proposals under the Endangered Species Act Amendments of 1978. Instructions in paragraph 47e(10) below relate specifically to this Act.

(c) If the proposal would affect water resources (i.e., wetlands; groundwater; impoundment, diversion, deepening, controlling, modifying, polluting, dredging, or filling of any stream or other body of water), the Fish and Wildlife Coordination Act applies. Consultation is to be initiated with the U.S. Fish and Wildlife Service and with the state agency having administration over wildlife resources. Letters are to be obtained from the Fish and Wildlife Service and the state agency on the wildlife aspects of the proposal for the purposes of determining the possible damage to wildlife resources and of determining means and measures that should be adopted to prevent the loss of or damage to wildlife resources as well as to provide concurrently for the development and improvement of such resources.

*1* If the letters from the Fish and Wildlife Service and the state agency indicate substantial damage to wildlife attributable to the proposal which will not be mitigated to a minimal level, the proposal is considered to be one with potential significant impacts. Further evaluation shall be performed under FAA direction as described in paragraph 85i.

*2* If the letters from the Fish and Wildlife Service and the state agency indicate only minimal impacts, it may be assumed that there would be no significant impact on biotic communities. The environmental assessment shall include the letters from the Fish and Wildlife Service and the state agency and shall also include such justifiable means and measures to mitigate wildlife impacts as should be adopted to obtain maximum overall project benefits. No further analysis as described below is needed.

(d) If the proposal would not affect water resources as described in subparagraph (c) above, the Fish and

Wildlife Coordination Act does not apply. In this case, a series of thresholds are to be examined to determine if there is the potential for significant impact on biotic communities. The four subparagraphs below should be reviewed in the order given to determine which one applies to the proposal; e.g., if subparagraph *1* applies, the remainder do not and no further analysis is needed.

*1* If the proposal would impact only man-dominated areas such as previously disturbed airport property, populated areas, or farmland, it may be assumed that there would be no significant impact on biotic communities.

*2* If the proposal would impact other than man-dominated areas but the impacts would primarily be transient rather than permanent, such as dislocation or other impacts due to construction activities, it may be assumed that there would be no significant impact on biotic communities. The environmental assessment shall document the transient nature of the impacts and any mitigation measures. Mitigation measures may include:

*a* Erosion controls to protect adjacent biotic areas and aquatic communities.

*b* Phasing of construction to avoid breeding or nesting periods and to promote escape routes for mobile species.

*c* Landscape restoration to reconstitute existing habitat or create new habitat.

*3* If the proposal would cause only a minor permanent alteration of existing habitat, it may be assumed that there would be no significant impact on biotic communities. "Minor alteration" generally refers to the removal of a few acres of habitat which represent a small percentage of the area's inventory or which support a limited variety or number of common wildlife species. "Minor alteration" is not applicable if the action involves removal of relatively small areas which are sensitive tracts occupying a strategic position in the vicinity or which supports rare (meaning not common) species or which constitute a large percentage of the remaining habitat of a particular kind. The environmental assessment shall not merely cite "minor alteration" but shall document the basis for the assumption of no significant impact and shall also document any mitigation measures.

*4* If the proposal would involve the removal of a sizeable amount of habitat, of habitat which supports rare species, or of a small, sensitive tract but the accompanying loss of plant communities and displacement of wildlife do not result in a significant long term loss to the area, it may be assumed that there would be no significant impact on biotic communities. In this case consider that, although displaced wildlife may move to adjacent land areas, a long term loss will accrue by virtue of reduction of the wildlife carrying capacity of the overall area. When wildlife habitat is removed, the possibility that the remaining habitat is insufficient in size and quality to continue to support all resident species must be considered. The input from the A-95 coordination and other informal coordination as necessary is to be used to determine the significance of the impacts. The environmental assessment shall document the impacts and mitigation measures and shall include supporting letters. Mitigation measures may include:

*a* Design adjustments to minimize impact on sensitive areas or species.

b Purchase of contiguous habitat as a preserve for dislocated wildlife or as a buffer zone.

(e) If the evaluation, using the thresholds in subparagraph (d), does not lead to the assumption that there would be no significant impact on biotic communities, the proposal is considered to be one with potential significant impacts. Further evaluation shall be performed under FAA direction as described in paragraph 85i.

(10) *Endangered and Threatened Species of Flora and Fauna.*

(a) Section 7 of the Endangered Species Act Amendments of 1978 requires each Federal agency to insure that "any action authorized, funded, or carried out by such agency . . . does not jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical, unless such agency has been granted an exemption for such action by the Committee. . . ."

(b) The procedure to be followed to determine impacts on endangered or threatened species and on critical habitat varies depending on whether the proposed action has a significant impact on the environment or not. Any major Federal action designed primarily to result in the building of man-made structures and which significantly affects the quality of the human environment is defined as a "construction project" by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service. This includes Federal actions such as permits, grants, licenses, and other forms of Federal authorization or approval which may result in construction. As soon as it appears that a proposed action will have a significant impact and therefore result in the preparation of an environmental impact statement, the sponsor shall institute the procedure below. In order to minimize delay, sponsors are encouraged to initiate this procedure as soon as thresholds in paragraph 47e are exceeded during the sponsor's assessment of the proposed action.

*1* As required by section 7(c) of the Endangered Species Act Amendments, information shall be requested by FAA from the Regional Director of the U.S. Fish and Wildlife Service or the National Marine Fisheries Service, whichever has jurisdiction, on whether any species which is listed or proposed to be listed may be present in the area affected by the proposed action. If the reply from the Fish and Wildlife Service or National Marine Fisheries Service indicates that no such species are present, it may be assumed that there would be no significant impact on endangered or threatened species. The environmental assessment shall include the letter from the Fish and Wildlife Service or National Marine Fisheries Service. No further analysis is necessary.

*2* If, however, the reply from the Fish and Wildlife Service or National Marine Fisheries Service indicates that endangered or threatened species may be present in the area affected by the proposed action, a biological assessment shall be prepared to identify whether the species or critical habitat are likely to be affected by the action and what those effects would be. If this biological assessment indicates no effects on the species or critical habitat, it may be assumed that there would be no significant impact on endangered or threatened species. The environmental assessment shall include the biological assessment. No further analysis is necessary. The FAA shall forward the biological assessment to the Fish and Wildlife Service or the National Marine Fisheries Service for its records.

*3* If the biological assessment indicates an effect on endangered or threatened species or on critical habitat, the proposal is considered to be one with potential significant impact. Consultation under section 7(a) of the Endangered Species Act Amendments of 1978 and further evaluation shall be performed under FAA direction as described in paragraph 85j.

(c) For proposed actions which are not "construction projects," the procedure below shall be followed.

*1* The list of Endangered or Threatened Wildlife and Plants shall be

consulted to determine whether there are any such species in the area affected by the proposed action. If there are not, this information shall be included in the environmental assessment. No further analysis is necessary.

*2* If there are endangered or threatened species in the area affected by the proposed action, the environmental assessment shall include an analysis of anticipated impacts on such species and their critical habitats. If this analysis shows that the proposed action would not affect endangered or threatened species or adversely modify their critical habitat, it may be assumed that impacts are not significant. No further analysis is necessary.

*3* If the environmental assessment indicates an impact on endangered or threatened species or on critical habitat, the proposal is considered to be one with potential significant impact. Consultation under section 7(a) of the Endangered Species Act Amendments of 1978 and further evaluation shall be performed under FAA direction as described in paragraph 85j.

(11) *Wetlands.*

(a) Wetlands are defined in Executive Order 11990, Protection of Wetlands, as "those areas that are inundated by surface or ground water with a frequency sufficient to support and under normal circumstances does or would support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction." Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river overflows, mud flats, and natural ponds." Wetlands also include estuarine areas, tidal overflows, and shallow lakes and ponds with emergent vegetation. Furthermore, the wetlands ecosystem includes those areas which affect or are affected by the wetland itself; e.g., adjacent uplands or regions upstream and downstream. Areas covered with water for such a short time that there is no effect on moist soil vegetation are not included within the definition of wetlands nor are the permanent waters of streams, reservoirs, and deep lakes.

(b) Wetlands are valuable ecological systems. They can serve to accumulate, convert, store, and supply basic nutrients; provide habitat for many kinds of wildlife; serve to regulate the flow of runoff waters and cleanse them of pollutants; provide a buffer against storm waters and help reduce flooding; serve as water recharge areas; and provide a scientific and recreational resource. The importance of wetlands to the Nation was reemphasized in Executive Order 11990, issued May 24, 1977. This executive order provides that Federal agencies:

*1* Avoid to the extent possible the long and short term adverse impacts associated with the destruction or modification of wetlands and to avoid direct or indirect support of new construction in wetlands wherever there is a practicable alternative, and

*2* Avoid undertaking or providing assistance for new construction located in wetlands unless the head of the agency finds:

*a* that there is no practicable alternative to such construction, and

*b* that the proposed action includes all practicable measures to minimize harm to wetlands which may result from such use.

In making this finding the head of the agency may take into account economic, environmental and other pertinent factors.

(c) A proposal is considered to affect wetlands if it would involve development in a wetlands area; involve dredging, filling, draining, channelizing, diking, impounding, or otherwise directly impact a wetlands area; involve disturbing the water table of an area in which a wetland lies; or indirectly affect a wetland by impacting regions upstream or downstream or inducing secondary development. If there is uncertainty on whether an area is a wetland, the U.S. Fish and Wildlife Service or the local or state natural resource agency shall be contacted for further information.

(d) If the proposal does not affect a wetlands area, a sentence to this effect in the environmental assessment is sufficient. No further analysis is necessary.

(e) If the proposal would affect a wetlands area and there is a practicable alternative which solves the problem and avoids the wetlands impact, this alternative should become the proposed action. The term "practicable" means feasible. Whether another alternative is practicable depends on its feasibility in terms of safety, meeting transportation objectives, design, engineering, environment, economics, and any other applicable factors. Some additional cost alone does not necessarily make an alternative impractical since such cost may be recognized as necessary and justified to meet national wetlands policy objectives. If a practicable alternative is put forward as the new proposed action, no further wetlands analysis is necessary. The environmental assessment should document that the initial proposed action was eliminated from further study because of wetland impacts.

(f) If the proposal would affect a wetland and there is no practicable alternative, the following instructions apply:

*1* The environmental assessment shall include information on the location, types, and extent of wetland areas that might be affected by the proposed action. This information may be obtained from the Fish and Wildlife Service or state or local natural resource agencies.

*2* Evaluations of other categories of impacts as described under paragraph 47e are to be used to determine whether impacts on wetlands appear to be significant. Consideration shall be given to impacts on water quality, including effects on water supply and recharge capability, interference with surface and subsurface water courses, siltation and sedimentation, biotic community disruption, flood and storm hazards, development of secondary (induced) activities or services, and construction. The wetlands discussion in the environmental assessment may simply summarize and reference applicable discussions under other impact categories. Incorporate in an evaluation of impact on wetlands all practicable measures to minimize harm which will be implemented. These may include, but are not limited to:

*a* Modification of the design, construction, or operation of the facility, including collection of pavement surface runoff to prevent direct discharge into sensitive areas.

*b* Waste treatment.

*c* Development of compatible land uses.

*d* Special construction controls.

*3* Early review of proposed actions shall be provided for agencies with special interest in wetlands. Such agencies include state and local natural resource and wildlife agencies, the Fish and Wildlife Service, the National Marine Fisheries Service, the Corps of Engineers, and EPA. This review may be combined as much as possible with the A–95 review. Those agencies which have permitting actions described below shall be asked to advise if they foresee any difficulty issuing such permits based on the initial assessment that the proposal has no practicable alternative which would avoid the wetland and that all possible mitigation measures have been taken. Such advice should include recommendations regarding additional measures which could be taken to enable their subsequent favorable action on such permits. Letters from these agencies shall be incorporated into the environmental assessment and their opinions used to determine significance of impacts and to pinpoint

potential problems in proceeding toward approval of the environmental document.

*4* Specific consultation is requird under the Fish and Wildlife Coordination Act with the U.S. Fish and Wildlife Service and the state agency having administration over the wildlife resources. For this analysis, documentation, and significance threshold, refer to paragraph 47e(9)(c) above.

*5* The environmental assessment shall identify any permits that are required. Permit requirements for proposals affecting wetlands may include those identified below, which are further explained in paragraph 47e(6)(b).

*a Section 402.* Airport runoff into the surrounding environment may be considered to be a discharge subject to a Federal or state National Pollutant Discharge Elimination System permit pursuant to the Clean Water Act when the surrounding environment is a wetlands area.

*b Section 404.* Most wetlands are considered to be "navigable waters" for the purposes of the Clean Water Act.

*c Section 10 of the Rivers and Harbors Act of 1899.* Under this Act, wetlands may also fall under the permit requirements of the Corps of Engineers due to obstruction or alteration of navigable waters.

*d State Permit.* The proposal may be required to comply with a state wetlands permit system.

*6* An opportunity shall be provided for early public review of any proposals involving wetlands. This may be accomplished through early coordination by the sponsor per paragraph 45, use of the A–95 dissemination per paragraph 48e, or the opportunity to review the environmental assessment prior to a public hearing when one is held for proposed actions as described in paragraph 49.

*7* A wetlands which is in or adjacent to a coastal area may be subject to a state coastal zone management program. In this situation, the instructions in paragraph 47e(13) below shall also be followed.

*8* Section 4(f) of the DOT Act may apply if wetlands are publicly owned lands as described in paragraph 47e(7). Wetlands subject to a publicly owned protective easement for provision of food and nesting to migratory waterfowl are considered to be publicly owned land of a wildlife and waterfowl refuge under section 4(f). The instructions in paragraph 47e(7) are to be followed for section 4(f) situations.

*9* If the above analyses indicate any significant impacts on wetlands, the instructions under paragraph 65k are to be followed.

(12) *Floodplains.*

(a) Floodplains are defined in Executive Order 11988, Floodplain Management, as "the lowland and relatively flat areas adjoining inland and coastal waters including floodprone areas of offshore islands, including at a minimum, that area subject to a one percent or greater chance of flooding in any given year;" i.e., the area that would be inundated by a 100-year flood.

(b) Executive Order 11988 directs Federal agencies to "take action to reduce the risk of flood loss, to minimize the impact of floods on human safety, health and welfare, and to restore and preserve the natural and beneficial values served by floodplains. . . ." DOT Order 5650.2, Floodplain Management and Protection, contains DOT's policies and procedures for implementing the executive order. The DOT order further defines the natural and beneficial values served by floodplains as including, but not limited to "natural moderation of floods, water quality maintenance, groundwater recharge, fish, wildlife, plants, open space, natural beauty, scientific study, outdoor recreation, agriculture, aquaculture, and forestry." The executive order and the DOT order establish a policy to avoid taking an action within a 100-year floodplain where practicable. Every effort must be made to minimize the potential risks to human safety and property damage and the adverse impacts on natural and beneficial floodplain values.

(c) If the proposed action and reasonable alternatives are not within the limits of a base floodplain (i.e., 100-year flood area) and would not indirectly support secondary development within a base floodplain nor otherwise significantly impact a base floodplain, it may be assumed that there are no floodplain impacts. No further analysis is necessary.

*1* To determine the limits of base floodplains, the Federal Insurance Administration (FIA) maps are the primary reference. A Flood Insurance Rate Map or Flood Insurance Study Report shall be consulted first. If neither of these maps is available, a Flood Hazard Boundary Map may be used to determine if the proposed action and alternatives are clearly out of the base floodplain. If the proposed action or any alternative appears to be near or inside the approximate boundaries of the Flood Hazard Boundary Map, more detailed boundary information must either be obtained or developed using the best available method meeting acceptable professional engineering standards. The delineation of floodplain limits shall take proper account of previous alterations to the floodplain by flood retention works or other elements of the built environment. If a 100-year floodplain designation is in question, the FIA or the Corps of Engineers shall be contacted for information.

*2* To determine whether other impacts are of concern to a base floodplain even though the proposed action is outside the floodplain, the evaluations of other categories of impacts as described in paragraph 47e are to be used with particular attention to potential effects on natural and beneficial floodplain values of water pollution, increased runoff from impermeable surfaces, alteration of hydrologic patterns, induced secondary development, and construction impacts. Consideration of impacts shall include proposed methods to minimize harm and to restore and preserve natural and beneficial floodplain values affected. In most cases, conceptual design as opposed to detailed engineering will be sufficient to help establish the adequacy of mitigation measures. Mitigation measures include:

*a* Construction controls to minimize erosion and sedimentation.

*b* Design of the facility to allow adequate flow circulation and preserve free, natural drainage.

*c* Use of pervious surfaces where practicable.

*d* Control of runoff.

*e* Waste and spoils disposal so as not to contaminate ground and surface water.

*f* Control of use of pesticides, herbicides, and fertilizer.

*g* Maintenance of vegetative buffers to reduce sedimentation and delivery of chemical pollutants to the water body.

*h* Land use controls (Executive Order 11988 directs Federal agencies to take floodplain management into account in evaluating land use plans and to acquire land and water resource use appropriate to the degree of hazard involved).

(d) If the analysis performed in accordance with the preceding paragraph indicate significant impacts on a base floodplain, a statement to this effect shall be included in the environmental assessment. Further analysis appropriate for an environmental impact statement is contained in paragraph 85.1.

(e) If the proposed action and reasonable alternatives are within the limits of a base floodplain, this is considered by DOT Order 5650.2 to be a floodplain encroachment. If the proposed action includes relocation housing built or moved to a new site within a base floodplain, this also

constitutes encroachment. It is not encroachment if the only step being taken in the floodplain is the relocation of persons into existing housing units. In this latter situation, potential occupants shall be advised if the relocation housing is located in a base floodplain and be offered alternative comparable housing at their option.

(f) It is DOT policy, in accordance with Executive Order 11988, to avoid where practicable encroachments in base floodplains by DOT actions. If there is a practicable alternative which solves the problem and avoids the encroachment, this alternative shall become the proposed action. The term "practicable" is defined under Wetlands Impact in paragraph 47e(11)(e) above. If a practicable alternative is put forward as the new proposed action, no further analysis is necessary if the new proposed alternative does not otherwise significantly inmpact the base floodplain. The enviromental assessment shall document that the intitial proposed action was eliminated from further study because of base floodplain encroachment.

(g) If the proposed action and reasonable alternatives would encroach within the limits of a base floodplain, the following instructions apply:

*1* The environmental assessment shall indicate briefly why the action is proposed to be located in a floodplain and why there are not considered to be any practicable alternatives outside the base floodplain.

*2* The environmental assessment shall include the map information, analyses, and proposed mitigation measures described under subparagraph (c) above and shall also consider any risk to, or resulting from, the airport action in the base floodplain, including long term loss of available flood storage volume. In addition to measures listed under subparagraph (c), mitigation measures for base floodplain encroachments may include:

*a* Commitments to special flood related design criteria.

*b* Elevation of facilities above base flood level.

*c* Location of nonconforming structures and facilities out of the floodplain.

*d* Minimizing fill in floodplains.

*3* The environmental assessment shall indicate if the encroachment would result in one or more of the construction or flood related impacts listed below. If so, the encroachment is considered by DOT Order 5650.2 to be a significant encroachment. It is not contemplated that detailed design would be necessary in order to determine whether there is a significant encroachment. (A significant encroachment will require a Federal finding as part of any favorable decision on the action that there is no practicable alternative and that the action conforms to applicable state and/or local floodplain protection standards.) A significant encroachment involves:

*a* A considerable probability of loss of human life.

*b* Likely future damage associated with the encroachment that could be substantial in cost or extent, including interruption of service on or loss of a vital transportation facility.

*c* A notable adverse impact on natural and beneficial floodplain values.

*4* The environmental assessment shall indicate if the proposed action is in a special flood hazard area designated by the FIA or proposed to be so designated. Special flood hazard areas are shown as zones A or V on Flood Hazard Boundary Maps. Under the Flood Disaster Protection Act of 1973, Federal agencies are prohibited from providing financial assistance for acquisition or construction of buildings in areas which have been designated by the FIA as special flood hazard areas for at least one year and which are in communities that are not participating in the national flood insurance program.

*5* The environmental assessment shall identify any state and local floodplain regulations and standards that must be adhered to, indicate whether the proposed action will conform, and name the state and local agencies having jurisdiction.

*6* An opportunity shall be provided for early public review of base floodplain encroachments. This may be accomplished through existing public involvement procedures as indicated in paragraphs 45, 48e, and 49. Any public hearing presentations shall include identification of encroachments. If one or more of the alternatives under consideration include significant floodplain encroachments, any public notices, notices offering the opportunity for a public hearing, public hearing notices, and notices of the availability of environmental assessments shall make reference to that fact.

(h) If no significant encroachment within a base floodplain is involved as defined in subparagraph (g)*3* above, it may be assumed that there would be no significant floodplain impact. No further analysis and no special floodplains findings are necessary.

(i) If a significant encroachment is involved which could result in either loss of life or substantial future damage or both but would not result in notable adverse impacts on natural and beneficial floodplain values, these circumstances do not by themselves require the preparation of an environmental impact statement. CEQ 1508.14 states that ". . . economic or social effects are not intended by themselves to require preparation of an environmental impact statement." While further consideration on the floodplains aspects of the proposed action would be prudent on the part of the sponsor and the FAA before proceeding, a finding of no significant impact is the appropriate action choice in this circumstance assuming there are no other significant environmental impacts associated with the action. The findings delineated in paragraph 94b(6) would be required for the project decision.

(j) If a significant encroachment is involved which would result in notable adverse impacts on natural and beneficial floodplain values, this would require the preparation of an environmental impact statement and further analysis as described in paragraph 85.1.

(13) *Coastal Zone Management Program.*

(a) Detailed procedures for determining Federal consistency with approved coastal zone management programs are contained in the National Oceanic and Atmospheric Administration (NOAA) Regulations (15 CFR Part 930). The sections most relevant to airport actions are subpart D, Consistency for Activities Requiring a Federal License or Permit, and subpart F, Consistency for Federal Assistance to State and Local Governments. If there is no approved state program, the instructions below do not apply. However, the environmental assessment shall in any case consider impacts on coastal areas. This may be done through analyses performed under other impact categories (e.g., water quality, biotic communities, construction impacts) as appropriate, using the thresholds established under these respective categories. If thresholds of significance are exceeded, a more detailed coastal area and/or marine analysis may be necessary in an environmental impact statement. Coastal areas may also be designated as wetlands and require the special treatment described in paragraph 47e(11) above.

(b) The principal means used to determine if a proposed Federal action is consistent with an approved coastal zone management program is through the A–95 clearinghouse review process as described in paragraph 48. To the extent possible, the information provided shall include a detailed description of the proposed action and any associated facilities sufficient to permit an assessment of their probable coastal zone effects and consistency

with the provisions of the approved coastal zone management program. If, through the A–95 process, the state coastal zone management agency does not object to the proposed action, no further action is necessary. The environmental assessment shall document the result of such coordination.

(c) Approval of airport layout plans could by definition in the NOAA Regulations be a Federal permitting action subject to subpart D. Unless this activity has specifically been identified in a given state's coastal zone management program or unless a state coastal zone management agency specifically advises the sponsor and FAA through A–95 or review of an environmental impact statement that an airport layout plan approval action would significantly affect a coastal zone, subpart D of the NOAA regulations will not apply and no further action is needed. If subpart D applies, the applicant must provide more specific information including a consistency certificate, and the state agency has up to six months within which to register objection.

(d) If the state coastal zone management agency objects to the proposed action on the basis of failure to provide sufficient information, it must describe the nature of the information needed to determine consistency with the coastal zone management program. Otherwise, any objection must identify how the proposed action is inconsistent with specific elements of the management program and alternative measures which, if adopted, would permit consistency. The objection shall also provide information on the right to appeal to the Secretary of Commerce pursuant to subpart H of the NOAA Regulations. Such appeal must be made within 30 days of notice of the objection. When an objection has been raised which cannot be satisfied by providing additional information or otherwise be resolved through informal discussions to avoid the need for an appeal as provided in subpart H, the sponsor may file a notice of appeal as soon as possible and notify the FAA accordingly. The action shall not be approved unless such an objection is successfully appealed.

(e) As a result of an appeal, the Secretary of Commerce may find that the action is "consistent with the objectives and purposes of the [Coastal Zone Management] Act" and permissible even though it is inconsistent with a state's management program. Such finding may be made on the basis that the action:

*1* Furthers one or more of the competing national objectives or purposes defined in the Act;

*2* Will not cause adverse impacts on the natural resources of the coastal zone substantial enough to outweigh its contribution to the national interest;

*3* Will not violate the requirements of the Clean Air Act or Clean Water Act; and

*4* No reasonable alternative exists which permits the action to be consistent with the management program.

Such a finding by the Secretary of Commerce shall become part of the environmental documentation prior to any approval action.

(f) The nature and timing of the requirements related to actions affecting a coastal zone are such that any issues raised should normally be resolved by the sponsor during the environmental assessment process. Successful resolution will usually mean that any impact with respect to an approved coastal zone management program is not significant and no further information is needed.

(14) *Prime and Unique Farmland.*

(a) If any farmland is to be converted to other uses as a direct result of the proposed action or induced development, the local office of the USDA shall be contracted to determine if the farmland is identified as prime or unique. If it is not prime or unique, the contact shall be documented in the environmental assessment; no further analysis is necessary.

(b) If prime or unique farmland is to be converted, the environmental assessment shall describe present uses of the farmland, the amount to be converted compared with the total amount of such land in the area, and any proposed mitigation measures. The local USDA office should be asked to review this information and, unless the USDA indicates that the conversion constitutes a potential significant loss, no further assessment is needed except to document the result of the USDA review.

(c) If the USDA does indicate a potential significant loss, the instructions in paragraph 85n apply.

(15) *Energy Supply and Natural Resources.*

(a) Energy requirements associated with the action fall generally into two categories:

*1* Those which relate to changed demands for stationary facilities (e.g., airfield lighting and terminal building heating). For purposes of the environmental assessment, the proposal shall be examined to identify any proposed major changes in stationary facilities which would have a measurable effect on local supplies. If there are major changes, power companies or other suppliers of energy shall be contacted to determine if projected demands can be met by existing or planned source facilities.

*2* Those which involve the movement of air and ground vehicles. Increased consumption of fuel by aircraft need only be examined if average ground movement or runup times are increased substantially without offsetting efficiencies in operational procedures or if the action includes a change in flight patterns, such as from noise abatement procedures, which adds noticeably to flight times. Ground vehicles' fuel consumption shall be examined only if the action would add appreciably to access time or if there would be a substantial change in movement patterns for on-airport service or other vehicles.

(b) Use of natural resources other than for fuel need be examined only if the action involves a need for unusual materials or those in short supply.

(c) For most airport actions, changes in energy or other natural resource consumption will not result in significant impacts. If the environmental assessment identifies problems with demands exceeding supplies, changes in aircraft or ground vehicle use which would greatly increase fuel consumption, or the proposed substantial use of natural resources in short supply, additional analysis will be required in an environmental impact statement per paragraph 85o. Otherwise, it may be assumed that impacts are not significant.

(16) *Light Emissions.*

(a) The sponsor shall consider the extent to which any lighting associated with an airport action will create an annoyance among people in the vicinity of the installation. The following information shall be included in the environmental assessment whenever the potential for annoyance exists:

*1* Site location of lights or light system.

*2* A brief description of the light system as to its purpose, method of installation (pole or ground mounted), beam angle, intensity, color, flashing sequence, and other pertinent characteristics of the particular system and its use.

*3* Measures to lesson any annoyance, such as shielding or angular adjustments.

(b) Only in unusual circumstances, as for example when high intensity strobe lights would shine directly into people's homes, will the impact of light emissions

be considered sufficient to warrant special study and a more detailed examination of alternatives in an environmental impact statement. Normally, it may be concluded that no significant impact would occur.

(17) *Solid Waste Impact.*

(a) Airport actions which relate only to airfield development (runways, taxiways, and related items) will not normally include any direct relationship of solid waste collection, control, or disposal other than that associated with the construction itself (reference paragraph 47e(18)).

(b) Terminal area development may involve circumstances which require consideration of solid waste impacts. Preliminary review should indicate if the projected quantity or type of solid waste generation or method of collection or disposal will be appreciably different than would be the case without the action. If there is an appreciable difference, consultation with local officials shall determine if there is any potential problem with either capacity of available disposal facilities or location which may violate any local, state, or Federal regulations. Special attention shall be given to the control of hazardous waste.

(c) Consultation with local officials shall also determine the location of all solid waste disposal facilities within or planned to be within 1,500 meters of all runways planned to be used by piston-type aircraft and within 3,000 meters of all runways planned to be used by turbojet aircraft. A preliminary study of disposal sites within the above distances should determine if a potential bird hazard exists and if the affected planned runways need to be modified. (Meters used in lieu of feet per EPA.)

(d) The environmental assessment shall document the results of the consultation; the nature of any potential problems, including the siting of runways in the vicinity of active or planned solid waste disposal facilities; and the manner in which waste products will be controlled to comply with any applicable regulations. If it is necessary to explain a problem concerning solid waste system loading resulting from terminal development, an estimate of current and projected quantities of waste production and disposal capacity shall be included. Only if there are significant unresloved issues will additional analysis be needed in an environmental impact statement.

(18) *Construction Impacts.*

(a) Specific effects during construction which may create adverse environmental impacts include noise of construction equipment on the site, noise and dust from delivery of materials through residential streets, creation of borrow pits and disposal of spoil, air pollution from burning debris, and water pollution from erosion. The extent to which any of these effects are subject to local, state, or Federal ordinances or regulations shall be discussed as applicable together with measures to be taken to conform with such requirements.

(b) In general, impacts during construction are of lesser magnitude than long term impacts of the proposed action. Many of the specific types of impacts which could occur will be covered in the descriptions of other impact categories. To the extent not discussed elsewhere, this item shall include a general description of the type and nature of the construction and measures to be taken to minimize potential adverse effects. As a minimum, reference shall be made to the incorporation in project specifications of the provisions of Advisory Circular 150/5370-7, Airport Construction Controls to Prevent Air and Water Pollution.

(c) Only in unusual circumstances, as for example construction in an ecologically sensitive area or construction involving substantial urban effects, would this impact category be considered to create significant consequences which may not be adequately mitigated. It is a matter of FAA judgment to determine if such circumstances exist and require the preparation of an environmental impact statement.

f. *Environmental Consequences—Other Considerations.* To the extent not covered in the Specific Impact Categories under paragraph 47e, the Environmental Consequences section of the environmental assessment shall include discussion of the following:

(1) "Possible conflicts between the proposed action and the objectives of Federal, regional, state, and local (and in the case of a reservation, Indian tribe) land use plans, policies and controls for the area concerned" (CEQ 1502.16(c)). If the proposal is not reasonably consistent with plans, goals, policies, or controls that have been adopted for the area in which the airport is locate, an environmental impact statement is required.

(2) ". . . [A]ny inconsistency of a proposed action with any approved state or local plan and laws (whether or not federally sanctioned)" (CEQ 1506.2(d). If the proposal is inconsistent with a Federal, state, or local law or administrative determination relating to the environment, an environmental impact statement is required.

(3) "Means to mitigate adverse environmental impacts . . ." (CEQ 1502.16(h)) which were not included in the Alternatives section and are important in judging the significance of an impact or in supporting a section 16(c)(4) finding that "the proposed action includes all possible steps to minimize any adverse effects."

(4) Degree of controversy on environmental grounds. If the proposal is highly controversial with regard to an impact that is determined to be significant according to the thresholds in paragraphs 47e and 85, an environmental impact statement is required. Otherwise, no further analysis is needed and a finding of no significant impact may be prepared.

g. *Preparers.* The preparers of an environmental assessment shall be identified, and other information on the preparers per paragraph 87 shall subsequently be made available to the FAA if an environmental impact statement is prepared.

h. *Appendices.* The environmental assessment shall have appended to it the following:

(1) Any documentation supporting statements in the body of the environmental assessment, including methodologies and sources used. Such documentation should be minimal in an environmental assessment.

(2) An air and water quality certification pursuant to section 16(e) of the Airport Act if one is required and has been obtained at this stage.

(3) A listing of agencies and persons consulted and any responses.

(4) Evidence that A-95 coordination has taken place, comments and recommendations received through the A-95 review process, and responses to such comments.

(5) A summary of citizen involvement, evidence of the opportunity for a public hearing if required under section 16(d) of the Airport Act, and a summary of issues raised at any public hearing held.

(6) Any cost-benefit analysis that the sponsor has done. See CEQ 1502.23 for more specific information when a cost-benefit analysis is being considered for the proposed action.

48. *A-95 Review Process.*

a. Review of proposed Airport Development Aid Program actions by state and local government organizations routinely occurs through procedures set forth in OMB Circular A-95 (Revised). The purpose of the A-95 clearinghouse process is to assure that proposed federally assisted programs and projects are reviewed and evaluated in advance in terms of their potential impact on or conflict with statewide or areawide comprehensive planning or upon the plans and programs of local governments. In the

case of proposed actions which are not Airport Development Aid Program actions, it is suggested that the sponsor consider use of the A–95 review procedure to solicit input to the environmental assessment from state and local agencies in order to reduce the need for independent contacts with affected agencies.

b. The A–95 clearinghouse process for projects is set forth in Special Federal Aviation Regulation, Part 35.

c. Under A–95 procedures, sponsors are required to notify the appropriate clearinghouses as soon as project planning has developed in sufficient detail to inform the clearinghouses of the nature and scope of the development proposed to be undertaken for which Federal assistance will be sought. This should take place at least 60 days prior to the date the sponsor submits its preapplication form requesting Federal assistance.

d. During the initial clearinghouse review period, the preapplication for Federal aid may be completed. This period may also be used to complete the requirement for public hearings, if applicable. The A–95 procedure includes provisions for consideration of the project's probable impact on the environment and input from areawide and local agencies authorized to develop and enforce environmental standards or which have expertise or jurisdiction with respect to environmental impacts. An appropriate vehicle to solicit such input is the environmental assessment.

e. The clearinghouse should be asked to inform known interested groups of the project. If either the sponsor or FAA has knowledge of such groups, this information should be given to the clearinghouse. During this same period, the clearinghouse may act as liaison between the agencies affected and the sponsor, arranging meetings and such other forms of consultation as may be necessary to work towards resolution of any problem raised by the proposed project.

f. The comments and recommendations received through the A–95 clearinghouse process become input to the sponsor's environmental assessment and ultimately must be reported and appropriately addressed in the FAA's environmental documentation.

49. *Public Hearing.*

a. If a new airport location, a new runway, or an extension of an existing runway is involved, the sponsor must afford the opportunity for public hearings as required by section 16(d)(1) of the Airport Act. The public hearing opportunity shall normally be afforded prior to formal submission of a sponsor's environmental assessment.

b. In deciding whether a public hearing is appropriate in other cases, the FAA and sponsor shall consider the provisions of CEQ 1506.6(c)(1) and (2); i.e., whether there is:

"(1) Substantial environmental controversy concerning the proposed action or substantial interest in holding the hearing.

"(2) A request for a hearing by another agency with jurisdiction over the action supported by reasons why a hearing will be helpful. . ."

c. In preparing for a public hearing, the sponsor is required to comply with the requirements in section 152.73 of the Federal Aviation Regulations. Notice of the hearing is required to be published in an areawide or local newspaper of general circulation and shall include:

(1) The intent to undertake the proposed airport development, with a concise description of the proposed development;

(2) The opportunity for a public hearing;

(3) The scheduling of a public hearing (time, date, and place), if requested by interested parties; and

(4) The availability and location of an environmental assessment if one is required by paragraph 21, 22, or 24; or a statement that, in accordance with FAA Order 5050.4, Airport Environmental Handbook, the proposed development will not have a significant effect on the environment and is categorically excluded from the requirement to prepare an environmental assessment.

d. Additional information concerning the public hearing is contained in Advisory Circular 150/5100–7A. Hearings may be held by the sponsor simultaneously with the A–95 review process. An environmental assessment, if required by the FAA, is to be made available for public examination at least 30 days prior to the hearing and so indicated in the hearing notification. Comments received through the A–95 process should be made available at the public hearing if the A–95 process has been completed.

e. A detailed summary of issues raised in public hearings is to be included in an environmental assessment. A hearing transcript need not be included, but at least one copy of the transcript must be obtained by the sponsor for the record. The sponsor must furnish a copy of the transcript to the FAA upon request.

50. *FAA Submission.*

a. The sponsor shall revise the environmental assessment as necessary as a result of the A–95 review, any public hearing, and other input and shall submit a completed assessment per paragraph 47 to the FAA. The environmental assessment shall be submitted, depending upon the type of action proposed, at any time in the project formulation but not later than at submission of the sponsor's preapplication for Federal aid or the sponsor's request for either FAA approval of a new or revised airport layout plan, FAA approval of an airport location, conveyance of government lands for airport purposes under section 23 of the Airport Act, or FAA approval of a release of airport land.

b. The FAA may require corrections or additional information from the sponsor before accepting the environmental assessment. The FAA's acceptance of the environmental assessment will be indicated on the cover page by the signature of the responsible FAA official. From this point on the environmental assessment is a Federal Document for which the FAA is responsible. The number of copies of the environmental assessment submitted to the FAA shall be determined by consultation with the FAA and, for findings of no significant impact, shall include a copy designated as a reproducible master which must be of good quality.

c. If no environmental assessment is required by the FAA, such as for runway extensions which are not major runway extensions, and a public hearing is held, the sponsor shall submit a written report to the FAA which summarizes the issues raised, alternatives considered, conclusion reached, and reasons for the conclusion. The sponsor must furnish a copy of the transcript to the FAA upon request. The responsible official shall review the written report to determine whether the action should remain a categorically excluded action or whether it appears to be covered by conditions set forth in paragraph 21, 22, or 24.

51. *FAA Completion of Environmental Assessment and Decision.*

a. The FAA is responsible for making the judgment, based on the environmental assessment and any other known information, of whether the action choice will be an environmental impact statement or a finding of no significant impact and shall inform the sponsor of this decision.

b. If no thresholds indicating the potential for significant impact are exceeded for the proposed action, the environmental assessment, when evaluated and accepted by the FAA, will have been completed. The FAA decision will be to prepare a finding of no significant impact.

c. If some thresholds are exceeded, the environmental assessment may not have been completed when it is evaluated and accepted from the sponsor by the FAA, and the FAA may not be able to make a decision on the appropriate action choice until completing further evaluation and consultation. This situation may occur for two reasons. One is that a number of thresholds of significance may produce borderline cases which require further FAA evaluation, in consultation with appropriate officials having jurisdiction and expertise, in order to make a final judgment on whether impacts are significant. The second reason is that there are some consultations, such as the section 7(a) consultation under the Endangered Species Act Amendments or the consultation with the Advisory Council on Historic Preservation, which are required when specific categories of impacts may be of significant concern and for which the FAA rather than the sponsor must take the lead. When enough evaluation and applicable consultations have been completed by the FAA to judge for each category of impact whether the impact is significant or not, the FAA shall complete the documentation of the environmental assessment and make its decision on the action choice.

d. In order to minimize overall environmental processing time, sponsors should inform the FAA as soon as they find that their initial analysis exceeds thresholds of significance. Consultations can then be initiated without delay and advice offered on what the needs for additional information for more detailed analysis are likely to be. These further actions need not be delayed until the sponsor's final submission of the environmental assessment but can be pursued simultaneously with the environmental assessment preparation.

e. To assist in resolving uncertainties on whether impacts are significant, it may be prudent to initiate scoping prior to a firm final decision to prepare an environmental impact statement and prior to issuing a Notice of Intent per CEQ 1501.7. Scoping, under these circumstances, may eliminate from detailed study all issues as insignificant and thereby lead the responsible FAA official to determine that a finding of no significant impact is the appropriate action choice. If the FAA has announced a decision to prepare an environmental impact statement and issued a Notice of Intent to this effect, CEQ 1501.7(c) provides the authority to revise previous determinations on the significance of impacts when applicable.

52. *Availability of Environmental Assessments.* After the FAA has evaluated and accepted the environmental assessment, this document shall be made available to the public pursuant to CEQ 1506.6.

53.–59. *Reserved.*

**Chapter 6. Finding of No Significant Impact**

60. *Requirement for Finding of No Significant Impact.*

a. CEQ 1501.4(e) provides that the Federal agency shall "Prepare a finding of no significant impact (section 1508.13), if the agency determines on the basis of the environmental assessment not to prepare a statement." Section 1508.13 defines a finding of no significant impact as ". . . a document by a Federal agency briefly presenting the reasons why an action, not otherwise excluded (section 1508.4), will not have a significant effect on the human environment and for which an environmental impact statement therefore will not be prepared." The FAA shall evaluate the environmental assessment to determine if an alternative which provides a good solution to the problem has no significant impacts. Unless there is an overriding reason for not selecting such an alternative, the FAA shall then proceed with the preparation of a finding of no significant impact. This decision point is identified as step 13 in Appendix 1. The process for a finding of no significant impact is shown in steps 14 through 23 of Appendix 1.

b. For the FAA Airports Program there are two types of findings of no significant impact. The first type shall be designated simply "Finding of No Significant Impact" and includes proposed actions which have been found by the FAA not to have a significant impact on the environment and which require no sepcific coordination under the Airport Act. The second type shall be designated "Finding of No Significant Impact/ Section 16(c)(4) Coordination" and includes proposed actions which do not have a significant impact, but do require coordination with DOI and EPA pursuant to the Airport Act.

61. *Special Considerations.* There are several special assurances, conclusions, and findings which apply to Airport Development Aid Program projects, to projects involving the use of section 4(f) lands, to projects involving the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and to other environmental areas. If any of these special assurances, conclusions, or findings apply to a proposed action, they must be based on appropriate analyses and evidence in the finding of no significant impact, although the findings themselves will not be made until the decision on the Federal action per paragraph 67c.

62. *Format and Content.*

a. The CEQ Regulations do not specify a format for the finding of no significant impact. CEQ 1508.13 does briefly indicate content of the document: "It [the finding of no significant impact] shall include the environmental assessment or a summary of it and shall note any other environmental documents related to it (section 1501.7(a)(5)). If the assessment is included, the finding need not repeat any of the discussion in the assessment but may incorporate it by reference."

b. Both types of Airports Program findings of no significant impact shall use the following documentation.

(1) A heading which shall read: "Department of Transportation, Federal Aviation Administration, Finding of No Significant Impact (or) Finding of No Significant Impact/Section 16(c)(4) Coordination."

(2) The airport name, location, and proposed Federal action.

(3) Reasons why the FAA has determined that the proposed action will have no significant impacts, referencing the environmental assessment. CEQ 1502.2(b) states ". . . there should be only enough discussion to show why more study is not warranted."

(4) Mitigation measures which are a condition of Federal approval.

(5) The environmental assessment with its appendices.

(6) For Airport Development Aid Program projects, a letter from the sponsor giving specific land use assurances if the FAA is not satisfied that the information in the environmental assessment provides a satisfactory basis for making a standard assurance pursuant to section 18(a)(4) in the grant.

63. *Coordination.*

a. *General.* Appropriate Federal, state, and local coordination shall be completed as described in Chapter 5 for applicable areas of environmental consideration. In all cases, coordination with the State Historic Preservation Officer is required. In addition, other informal coordination as may be considered prudent by the region may be carried out to safisfy the FAA regarding the extent of specific impacts. All proposed findings of no significant impact shall be reviewed by affected FAA program divisions and staff officials at the regional level before presentation for approval. Findings of no significant impact which are not section 16(c)(4) actions may be approved

without headquarters level review or other formal Federal review unless such review is required under some special purpose law, regulation, or executive order. This is shown as step 15 in Appendix 1.

b. *Section 16(c)(4) Actions.*

(1) Section 16(c)(4) of the Airport Act requires consultation with DOI and EPA regarding the effects which a new airport, new runway, or major runway extention may have on natural resources. Proposed findings of no significant impact which are section 16(c)(4) types of actions shall be distributed for formal Federal review as follows:

(a) One copy to the Office of Airport Planning and Programming (Attention: APP-600).

(b) Five copies to EPA regional offices.

(c) The same number of copies to DOI as required for draft environmental impact statements, sent directly to the same address in Washington as given in paragraph 91.

(d) Copies to the Department of Agriculture (USDA) or the Department of Housing and Urban Development (HUD) if section 4(f) land under their jurisdiction is involved.

(2) Copies shall be accompanied by a transmittal letter explaining the purpose of the consultation. A time limit for review of not less than 45 days after receipt of the ltter shall be established after which it may be presumed that the agency consulted has no comment. Differences of opinion that develop as a result of section 16(c)(4) consultation shall be resolved at the field level to the extent possible. Unresolved issues, including objections on the adequacy of the assessment of impacts or alternatives or objections to the proposed section 16(c)(4) action, shall be identified and called to the attention of the approving official. The roles of DOI and EPA are of consultation, not concurrence, on section 16(c)(4) actions. After consultation, it is FAA's responsibility to give due consideration to the comments received and to make the decision as to whether the action should be approved as a finding of no significant impact. Reference steps 16 through 20 of Appendix 1.

(3) The copy received by the Office of Airport Planning and Programming shall receive limited review for the purpose of evaluating the quality of the proposed finding of no significant impact/section 16(c)(4) coordination. No concurrence by the Office of Airport Planning and Programming on individual 16(c)(4) actions is required. No further distribution is made within FAA or DOT headquarters.

c. *Special Circumstances.* CEQ 1501.4(e)(2) provides that "In certain limited circumstances . . . the agency shall make the finding of no significant impact available for public review (including State and areawide clearinghouses) for 30 days before the agency makes its final determination whether to prepare an environmental impact statement and before the action may begin." The circumstances in CEQ 1501.4(e)(2) are "(i) The proposed action is, or is closely similar to, one which normally requires the preparation of an environmental impact statement . . ." (see paragraph 21b). "(ii) The nature of the proposed action is one without precedence." The responsible official shall determine if the circumstances in CEQ 1501.4(e)(2) apply. The 30-day public review period may run concurrently with the Federal review for section 16(c)(4) actions.

64. *Approval.*

a. The decision to approve a finding of no significant impact may be made by the FAA approving official. In addition to the information on format and content provided in paragraph 62, the final document shall include other material which contributes to the finding, including documentation of EPA and DOI coordination for 16(c)(4) actions.

b. Section 16(c)(4) coordinations require review by the regional counsel for legal sufficiency. If a proposal involves section 4(f), the finding of no significant impact shall also be reviewed for legal sufficiency by the regional counsel (steps 19 and 20, Appendix 1).

c. The Federal approval shall include the following: "After careful and thorough consideration of the facts contained herein, the undersigned finds that the proposed Federal action is consistent with existing national environmental policies and objectives as set forth in section 101(a) of the National Environmental Policy Act of 1969 (NEPA) and that it will not significantly affect the quality of the human environment or otherwise include any condition requiring consultation pursuant to section 102(2)(C) of NEPA.

Approved:——— Date:—

Disapproved:——— Date:—"

65. *Final Distribution.* After a finding of no significant impact/section 16(c)(4) coordination is approved, the region shall send one copy of the approved package to EPA, DOI (in Washington), CAB (for air carrier airports), and APP-600 for record purposes. (If no change have been made since the circulation of the package, no addition copy of the circulated document need be included in the final package sent to APP-600.) Otherwise, distribution of approved findings of no significant impact outside the region is not required. However, the document shall be made available upon request per CEQ 1506.6 (step 21, Appendix 1).

66. *Public Availability.* CEQ 1501.4(e)(1) states "The agency shall make the finding of no significant impact available to the affected public as specified in section 1506.6." The regional office shall comply with section 1506.6 and shall formulate a system for announcing the availability of the finding of no significant impact through appropriate media in the area affected and in cooperation with the sponsor of the project. The announcement shall indicate the availability of the finding of no significant impact for review which shall include FAA regional and district offices, the sponsor's office, and other appropriate locations of general public access. Copies of findings of no significant impact shall be provided, on request, free of charge or at a fee commensurate with the cost of reproduction (step 22, Appendix 1).

67. *Decision and Implementation.*

a. Immediately following the approval of a finding of no significant impact, the decision may be made on the Federal action (step 23, figure 1).

b. Mitigation measures which were made a condition of approval of the finding of no significant impact shall be included in the decision as well as the steps taken to assure appropriate commitment and follow-up of mitigation measures. Proposed changes in or deletions of mitigation measures which were a condition of approval of the finding of no significant impact must be reviewed by the same FAA offices which reviewed the original document and must be approved by the official who originally approved the finding of no significant impact.

c. A record of decision is not required for findings of no significant impact. However, prior to the Federal action and based upon the data presented in the finding of no significant impact, the decisionmaker must reach and document the appropriate conclusions, findings, or assurances. These assurances shall be incorporated in a letter or other documentation attached to the Federal action and signed by the FAA decisionmaker.

d. If the decisionmaker wishes to take an action which was included as an alternative in the finding of no significant impact and which involves a special interest (e.g., section 4(f) land, endangered species, wetlands, historic site, or others), the FAA shall first complete any required evaluation and consultation that has not been done,

supplementing the original finding of no significant impact, prior to taking the action. Supplements to findings of no significant action shall be reviewed and approved as appropriate for the type of action (i.e., whether or not pursuant to section 16(c)(4)).

e. If the alternative on which the decisionmaker now wishes to take action has potential significant impacts, the FAA shall issue a notice of intent to prepare an environmental impact statement and commence scoping.

68.–69 *Reserved.*

**Chapter 7. Environmental Impact Statement Preparation**

70. *General.* This chapter and the subsequent two chapters describe the preparation, content, and processing of an environmental impact statement pursuant to section 102(2)(C) of NEPA. The process leading to a decision by FAA to prepare an environmental impact statement is described in Chapter 5. The circumstances of the proposed action which warrant the preparation of an environmental impact statement are contained in paragraphs 47e, 47f, and 85. This chapter explains the purpose of an environmental impact statement and the manner in which it is to be prepared. It describes the scoping process, the assignment of responsibilities for input, and contracting for environmental impact statement preparation (see steps 24 through 29 in Appendix 1).

71. *Purpose.* CEQ 1502.1 states that "The primary purpose of an environmental impact statement is to serve as an action-forcing device to insure that the policies and goals defined in the Act [NEPA] are infused into the ongoing programs and actions of the Federal Government. It shall provide full and fair discussion of significant environmental impacts and shall inform decision-makers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment. Agencies shall focus on significant environmental issues and alternatives and shall reduce paperwork and the accumulation of extraneous background data. Statements shall be concise, clear, and to the point, and shall be supported by evidence that the agency has made the necessary environmental analyses. An environmental impact statement is more than a disclosure document. It shall be used by Federal officials in conjunction with other relevant material to plan actions and make decisions."

72. *Implementation.*

a. To achieve the purpose in CEQ 1502.1, environmental impact statements are to be prepared in the manner prescribed in CEQ 1502.2.

b. CEQ 1502.6 provides that "Environmental impact statements shall be prepared using an inter-disciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts (section 102(2)(A) of the Act). The disciplines of the preparers shall be appropriate to the scope and issues identified in the scoping process. . . ."

c. Other sections of the CEQ Regulations which apply generally to the preparation of environmental impact statements and their application to airport actions include sections 1502.4(a) and (b), 1502.5, and 1502.8.

(1) CEQ 1502.4(a) states in part that "Agencies shall make sure the proposal which is the subject of an environmental impact statement is properly defined" and that "Proposals or parts of proposals which are related to each other closely enough to be, in effect, a single course of action shall be evaluated in a single impact statement."

(2) CEQ 1502.4(b) provides that "Agencies shall prepare statements on broad actions [such as the adoption of new agency programs or regulations] so that they are relevant to policy and are timed to coincide with meaningful points in agency planning and decisionmaking." In the Airports Program, the principal example of an environmental impact statement for a broad action is the one prepared in conjunction with the National Airport System Plan.

(3) CEQ 1502.5 provides that "An agency shall commence preparation of an environmental impact statement as close as possible to the time that the agency is * * * presented with a proposal * * *" For airport actions, formal preparation shall normally commence with the scoping process immediately after it is determined by the FAA responsible official at the region or airports district office level that an environmental impact statement is necessary. This decision point is identified in the flow diagram (Appendix 1) as step 13. Nothing in this order shall preclude earlier commencement of the gathering of information and preparation for the scoping process as described in paragraph 74, below.

(4) CEQ 1502.8 states that "Environmental impact statements shall be written in plain language and may use appropriate graphics so that decisionmakers and the public can readily understand them."

(5) CEQ 1501.8 describes the circumstances when the setting of time limits for the NEPA process may be appropriate and the factors which should be considered.

73. *Limitations.* CEQ 1506.1 deals with limitations on actions during the NEPA process. Key provisions of CEQ 1506.1 which relate to proposals for airport actions include the following:

a. "(a) Until an agency issues a record of decision [described in paragraph 98 of this order] * * * no action concerning the proposal shall be taken which would:

(1) "(1) Have an adverse environmental impact; or

(2) "(2) Limit the choice of reasonable alternatives."

b. "(b) If any agency is considering an application from a non-Federal entity, and is aware that the applicant is about to take an action within the agency's jurisdiction that would meet either of the criteria in paragraph (a) of this section, then the agency shall promptly notify the applicant that the agency will take appropriate action to insure that the objectives and procedures of NEPA are achieved."

c. "(d) This section does not preclude development by applicants of plans or designs or performance of other work necessary to support an application for Federal, State or local permits or assistance."

74. *Scoping.*

a. The general requirement for scoping is contained on CEQ 1501.7 which provides that "there shall be an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action. This process shall be termed scoping." The responsible official shall assume a key role in managing the preparation of an environmental impact statement. (In the context of scoping, the responsible official is the official in charge of preparation of the environmental impact statement for the lead agency. Where joint lead agencies are involved, the other agency(s) may share in the responsibility for scoping with the FAA.) Scoping is a major element. The responsible official shall take the lead in the scoping process, including issuing the notice of intent, inviting the participation of other agencies and interested persons pursuant to CEQ 1501.7(a)(1), determining the issues to be analyzed in depth, and assigning responsibilities for inputs to the environmental impact statement. CEQ 1501.7 further describes these steps in detail.

b. (1) The first step is described in section 1501.7 as follows: "As soon as practicable after its decision to prepare an environmental impact statement and before the scoping process the lead agency shall publish a notice of intent

(section 1508.22) in the **Federal Register** * * *." Regions shall follow regional counsel procedures for filing notices in the **Federal Register** through the Office of the Chief Counsel, Rules Docket.

(2) The notice of intent in section 1508.22 "* * * means a notice that an environmental impact statement will be prepared and considered. The notice shall briefly:

"(a) Describe the proposed action and possible alternatives.

(b) Describe the agency's proposed scoping process including whether, when, and where any scoping meeting will be held."

"(c) State the name and address of a person within the agency who can answer questions about the proposed action and the environmental impact statement."

(3) A scoping meeting, per se, is not a requirement for every action requiring an environmental impact statement. Depending on the nature and complexity of the project, some or all of the information needed during the scoping process may be obtained by letter or telephone.

(4) If for some reason there is a lengthy period between the time a decision is made to prepare an environmental impact statement and the actual preparation, section 1507.3(e) provides that "* * * the notice of intent * * * may be published at a reasonable time in advance of preparation of the draft statement."

c. (1) Section 1501.7 further provides that the lead agency shall "Determine the scope (section 1508.25) and the significant issues to be analyzed in depth in the environmental impact statement." Scope as defined in CEQ 1508.25 "* * * consists of the range of actions, alternatives, and impacts to be considered * * *"

(a) To determine the range of actions, the problem as described in the environmental assessment shall be carefully reviewed. The proposed action and any actions functionally related to it (see paragraph 26) must be clearly understood.

(b) Alternatives shall be reviewed in this context, identifying those which need to be rigorously explored and objectively evaluated as well as those which can be eliminated (see paragraph 47c).

(c) The range of impacts and areas requiring further study shall be determined by review of the environmental assessment and the criteria set forth in paragraphs 47e, 47f, and 85. Those impact categories which fall below the threshold of significance in the environmental assessment normally do not need further study or description in the environmental impact statement.

(2) Establishing a clear definition of the Federal action, the alternatives, and the impacts needing detailed study (as well as those which do not) early in the scoping process should help considerably in managing the environmental impact statement preparation process.

75. *Assigning Responsibilities.*

a. An integral part of the scoping process is the allocation of assignments for preparation of the environmental impact statement by the responsible official among the lead and cooperating agencies (step 26, Appendix 1). This process is intended to assure, among other things, that applicable environmental permits, licenses, and other consultation requirements are identified in the environmental impact statement.

b. Federal agencies which shall be invited by the responsible official to be cooperating agencies are those with jurisdiction by law in areas which may be affected by airport development.

c. Federal agencies with special expertise may also be asked to be cooperating agencies.

d. If a Federal agency that is requested to be a cooperating agency replies pursuant to CEQ 1501.6(c) that it will not participate, two copies of such letter shall be sent to APP–600 which will forward one copy to the Office of the Assistant Secretary for Policy and International Affairs, P–1. A copy of the draft environmental impact statement shall be sent to such agency. If that agency has adverse comments on the draft, the matter shall be referred to APP–600 for subsequent discussion with CEQ through P–1.

e. The definition of a cooperating agency in CEQ 1508.5 includes the provision that "A State or local agency of similar qualifications [i.e., jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal] or, when the effects are on a reservation, an Indian Tribe, may by agreement with the lead agency become a cooperating agency." To the extent that such agencies have not provided sufficient information during the A–95 review process or other earlier consultation, their use as cooperating agencies in the environmental impact statement preparation is encouraged. Their inputs may be especially important in areas which have been identified as significant environmental issues and where specific environmental laws and regulations are involved. The respective roles of Federal and state or local agencies in given areas (e.g., impacts on fish and wildlife resources) shall be clearly identified and understood in the assignment of responsibilities for environmental impact statement inputs.

f. The airport sponsor shall be one of the key participants in the scoping process and shall be kept abreast of the areas of impact being studied, especially those which have a direct effect on the operation of its airport. The sponsor shall be apprised of mitigation measures or alternatives being proposed and shall be consulted regarding its ability or willingness to carry out provisions which may subsequently be imposed as grant conditions or other means to reduce environmental harm. The sponsor may also be the principal linkage with the affected communities in assuring, for example, that all reasonable measures have been or will be taken to provide compatible land uses in the airport environs.

g. It is incumbent upon the responsible official, in assigning responsibilities and managing the environmental impact statement preparation, to assure that those providing input appreciate the need for timely submittal and focus of the analysis on the pertinent issues at hand. This official shall monitor progress and coordinate efforts to avoid duplication or misunderstanding among the parties involved and assure that necessary areas are covered. The schedule for preparation of each item of information shall take into consideration any dependencies that may exit. For example, it may not be possible to complete analysis in one area without having obtained information from another. The objective of the responsible official is the production of a draft environmental impact statement which will deal sufficiently with the critical and significant issues to avoid or minimize critical comments during the required review period to follow.

76. *Contracting.*

a. Chapter 2 describes in general the requirements and responsibilities of the FAA and state and local agencies in meeting the requirements of NEPA and the CEQ Regulations. The degree to which state and local agencies can be involved is dependent upon whether a state agency has statewide jurisdiction or what type of state or local environmental laws or regulations exist. These distinctions are important in determining what roles agencies may play in the preparation or contracting for the preparation of an environmental impact statement as discussed below.

b. (1) State agencies with statewide jurisdiction pursuant to section 102(2)(D) of NEPA may act as joint lead agencies for the preparation of the environmental impact statement as long as the FAA

furnishes guidance and participates in such preparation and independently evaluates the statement prior to its approval and adoption (reference NEPA, section 102(2)(D)(ii) and (iii)). (Also see paragraph 5.1 for the definition of NEPA 102(2)(D) states.)

(2) Agencies subject to state or local requirements comparable to NEPA shall be joint lead agencies (unless specifically barred by some other law) in cooperation with FAA. Such cooperation, in the works of CEQ 1506.2(c), "* * * shall to the fullest extent possible include joint environmental impact statements."

(3) State or local agencies which do not qualify as lead agencies under the conditions given in (1) and (2) above may not be lead agencies but may be cooperating agencies if they have jurisdiction by law or special expertise with respect to environmental impacts involved.

c. CEQ 1506.5(c) provides that "* * * any environmental impact statement prepared pursuant to the requirements of NEPA shall be prepared directly by or by a contractor selected by the lead agency or where appropriate under section 1501.6(b), a cooperating agency." Further, it is intended that "* * * the contractor be chosen solely by the lead agency, or by the lead agency in cooperation with cooperating agencies, or where appropriate by a cooperating agency to avoid any conflict of interest."

d. Under the provisions set forth above and when a determination has been made to have a contractor prepare the environmental impact statement, the contractor shall be selected either by the FAA *or:*

(1) A state agency with statewide jurisdiction and responsibility for action per section 102(2)(D) of NEPA.

(2) A state or local agency which is subject to state or local requirements comparable to NEPA ("NEPA-like" state or local agency).

A cooperating agency may also select contractors. However, its role is limited to providing information and analyses within its own area of special expertise or jurisdiction. It may obtain such data by contract under its own selection procedures. It would not be expected to select a contractor to prepare the entire FAA environmental impact statement.

e. In any case where a contractor prepares an environmental impact statement, section 1506.5(c) requires that "Contractors shall execute a disclosure statement prepared by the lead agency, or where appropriate the cooperating agency [for its portion], specifying that they have no financial or other interest in the outcome of the project." Furthermore, "* * * the responsible Federal official shall furnish guidance and participate in the preparation and shall independently evaluate the statement prior to its approval and take responsibility for its scope and contents."

f. When an agency as defined in paragraph d above elects to use a contractor to prepare an environmental impact statement, the contractor may be under contract either to that agency or the sponsor as long as the contractor is selected by the lead agency. The selection processes to be used will be based on principles in Advisory Circular 150/5100-9. This advisory circular was written to provide guidance to airport sponsors in the selection and employment of architectural, engineering, and planning consultants under the FAA Airport Development Aid and Planning Grant Programs. However, its principles apply to the selection of contractors to prepare environmental impact statements. The selection criteria and procedures therein shall be applied to the fullest extent applicable—with the obvious exception that FAA (or another lead agency) makes the selection. Further, the selecting agency must advise potential contractors of the requirement to sign the disclosure statement described in paragraph e above. The disclosure statement shall include language equivalent to the following: "We, (*name of firm*), do hereby certify that we have no financial or other interests in the execution or outcome of the proposed development at (*airport*)."

77. *Use of Information.*

a. CEQ 1506.5(c) specifically provides "Nothing * * * is intended to prohibit any agency from requesting any person to submit information to it or to prohibit any person from submitting information to any agency."

b. The use of information obtained in the manner set forth above may obviate the need for extensive contractual efforts in preparing an environmental impact statement. It must be cautioned, however, that any information received from the airport sponsor or others shall be used only after evaluation and acceptance of its contents by the FAA. Further, to the extent that the information represents a significant background paper, the names and qualifications of those persons primarily responsible for its preparation together with the identification of persons responsible for particular analyses shall be listed for incorporation in the list of preparers of the environmental impact statement (see paragraph 87).

78. *Preparation of a Draft Environmental Impact Statement.* As a result of the scoping process, the responsible official should have a detailed analysis of the significant issues and impacts from the various cooperating agencies and others who were assigned responsibilities as described in paragraph 75. The responsible official's task of preparing the environmental impact statement at this point involves collating the results, conducting a detailed evaluation, and adding the necessary cover sheet, summary, etc., as may be needed to compete the document and prepare it for circulation. If a contractor has been hired to prepare the environmental impact statement, the responsible official is still required to independently evaluate the statement and be responsible for its scope and contents. When in-house expertise is insufficient to evaluate independently, it may be necessary to supplement FAA expertise with either cooperating agency or independent contactor assistance. A detailed description of the environmental impact statement contents and processing of the completed document are given in Chapters 8 and 9.

79. *Reserved.*

**Chapter 8. Environmental Impact Statement Contents**

80. *Format.*

a. CEQ 1502.10 recommends a standard format, which is to be followed for Airports Program environmental impact statements, as follows: "(a) Cover Sheet. (b) Summary. (c) Table of Contents. (d) Purpose of and Need for Action. (e) Alternatives Including Proposed Action * * *. (f) Affected Environment. (g) Environmental Consequences * * *. (h) List of Preparers. (i) List of Agencies, Organizations, and Persons to Whom Copies of the Statement are Sent. (j) Index. (k) Appendices (if any)."

b. CEQ 1502.11 through 1502.18 require the inclusion of specific information in respective sections of the environmental impact statement. The following paragraphs provide additional instructions.

81. *Cover Sheet, Summary, and Table of Contents.*

a. The cover sheet shall include the information required in CEQ 1502.11 plus a heading as follows: "Department of Transportation, Federal Aviation Administration, Draft (or Final) Environmental Impact Statement. This statement is submitted for review pursuant to the following public law requirements: [List those applicable; e.g., section 102(2)(C) of the National Environmental Policy Act of 1969, section 16(c)(4) of the Airport and Airway Development Act of 1970, as

amended, section 4(f) of the Department of Transportation Act of 1966]."

b. In addition to the requirements of CEQ 1502.12, Airports Program environmental impact statement summaries shall highlight evidence in the environmental impact statement which supports required assurances and indicate mitigation measures which are proposed. The summary of the final environmental impact statement shall specify any mitigation measures which are a condition of approval and identify any monitoring to be done. In addition, the final environmental impact statement summary shall identify the environmentally preferable alternative or alternatives and the FAA's preferred alternative (in most cases, the proposed action), including reasons for these choices.

82. *Purpose of and Need for the Action.* CEQ 1502.13 states "The statement shall briefly specify the underlying purpose and need to which the agency is responding in proposing alternatives including the proposed action." Normally, the purpose and need as described in the environmental assessment will suffice for purposes of the environmental impact statement.

83. *Alternatives, Including the Proposed Action.*

a. CEQ 1502.14 states that "This section is the heart of the environmental impact statement." Further, it is to be "Based on the information and analysis presented in the sections on the Affected Environment [paragraph 84] * * * and the Environmental Consequences [paragraph 85] * * *." Paragraph 47c includes key references and extent of analysis of alternatives in the environmental assessment. During scoping, the environmental assessment shall be reviewed for those alternatives which should be dropped from further consideration. However, eliminated alternatives are to be identified in the environmental impact statement with a simple explanation of why no further investigation was necessary. Alternatives covered in the environmental assessment may require expansion of certain portions. During the scoping process (paragraph 74), those areas needing additional work shall be identified.

b. Both section 16(c)(4) of the Airport Act and section 4(f) of the DOT Act require a finding that "no feasible and prudent alternative" exists. The terms "feasible" and "prudent" are separate criteria and refer to sound engineering principles and sound judgment, respectively. A construction alternative, for example, may be feasible if, as a matter of sound engineering principles, it can be built. It may not be prudent, however, because of safety, policy, environmental, social, or economic consequences. The environmental documentation must show that no feasible and prudent alternative exists when all factors (safety, national policy, efficiency, economic, social, and environmental) are considered.

c. When section 16(c)(4) of the Airport Act is applicable, the FAA shall authorize no project under the Airport Development Aid Program involving airport location, a major runway extension, or runway location found to have an adverse effect unless he shall render a finding in writing, following a full and complete review, that no feasible and prudent alternative to the project exists and that all possible steps have been taken to minimize such adverse effect. The environmental impact statement must include sufficient information to support such a conclusion where applicable. However, the section 16(c)(4) finding is not made until the final decision on the action is rendered (see paragraph 98).

d. Project development involving section 4(f) of the DOT Act does not necessarily fall within the processing requirements of NEPA, section 102(2)(C). However, regardless of which action choice is appropriate, the documentation must contain an assessment of alternatives and evidence of planning to minimize harm to the section 4(f) land. To comply with section 4(f), it is necessary to show that a rejected alternative to a proposed action presents unique problems or that the costs or community disruption it entails reach extraordinary magnitudes. For additional guidance relative to section 4(f), see paragraphs 47e(7) and 85g.

e. A no practicable alternative finding is required for construction activity in a wetland area and for significant encroachment on a floodplain. This finding is further explained in paragraphs 47e(11)(e) and 47e(12)(g)3.

f. CEQ 1505.2 requires that an agency's record of decision specify the alternative or alternatives which were considered to be environmentally preferable. Whether an alternative is "environmentally preferable" is a matter of judgment on the part of the responsible official when considering the potential environmental impacts of the various alternatives considered.

84. *Affected Environment.* CEQ 1502.15 states that "The environmental impact statement shall succinctly describe the environment of the area(s) to be affected or created by the alternatives under consideration. The descriptions shall be no longer than is necessary to understand the effects of the alternatives. Data and analyses in a statement shall be commensurate with the importance of the impact, with less important material summarized, consolidated, or simply referenced. Agencies shall avoid useless bulk in statements and shall concentrate effort and attention on important issues. Verbose descriptions of the affected environment are themselves no measure of the adequacy of an environmental impact statement." The description of the affected environment as contained in the environmental assessment (reference paragraph 47d) will usually suffice for the environmental impact statement, unless these is a particular significant impact area for which additional data may be necessary to understand the effects.

85. *Environmental Consequences.* Per CEQ 1502.16, "This section forms the scientific and analytic basis for the comparisons under section 1502.14 [alternatives, as described in paragraph 83 above]. It shall consolidate the discussions of those elements required by sections 102(2)(C) (i), (ii), (iv), and (v) of NEPA which are within the scope of the statement and as much of section 102(2)(C)(iii) [alternatives] as is necessary to support the comparisons. The discussion will include the environmental impacts of the alternatives including the proposed action, any adverse environmental effects which cannot be avoided should the proposal be implemented, the relationship between short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and any irreversible or irretrievable commitments of resources which would be involved in the proposal should it be implemented. This section should not duplicate discussions in section 1502.14. It shall include discussions of:

a. "Direct effects and their significance [reference section 1508.18 for definition of 'effects' both direct and indirect] * * *

b. "Indirect effects and their significance * * *

c. "Possible conflicts between the proposed action and the objectives of Federal, regional, State, and local (and in the case of a reservation, Indian tribe) land use plans, policies and controls for the area concerned. (See section 1506.2(d) [Elimination of duplication with State and local procedures].)

d. "The environmental effects of alternatives including the proposed action. The comparisons under section 1502.14 will be based on this discussion.

e. "Energy requirements and conservation potential of various alternatives and mitigation measures.

f. "Natural or depletable resource requirements and conservation potential of various alternatives and mitigation measures.

g. "Urban quality, historic and cultural resources, and the design of the built environment, including the reuse and conservation potential of various alternatives and mitigation measures.

h. "Means to mitigate adverse environmental impacts (if not fully covered under section 1502.14(f))."

Specific environmental impact areas to be discussed "as much as is necessary to support the comparisons [of alternatives]" are described in detail in the following subparagraphs. Impacts shall be analyzed for each alternative, including the proposed action which is treated in detail in the environmental impact statement. The draft statement shall include, under appropriate impact categories, all applicable permit or license requirements and shall indicate any known problems with obtaining them. The draft statement shall also report on the status of any special consultation required (such as consultation under the Endangered Species Act Amendments, the National Historic Preservation Act, the Fish and Wildlife Coordination Act, etc.).

a. *Noise.*

(1) Paragraph 47e(1) presents the requirements for a noise analysis and the information needed in an environmental assessment. When an initial analysis indicates that the circumstances in 47e(1)(d) are exceeded, then an additional time above threshold type analysis shall be done. Using a methodology approved by the FAA, the data shall include as a mimimum the average duration above 65 to 115 decibels (in 10 decibel intervals) for existing and planned noise sensitive areas. The data shall be presented for a 24-hour day in evening (7 p.m. to 10 p.m.) and night (10 p.m. to 7 a.m.) periods on a grid pattern not to exceed 3,000-foot intervals. Equal noise exposure contours shall be developed for each alternative (including the no action alternative) considered in detail in the environmental impact statement whenever any land use planning or noise abatement procedures are assoicated with the project. Such contours shall include at least the 65 and 75 Ldn or 65 or 75 CNEL and shall be developed using the same data base as used for the time above analysis for each reasonable alternative.

(2) The text and graphics developed for the environmental assessment shall be reviewed and refined as necessary. Aerial photographs, when available, may be very helpful in illustrating the relationship of the airport to surrounding land uses and development. When the proposal will result in an increase in noise sensitive areas or numbers of people exposed to noise impacts and is highly controversial on this basis, the analysis shall include directly or by reference discussion of potential effects of noise on hearing, communication, and sleep interference, both for outdoor and indoor activities giving appropriate consideration to the effects of construction, climate, and lifestyles. Inclusion of data on background or ambient noise levels is helpful in this regard. Selective monitoring to obtain such data is encouraged when such data is not otherwise available. Other discussion such as effects of noise on animals shall be included only to the extent relevant to the situation and based on available and reliable source data, which may be referenced.

(3) The analysis shall include noise from sources other than aircraft operations when the effects are comparable with or exceed aircraft noise. The result of any monitoring done to verify or refine noise data shall be included.

(4) Mitigation measures which are in effect or proposed, including noise abatement procedures and land acquisition, shall be described and the relationship to the proposal explained.

b. *Land Use.* When significant noise impacts occur over noise sensitive areas (e.g., residential neighborhoods; educational, health, and religious structures and sites; and outdoor recreational, cultural, and historic sites), the analysis shall include a discussion of the noise impact over each such area under various alternatives compared to existing conditions. This includes size and location of residential areas exposed to specific noise levels, numbers of people and schools affected, and such other information as may be appropriate. Any mitigation measures to be taken in addition to those associated with noise impacts or relocation, such as insulation, changes in zoning, or other land use controls, shall be discussed. The greater the degree of existing and potential impacts over noise sensitive areas, the closer attention shall be paid to the requirements of section 18(a)(4) of the Airport Act, as described in paragraph 47e(2). The development and adoption of airport noise control and land use compatibility studies may be helpful in this regard.

c. *Social Impacts.* As set forth in paragraph 47e(3), when the environmental assessment indicates the potential for significant impact because of relocation or other community disruption, additional analysis is needed in the environmental impact statement to describe the degree of impact and measures to minimize such adverse effects. If an insufficiency of available relocation housing is indicated or has engendered a high degree of controversy, a thorough analysis of efforts made to remedy the problem shall be reflected in the environmental impact statement including if necessary provision for housing of last resort as authorized by section 206(a) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. If business relocation would cause appreciable economic hardship on the community, if significant changes in employment would result directly from the action, or if community disruption is considered substantial, the environmental impact statement will include a detailed explanation of the effects and the reasons why significant impacts cannot be avoided.

d. *Induced Socioeconomic Impacts.* When the environmental assessment pursuant to paragraph 47e(4) indicates substantial induced or secondary effects directly attributable to the proposal, a detailed analysis of such effects shall be included in the environmental impact statement. As pertinent and to the extent known or predictable, such factors as effects on regional growth and development patterns, spin-off jobs created, and induced impacts on the natural environment shall be described.

e. *Air Quality.*

(1) Paragraph 47e(5) describes the requirements for air quality analyses for an environmental assessment. When the thresholds in paragraph 47e(5)(c) are exceeded or when the responsible official otherwise judges that a significant or highly controversial air quality issue exists, additional analysis shall be performed in consultation with the State air quality board, designated air quality region, and/or the EPA, as appropriate. The type of analysis required depends on the particular situation and the information needed by the State or Federal air quality officials who will be reviewing the results. If thresholds have been exceeded for a designated Nonattainment pollutant, pollution offset procedures must be taken in accordance with the EPA guidelines implementing section 173 of the Clean Air Act Amendments. Inclusion of state and Federal agencies with air quality expertise in the scoping process as cooperating agencies will be helpful in identifying other specific analyses to be undertaken such as the investigation of hot spots, monitoring, or modeling.

(2) In general, modeling can be considered to be one of two types—proportional and dispersion.

Proportional models are useful in assessment of impacts of emissions on an area or regional basis, particularly the precursor pollutants such as hydrocarbon and nitrogen oxide (which are precursors to oxidants). Proportional models may also be used to determine impacts of pollutants with local significance (carbon monoxide, nitrogen dioxide, sulfur dioxide, and particulates). Dispersion modeling is limited to pollutants with local significance. Details on appropriate use of these models may be obtained by consultation with the FAA's Office of Environment and Energy.

(3) Alternative mitigation measures may be included in detailed analyses. The air quality certification requirement for Airport Development Aid Program applications for projects involving airport location, runway location, or a major runway extension is described in paragraph 47e(5)(e).

f. *Water Quality.* Paragraph 47e(6) deals with the examination of potential water quality impacts in an environmental assessment. When the thresholds identified in paragraph 47e(6)(c) indicate the potential for significant water quality impacts, additional analysis in consultation with affected agencies will be necessary. Specific information or studies may be required by state or Federal officials with specific water quality types of jurisdiction or permit responsibility. The type of analysis required depends on the particular situation and may be determined through agreements reached during scoping. The water quality certification requirement for projects involving airport location, runway location, or a major runway extension is discussed in paragraph 47e(5)(e).

g. *Department of Transportation Act, Section 4(f).* Application of paragraph 47e(7) will identify if section 4(f) of the DOT Act is involved in the proposal. The environmental assessment will reflect the results of early consultation, including identification of the effects and acceptable mitigation measures. When the threshold in paragraph 47e(7)(f) is exceeded, the FAA shall consult with the officials having jurisdiction over the section 4(f) lands and other agencies as necessary. The environmental impact statement shall thoroughly analyze and document alternatives that would avoid the section 4(f) land and provide detailed measures to minimize harm.

h. *Historic, Architectural, Archeological, and Cultural Resources.*

(1) The initial requirements for the evaluation of historical, architectural, archeological, and cultural resources are presented in paragraph 47e(8). If the thresholds in paragraph 47e(8)(b)*4* or 47e(8)(c)*6* are exceeded, further examination is necessary as indicated below under the appropriate law to which the threshold applies. If section 4(f) is involved as determined according to the instructions in paragraph 47e(8)(d), the analysis indicated in paragraph 85g will apply if the impact on 4(f) land is significant. The DOT 4(f) section of the environmental impact statement may cross reference the historical/archeological analysis.

(a) National Historic Preservation Act of 1966, as amended.

*1* When a determination of adverse effect has been made, the consultation procedures of the Advisory Council on Historic Preservation (36 C.F.R. Part 800.4(d) shall be followed. Two weeks prior to a formal request for review to the Advisory Council the responsible official shall notify APP-600, and APP-600 shall consult with the Office of the Assistant Secretary for Policy and International Affairs. The responsible official shall submit the preliminary case report and request comments from the Council, notify the State Historic Preservation Officer, and proceed with the consultation. (If the FAA is already preparing a draft environmental impact statement because of other significant impacts, this draft statement can be submitted as the preliminary case report. Circulation of the draft statement will constitute a request for Council comments if the FAA so requests in the cover letter transmitting the draft.) The sponsor shall provide information and participate in the consultation process with and under the guidance of the FAA.

*2* The consultation process includes consideration of feasible and prudent alternatives to avoid the adverse effects on National Register or eligible property, of mitigation measures, and of accepting adverse effects. The FAA has the final judgment on whether the appropriate action choice is an environmental impact statement or a finding of no significant impact. Advice from the Advisory Council and the State Historic Preservation Officer may assist the FAA in making this judgment.

*a* If the consulting parties agree on an alternative to avoid or satisfactorily mitigate adverse effects, a memorandum of agreement shall be executed specifying how the proposed action will proceed to avoid or mitigate the adverse effects. In this case, the FAA may complete the environmental assessment by including in it the memorandum of agreement and may prepare a finding of no significant impact.

*b* If the consulting parties determine that there are no feasible and prudent alternatives that could avoid or satisfactory mitigate the adverse effects but that it is in the public interest to proceed with the proposed action, a memorandum of agreement shall be executed. This memorandum may specify recording, salvage, or other measures that shall be taken to minimize adverse effects before the proposed action proceeds. It is likely that, in this circumstance, the impact on National Register or eligible properties will be considered significant and require the preparation of an environmental impact statement.

*3* The Advisory Council on Historic Preservation may be a cooperating agency in the preparation of an environmental impact statement. Information developed for and during the consultation process will be sufficient for purposes of environmental impact statement documentation. The final impact statement shall include comments of the Advisory Council and a copy of any memorandum of agreement. (If a memorandum of agreement has been executed prior to circulation of a draft environmental impact statement, the memorandum shall be included in the draft.) Within 90 days after carrying out the terms of a memorandum of agreement, the FAA is required to report to all signatories on the actions taken.

(b) Archeological and Historic Preservation Act of 1974.

*1* When a determination of adverse effect has been made, the instructions in subparagraphs (a) *1, 2,* and *3* apply except that the Heritage Conservation and Recreation Service may be a cooperating agency for purposes of environmental impact statement preparation.

*2* If salvage is involved, the FAA may use not more than 1 percent of the Federal share of the project for this purpose except that the 1 percent limitation does not apply if the project involves $50,000 or less.

*3* If the FAA finds in the course of project construction that significant resources will be irrevocably lost or destroyed, the FAA must notify the Heritage Conservation and Recreation Service of this situation and include information relevant to the matter. The FAA then has a responsibility to take action in accordance with the Archeological and Data Preservation Act to recover, protect, and preserve such resources.

i. *Biotic Communities (including both flora and fauna).*

(1) Paragraph 47e(9) presents the requirements for the analysis of biotic community impacts and the information needed in an environmental assessment. When the initial analysis indicates that the thresholds in subparagraph (c) or (d)

are exceeded, the FAA shall make the judgment on the significance of potential impacts. The FAA will consult with the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, state or local wildlife agencies, and others as necessary in order to make this judgment.

(2) If impacts are judged to be significant, further detailed analysis may include:

(a) Use of aerial photographs and field reconnaissance to verify biotic community types and to observe wildlife or its traces.

(b) Determining the significance of various habitats proposed for removal and species that would be displaced, including the importance of flora and fauna species inhabiting the area, the range of various species, and the location of nesting and breeding areas.

(c) A more detailed analysis of other impact areas (e.g., noise, air quality, water quality, induced development) as may be necessary to determine biotic impacts.

(d) Mitigation measures.

(e) A judgment as to what extent the proposed action and its alternatives will alter ecological systems.

(3) If the proposed project affects water resources and thereby invokes the Fish and Wildlife Coordination Act, the FAA shall give full consideration to the recommendations of the Fish and Wildlife Service and the state wildlife agency and shall assure that the project plan includes such justifiable means and measures for wildlife purposes as the FAA finds should be adopted to obtain maximum overall project benefits.

(4) If significant biotic community impact relates either to use of section 4(f) lands or to endangered or threatened species, those sections of the environmental impact statement may incorporate or cross-reference the biotic community analysis as appropriate.

j. *Endangered and Threatened Species of Flora and Fauna.*

(1) Paragraph 47e(10) presents the requirements for the analysis of potential impacts on endangered and threatened species and the information needed in an environmental assessment. When the threshold in paragraph 47e(10)(c)*3* or (d)*3 is exceeded, the FAA shall forward the environmental assessment (or separate biological assessment) to the U.S. Fish and Wildlife Service or the National Marine Fisheries Service, whichever has jurisdiction, together with a request to initiate consultation under section 7(a) of the Endangered Species Act Amendments of 1978.*

(2) If the biological opinion from the Fish and Wildlife Service or the National Marine Fisheries Service concludes that the proposed action is not likely to jeopardize the continued existence of listed species or destroy or adversely modify critical habitat, the FAA may conclude that impacts are not significant. On the other hand, the biological opinion may conclude that the proposed action does pose jeopardy and may suggest reasonable and prudent alternatives to avoid jeopardizing species or adversely modifying critical habitat. In this case, if the FAA and the airport sponsor accept an alternative proposed by the Fish and Wildlife Service or the National Marine Fisheries Service or propose another alternative which proves acceptable to these Services, the FAA may also conclude that impacts are not significant.

(3) If neither of the above conditions in paragraph (2) apply, the potential impact is considered significant. In the preparation of an environmental impact statement, the FAA shall request the Fish and Wildlife Service or National Marine Fisheries Service to be a cooperating agency on the basis of its jurisdiction. Further detailed analysis may consider:

(a) Any previously unconsidered mitigation measures or project modifications which would lessen impacts so as not to jeopardize species or destroy or modify critical habitat.

(b) Whether further biological assessment would be profitable to pursue in terms of likelihood of changing the biological opinion.

(c) Whether the FAA or the airport sponsor will request an exemption under section 7(g) of the Endangered Species Act Amendments.

k. *Wetlands.*

(1) Paragraph 47e(11) presents the requirements for the analysis of impacts on wetlands and the information needed in the environmental assessment. When the initial analysis indicates that the applicable thresholds are exceeded or when an agency having special interest in a wetlands area indicates potential significant impacts of the proposal, the FAA shall examine all relevant factors and make the judgment on the significance of the impacts. The FAA will consult as necessary with the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, the Corps of Engineers, the EPA, and state and local natural resource and wildlife agencies in order to make this judgment. Any of these agencies may become cooperating agencies on the basis of their jurisdiction or expertise. Permitting agencies may become joint lead agencies. The FAA shall make every effort to assure that any environmental document prepared by the FAA meets the needs of permitting agencies. (Reference paragraphs 75b and 75c.)

(2) If impacts are judged to be significant, further detailed analysis shall include the following as applicable to the proposal:

(a) Considerations specified in Executive Order 11990, Protection of Wetlands:

*1* "public health, safety, and welfare, including water supply, quality, recharge and discharge; pollution; flood and storm hazards; and sediment and erosion;"

*2* "maintenance of natural systems, including conservation and long term productivity of existing flora and fauna, species and habitat diversity and stability, hydrologic utility, fish, wildlife, timber, and food and fiber resources;"

*3* "other uses of wetlands in the public interest, including recreational, scientific, and cultural uses."

(b) An opinion, based on the above considerations, of the proposal's overall effect on the survival and quality of the wetlands.

(c) Aeronautical safety, transportation objectives, economics, and other factors bearing on the problem.

(d) Further consideration of the practicability of any alternatives.

(e) Inclusion of all practicable measures to minimize harm.

(3) Pursuant to the Fish and Wildlife Coordination Act, the FAA shall apply the instructions contained in paragraph 85i above.

(4) If a state Coastal Zone Management Program or section 4(f) of the DOT Act are significantly involved, the instructions under paragraphs 85m and 85g respectively, are to be followed.

1. *Floodplains.*

(1) Paragraph 47e(12) presents the requirements for the analysis of impacts on floodplains and the information needed in the environmental assessment. When the initial analysis indicates that the applicable thresholds established in paragraph 47e(12)(d) or 47e(12)(j) are exceeded, the FAA shall prepare an environmental impact statement. Federal, state, or local agencies with floodplain jurisdiction and expertise may become cooperating agencies.

(2) Further analysis shall include the following as applicable to the proposal:

(a) A more detailed analysis of other impact areas (e.g., water quality, induced development, construction impacts) as may be necessary to determine more precisely the impacts on the natural and beneficial floodplain values, including alterations to the present flood storage volume and flooding cycle.

(b) A more detailed assessment of the risk to human life and potential future damage to the transportation facility or other property within the floodplain.

(c) Aeronautical safety, transportation objectives, economics, and other factors bearing on the problem.

(d) Further consideration of the practicability of any alternatives.

(e) Inclusion of all practicable measures to minimize harm and to restore and preserve the natural and beneficial floodplain values affected. Commitments to later compliance with special flood related design criteria or the imposition, in advance, of protective conditions may be warranted in some situations.

(f) Evidence that the action conforms to applicable state and/or local floodplain protection standards.

m. *Coastal Zone Management Program:*

(1) The procedures for determining consistency with approved state coastal zone management programs are outlined in paragraph 47e(13). If a state which has such a program raises an objection based on inconsistency of the proposed action with its program, FAA shall not approve such action unless the objection is satisfied or successfully appealed by the sponsor to the Secretary of Commerce. The process will normally be completed prior to a determination by the FAA whether or not an environmental impact statement is needed for the proposal. If any issues remain that have not been resolved regarding the relationship of the action to an approved coastal zone management program, such issues shall be identified in the scoping process and resolved in the environmental impact statement. In this situation, the state coastal zone management agency shall be invited to participate in the scoping process.

(2) If there is no approved state program for a coastal area and there appear to be significant impacts per paragraph 47e(13)(a), the FAA shall consult as necessary with state and Federal agencies with jurisdiction and expertise to determine any additional needs for detailed coastal and marine studies.

n. *Prime and Unique Farmland.*—If upon review of the environmental assessment the local USDA office finds that potential significant environmental impacts exist according to the threshold established in paragraph 47e(14)(c), additional analysis is needed in the environmental impact statement. The FAA shall ask USDA to be a cooperating agency. The analysis may evaluate the impacts on agricultural production in the area, any disruption of the farming community either as a direct result of construction or by changes in land use associated with the action, and measures to minimize the harm. Such measures may include adjustment in the action to reduce the amount of prime or unique farmland taken out of production or retaining as much of the land as possible for agricultural use by incorporation into compatible land use plans.

o. *Energy Supply and Natural Resources.*—Additional analysis in an environmental impact statement is needed if the examination as described in paragraph 47e(15) indicates that the thresholds are exceeded. Such analysis shall include additional detail as needed to fully explain the degree of the problem and measures to be taken to minimize the impact. Measures such as more efficient airfield design, ground access improvements, or energy efficient building design shall be considered and described where applicable and incorporated in the action to the extent possible. The Department of Energy may be a cooperating agency and be of assistance in determining additional specific analysis needed and in judging the seriousness of impacts.

p. *Light Emissions.*—The description of potential annoyance from airport lighting and measures to minimize the effects as contained in an environmental assessment per paragraph 47e(16) will usually be sufficient for an environmental impact statement, in which case no further analysis is necessary. Further consideration may concentrate on previously unconsidered mitigation measures and alternatives. It is possible that the responsible FAA official will judge that a special lighting study is warranted.

q. *Solid Waste Impacts.*—The information in the environmental assessment as discussed in paragraph 47e(18) will usually be sufficient to describe any solid waste impacts related to the action. Only if significant problems are anticipated with respect to meeting any applicable local, state, or Federal regulations on solid waste management will any additional information or analysis be needed. Additional data may include results of any further consultation with affected agencies and measures to be taken to minimize the impacts. Disposal which would adversely affect water quality or other impact categories may be discussed under those categories or appropriately cross-referenced.

r. *Construction Impacts.*—The environmental assessment shall usually contain sufficient discussion of construction impacts, per paragraph 47e(19), to obviate the need for any further information in an environmental impact statement. In an unusual circumstance where a construction impact would create significant consequences which cannot be mitigated, a more thorough discussion is needed, including the results of contacts with those agencies which have concerns and the reasons why such impacts cannot be avoided or minimized to insignificant levels.

s. *Design, Art, and Architectural Application:*

(1) The environmental assessment will normally include appropriate discussion of the application of design, art, and architecture in mitigating adverse visual and other environmental impacts and encouraging enhancement of the environment. In this context, the determination of "significant" impacts in this category sufficient of itself to require preparation of an environmental impact statement is usually not relevant nor is there need for more extensive detailed analysis in an environmental impact statement. The environmental assessment shall be reviewed, however, to assure that appropriate consideration has been given as discussed in paragraph 41b.

(2) FAA can encourage but cannot impose application of design, art, and architectural principles on an airport sponsor. Therefore, if additional information or analysis is needed in an environmental impact statement, it shall be discussed with and agreed upon by the sponsor. It should be noted that extensive detailed design concepts are not usually developed until after the environmental action has been completed. FAA Order 5100.35, Design, Art, and Architecture in Airport Development, prescribes guidelines for treating and promoting design, art, and architectural objectives in Airport Development Aid Program projects.

86. *Adverse Impacts Which Cannot Be Avoided, Short Term Uses and Long Term Productivity, and Irreversible and Irretrievable Commitments of Resources.*—These subjects shall be covered under the heading "Environmental consequences" in the environmental impact statement and need not be repeated in separate sections. The various impact categories described in paragraph 85 shall normally include and identify those adverse impacts which cannot be avoided. These discussions shall also examine, as applicable, the extent to which the proposal involves tradeoffs between short term environmental gains at the expense of long term losses or long term gains at the expense of short term losses and the extent to which the proposal forecloses or broadens future

options. The extent to which the proposal would irreversibly and irretrievably curtail the range of beneficial uses of the environment shall be identified where significant. If new, unusual, or limited sources or types of materials are involved in a project, a quantitative estimate and description shall be included. Normally, labor and materials required to accomplish an airport development project do not significantly curtail the range of beneficial uses of the environment. Depletion of materials in short supply or significant irreversible changes in natural and cultural resources shall be covered.

87. *List of Preparers, List of Parties to Whom Sent:*

a. CEQ 1502.17 requires that "The environmental impact statement shall list the names, together with their qualifications (expertise, experience, professional disciplines), of the persons who were primarily responsible for preparing the environmental impact statement or significant background papers, including basic components of the statement . . . Where possible the persons who are responsible for a particular analysis, including analyses in background papers, shall be identified. Normally the list will not exceed two pages."

b. CEQ 1506.5(a) states "If an agency requires an applicant to submit environmental information for possible use by the agency in preparing an environmental impact statement then . . . the agency shall independently evaluate the information submitted and shall be responsible for its accuracy. If the agency chooses to use the information submitted by the applicant in the environmental impact statement, either directly or by reference, then the names of the persons responsible for the independent evaluation shall be included in the list of preparers."

c. CEQ 1506.5(c) states with regard to environmental impact statements: "If the document is prepared by contract, the responsible Federal official . . . shall independently evaluate the statement prior to its approval and take responsibility for its scope and contents." The names of the persons responsible for the independent evaluation shall be included in the list of preparers.

d. A list of agencies and organizations and persons to whom copies of the statement have been sent shall also be included.

88. *Index and Appendices:*

a. An index shall be included at the end of an environmental impact statement to assist the reader and facilitate review.

b. When an appendix is used, CEQ 1502.18 requires that it: "(a) Consist of material prepared in connection with an environmental impact statement (as distinct from material which is not so prepared and which is incorporated by reference. . . . (b) Normally consist of material which substantiates any analysis fundamental to the impact statement. (c) Normally be analytic and relevant to the decision to be made. (d) Be circulated with the environmental impact statement or be readily available on request."

89. *Miscellaneous.*—CEQ 1502.21, .22, and .24 discuss in detail "incorporation by reference," "Incomplete or unavailable information," and "Methodology and scientific accuracy," respectively. These sections should be reviewed for appropriate treatment of these instructions in an environmental impact statement.

**Chapter 9. Environmental Impact Statement Processing**

90. *General:*

a. This chapter applies to proposed Federal actions requiring an environmental impact statement. The process for an environmental impact statement is shown in steps 30 through 46 of Appendix 1.

b. Environmental impact statements shall be reviewed by affected FAA program divisions and staff officers at the regional level prior to filing or public review. This internal review is to assure that related foreseeable agency actions by other FAA elements are properly covered in the draft statement and are coordinated with the appropriate action office so that commitments which are the responsibility of other divisions or offices will be carried out.

c. For adoption of another agency's environmental impact statement, refer to CEQ 1506.3.

91. *Distribution for Federal Review of Draft Environmental Impact Statements.*—The FAA region or airports district office shall distribute the draft environmental impact statement, per steps 30 through 35 of Appendix 1, as follows:

a. *Distribution for Headquarters Review.*—Five copies of the draft environmental impact statement, including the A-95 comments and the summary sheet, are to be forwarded to the Office of Airport Planning and Programming, APP-600, which shall be responsible for further distribution within the FAA and the Office of the Secretary of Transportation.

b. *Distribution and Coordination for Intergovernmental Review:*

(1) Per CEQ 1503.1, comments on the draft environmental impact statement shall be obtained from or requested of appropriate Federal, state, and local agencies including affected local jurisdictions.

(2) Federal agencies with jurisdiction by law or special expertise shall be asked to comment.

(3) For instructions on circulation of the summary in lieu of the full environmental impact statement, see CEQ 1502.19.

(4) Draft statements shall be coordinated with the appropriate regional offices of other Federal agencies having jurisdiction by law or special expertise except that statements to be coordinated with any component of DOI, DOC, or the Department of Energy (DOE) shall be sent directly to their Washington headquarters at the following address:

(a) Assistant Secretary—Program Policy, Attention: Director, Environmental Project Review, U.S. Department of the Interior, Washington, D.C. 20240.

(b) Office of the Deputy Assistant Secretary for Environmental Affairs, U.S. Department of Commerce, Washington, D.C. 20230.

(c) Division of NEPA Affairs, Department of Energy, Room 4G064, 1000 Independence Avenue, S.W., Washington, D.C. 20585 (only for airport actions having major energy-related consequences).

(5) Agencies will normally receive one copy of the draft environmental impact statement except as follows:

(a) Five copies of draft statements shall be sent to the appropriate regional office of the EPA.

(b) DOI shall receive:

*1* Twelve copies (seven of the final) for projects in each state except those listed in *2* and *3* below.

*2* Thirteen copies (eight of the final) for the projects in North and South Dakota, Nebraska, Kansas, Oklahoma, and Texas.

*3* Fourteen copies (nine of the final) for projects in Alaska, Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

(6) One copy of draft statements on air carrier airports shall be sent to: Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20420.

c. *Availability to the Public.*—The draft environmental impact statement shall be made available for public review per CEQ 1506.6. Notices of availability shall specifically identify the person in the FAA to contact for status or other information on the environmental impact statement. Normally, this person will be the same

as the one listed on the cover sheet per CEQ 1502.11(c) (also see paragraph 81a).

d. *Filing with EPA.*—The draft environmental impact statement shall be filed with EPA per CEQ 1506.9. The EPA will subsequently publish a notice in the **Federal Register** per CEQ 1506.10 which will begin the 90-day period after which the Federal action can be taken. Five copies of the draft statement shall be sent to: Office of Environmental Review, EIS Filing Section (A–104), U.S. Environmental Protection Agency, Room 2119, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460 (Telephone: (202) 245–3006).

e. *Establishing Time Limits.*—Pursuant to CEQ 1506.10(c), in seeking comments FAA regional airports divisions may establish a time limit of not less than 45 days from publication of the notice by EPA per d above and receipt by other gencies for reply after which, if no comments are received, it may be presumed that the agency consulted has no comments to make. Fifteen-day extensions will normally be granted when requested by other agencies. When DOT section 4(f) is involved, a 60-day review period is normally required by DOI. Time limits shall take into account the magnitude and complexity of the statement and degree of public interest in the proposal.

92. *Comments on the Draft Environmental Impact Statement:*

a. CEQ 1503.3 addresses specificity of comments. If the responsible official considers that the comments received by a commenting agency have not been made in accordance with the intent of this section, consultation with that agency may be undertaken to rectify discrepancies.

b. It is expected that the extent of comments on the draft will be reduced commensurate with the degree of involvement of the commenting agencies in the scoping process. Problems raised by commenting agencies in the draft review which were thought to have been resolved during scoping may be discussed with or assigned to those agencies for resolution.

c. Comments from EPA are categorized by impact and statement adequacy according to the following criteria:

(1) The impact is rated by EPA as: LO—Lack of Objections, ER—Environmental Reservations, or EU—Environmentally Unsatisfactory.

(2) The statement adequacy is categorized by EPA as: 1—Adequate, 2—Insufficient Information, or 3—Inadequate.

93. *Recirculation of the Draft.*—CEQ 1502.9(a) instructs that "If a draft statement is so inadequate as to preclude meaningful analysis, the agency shall prepare and circulate a revised draft of the appropriate portion. The agency shall make every effort to disclose and discuss at appropriate points in the draft statement all major points of view on the environmental impacts of the alternatives including the proposed action.

94. *Preparation and Review of Final Environmental Impact Statements:*

a. Final environmental impact statements shall be prepared in accordance with CEQ 1503.4 (step 36 in Appendix 1). The contents of a final environmental impact statement shall be those described for the environmental assessment in paragraph 47 as expanded and elaborated on during the more detailed analyses of significant issues, as discussed in paragraphs 80 through 86, and as revised following review of the draft statement. The final statement shall contain a concise status report (which may be included in the summary or an appendix) on the compliance or anticipated compliance with permit or license requirements.

b. The environmental impact statement shall include evidence and required consultation to support any assurances if applicable to the Federal action. The assurances themselves will not be made until the record of decision.

(1) For all airport development there shall be evidence to support the following Airport Development Aid Program grant assurances as required by the Airport Act.

(a) The project is reasonably consistent with existing plans of planning agencies for development of the area (section 16(c)(1)(A));

(b) Fair consideration has been given to the interest of communities in or near the project location (section 16(c)(3));

(c) Appropriate action has been or will be taken to restrict, to the extent reasonable, the use of land in the vicinity of the airport to purposes compatible with airport operations (section 18(a)(4));

(d) Appropriate air and water quality certificates have been or will be obtained (section 16(e)) for projects involving airport location, runway location, or a major runway extension.

(2) For actions involving an airport location, runway location, or major runway extension pursuant to section 16(c)(4) of the Airport Act and found to have an adverse effect, there shall be evidence to support a conclusion that:

(a) There is no feasible and prudent alternative, and

(b) All possible steps have been taken to minimze adverse effects.

(3) For actions involving the use of lands subject to section 4(f) of the DOT Act, there shall be evidence to support a conclusion that:

(a) There is no feasible and prudent alternative to the use of such land, and

(b) The project includes all possible planning to minimize harm to such lands resulting from such use.

(4) For actions involving the displacement and relocation of people, there shall be evidence to support assurances that:

(a) Fair and reasonable relocation payments and assistance have been or will be provided pursuant to provisions in Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(b) Comparable decent, safe, and sanitary dwellings available on an open occupancy basis are on the market or will be built if necessary prior to actual displacement.

(5) For actions involving new construction directly or indirectly affecting wetlands, there shall be evidence to support assurances that:

(a) There is no practicable alternative to such construction, and

(b) The proposed action includes all practicable measures to minimize harm to wetlands which may result from such use.

(6) For actions involving a significant encroachment on a floodplain, there shall be evidence to support assurances that:

(a) There is no practicable alternative, and

(b) The action conforms to applicable state and/or local floodplain protection standards.

(7) For actions within or affecting land or water uses in an area covered by an approved state coastal zone management program, there shall be evidence to support an assurance that the action is consistent with the approved state coastal zone management program to the fullest extent practicable. (If the action is determined to be inconsistent with the state's approved program, the Federal agency shall not approve the action except upon a finding by the Secretary of Commerce that the proposed action is consistent with the purposes or objectives of the Coastal Zone Management Act or necessary in the interest of national security.)

c. CEQ 1504 establishes procedures for "environmental referrals" to CEQ by Federal agencies with disagreements on the environmental effects of a proposal. When a notice of intended referral has been received on an Airports Program environmental impact statement, a copy of the notice shall be forwarded to APP–600 which will advise P–1. Every effort shall be made to resolve the issues prior

to processing the final environmental impact statement. Resolution of issues shall be documented in the final statement. Notification in writing to the FAA from the referring agency indicating that its objections have been resolved shall be obtained to ovviate the requirement for concurrence in the final statement by P–1.

95. Approval of Final Environmental Impact Statements:

a. *Delegation to FAA.*—Final approval authority on environmental impact statements for airport actions has been delegated to the FAA but subject to prior concurrence by the Assistant Secretary for Policy and International Affairs, P–1, for the following categories of actions (Any actions identified in (1) through (5) below which involve DOT section 4(f) also require concurrence by the DOT General Counsel.):

(1) Any new airport serving a metropolitan area (construed as a standard metropolitan statistical area unless specifically directed otherwise).

(2) Any new runway or runway extension for an airport, any part of which is located in a standard metropolitan statistical area and is either certificated under section 612 of the Federal Aviation Act of 1958, as amended, or used by large aircraft (except helicopters) of commercial operators.

(3) Any action to which a Federal, state, or local government agency has expressed opposition on environmental grounds.

(4) Any action for which the Assistant Secretary for Policy and International Affairs requests an opportunity to review and concur in the final statement or for which FAA requests such review and concurrence by that office.

(5) Any action for which a notice of intended referral to CEQ has been received from another agency per CEQ 1504 and the objections have not been resolved (see paragraph 94c).

b. *Draft Record of Decision.*—P–1 requires that a draft record of decision accompany, but not be part of, any final statement sent through that office for concurrence. This draft record of decision is for environmental review purposes only and does not constitute a review by P–1 of the Airports Program's project or funding decision. This draft record of decision shall state what the FAA's preferred alternative is, include the information specified in CEQ 1505.2 (b) and (c), indicate what environmental commitments (if any) are to be included as a condition for a favorable decision on the preferred alternative and how these will be implemented (e.g., special condition in grant agreement, property conveyance deed, plans and specifications), and incorporate proposed applicable assurances. The draft record of decision need not include project or funding information which is not relative to environmental approval.

c. *Airports Program Approval Authority:*

(1) The Associate Administrator for Airports has final impact statement approval authority for any action in the categories specified in paragraph 95a, subject to prior review for legal sufficiency by the Chief Counsel and concurrence by the Assistant Secretary for Policy and International Affairs.

(2) The Assistant Secretary may determine, after review of a draft statement, that a final statement on an action covered by paragraph 95a can be processed without prior concurrence by that office. In such case, the approval authority by the Associate Administrator for Airports may be delegated to the region on a case-by-case basis.

(3) Those actions in (2) above for which the Associate Administrator for Airports has delegated approval authority and all other environmental impact statements may be approved by the regional director or his designee. Approval may be given after review for legal sufficiency by regional counsel and subject to prior concurrence by the Director, Office of Airport Planning and Programming, and the Chief Counsel, when such concurrence is deemed necessary upon headquarters' review of the draft statement or when requested by the regional director. All actions involving section 4(f) of the DOT Act are subject to review for legal sufficiency by Chief Counsel in headquarters (steps 37 through 45, Appendix 1).

d. *Headquarters Review:*

(1) When final approval of an environmental statement is retained in headquarters, the headquarters coordination is initiated when statements are received in the Office of Airport Planning and Programming. Copies are forwarded by APP–600 to the Office of the Chief Counsel for review for legal sufficiency, and then to appropriate elements of the Office of the Secretary of Transportation when required for review and concurrence, with a request for response within 15 to 30 days, depending upon the complexity of the statement. During headquarters review, the statement is revised as necessary or information added. The statement, with any comment, is then submitted to the Associate Administrator for Airports for approval (steps 38 through 41, Appendix 1).

(2) When approval authority is delegated to the regional director and concurrence by headquarters is requested, two copies are to be forwarded to APP–600 for action (step 44, Appendix 1).

e. *Approval.*—As the mechanism for approval of a final statement, a declaration approximately as follows shall be added to the summary. Signature and date blocks shall be added for the concurrence of appropriate offices and approval or disapproval of the approving official (step 41 or 45, Appendix 1).

"After careful and thorough consideration of the facts contained herein and following consideration of the views of those Federal agencies having jurisdiction by law or special expertise with respect to the environmental impacts described, the undersigned finds that the proposed Federal action is consistent with existing national environmental policies and objectives as set forth in section 101(a) of the National Environmental Policy Act of 1969."

96. Notification and Distribution of Approved Final Environmental Impact Statement:

a. *General.* Distribution by the region or airports district office of approved final statements to EPA, other agencies and organizations, and the public shall, insofar as possible, be simultaneous so as to avoid unnecessary inquiries and insure that all interested parties have a fair opportunity to review the documentation (step 46, Appendix 1). If there have been only minor changes to the draft, the procedure in CEQ 1503.4(c) may be used for circulation of less than the entire document. The region shall notify APP–600 when distribution has been completed.

b. *Distribution to EPA.*—The FAA regional office preparing the final environmental impact statement shall forward to the appropriate EPA regional office one copy of the final statement if it was categorized LO–1. Otherwise, five copies shall be sent to EPA. In the event that EPA has comments on a final impact statement, the FAA regional office shall make every reasonable effort to resolve any conflicting issues. If the issues cannot be resolved, the matter shall be referred to APP–600.

c. *Distribution to the Office of Environment and Energy.*—The region shall send one copy to AEE–1 for information and for ultimate transmission to the DOT library.

d. *Distribution to the Civil Aeronautics Board.*—The region shall send one copy of statements for air carrier airports to the CAB address listed in paragraph 91a(6) for information.

e. *Distribution to DOI.*—The region shall send to the DOI address listed in

paragraph 91a(4)(a) the number of copies listed in paragraph 91a(5)(b).

f. *Other Distribution by the Region.*—A copy of the final environmental impact statement shall also be sent to each Federal, state, and local agency and private organization which made substantive comments on the draft statement and to individuals who requested a copy of the final statement or who made substantive comments on the draft. The sponsor shall also be sent a copy as well as the appropriate state and areawide clearinghouses unless otherwise designated by the governor. A copy of the approved final statement shall be sent to APP–600 for information unless APP–600 has retained a copy when approved by the Associate Administrator for Airports. When the number of commentors is such that distribution in this manner is impractical, alternative arrangements shall be made after consultation with EPA and DOT, through APP–600.

g. *Availability to the Public:*

(1) Additional copies shall also be made available by the region to the public for review by distribution to appropriate locations accessible to the general public.

(2) The availability of the final statement shall be announced by the region in the appropriate local media in a manner similar to the announcement method for the draft environmental impact statement.

h. *Filing with EPA.*—The region shall distribute to EPA the required five copies of the final statement for **Federal Register** notification. The region shall forward the copies directly to the address listed in paragraph 91d. A copy of the transmittal to EPA shall be forwarded to APP–600 for record purposes.

i. *Timing of Decision.*—In accordance with CEQ 1506.10(b) "No decision on the proposed action shall be made or recorded [see paragraph 98] . . . until the later of the following dates: (1) Ninety (90) days after publication of the notice described above [by EPA per paragraph 91d] . . . for a draft environmental impact statement. (2) Thirty (30) days after publication of the notice described above [by EPA per paragraph 96h above] . . . for a final environmental impact statement."

j. *Comments Before Decision.*—CEQ 1503.1(b) provides that "An agency may request comments on a final environmental impact statement before the decision is finally made. In any case other agencies or persons may make comments before the final decision.. . ."

97. *Other Availability of Final Statements.*—In addition to the availability and distribution of approved final environmental impact statements, final statements proposed for approval shall normally be made available upon request in FAA offices for inspection by the public and by Federal, state, or local agencies prior to final approval and filing with EPA. Such statements shall carry a notation that they have not been approved and filed.

98. *Decision:*

a. Following the review periods prescribed in CEQ 1506.10, the FAA decisionmaker may make a decision on the Federal action (see steps 47 through 53 of Appendix 1). The environmental impact statement and other environmental documents shall be included in the administrative record and made available to the decisionmaker. CEQ 1505.2 requires a record of this decision and specifies information to be included in the record of decision. CEQ 1505.2(b) states "An agency may discuss preferences among alternatives based on relevant factors including economic and technical considerations and agency statutory missions." The Airports Program's statutory mission is to promote the development of a safe and efficient nationwide airport system adequate to meet the current and projected growth in aviation, and this mission is to be given appropriate weight in any final decision on an action. Based upon the data presented in the environmental impact statement and other relevant considerations, the record of decision shall also include the appropriate assurances, conclusions, or findings as delineated in paragraph 94b.

b. The record of decision shall include any mitigation measures which were made a condition of the approval of the environmental impact statement. Proposed changes in or deletions of mitigation measures which were a condition of approval of the environmental impact statement shall be reviewed by the same FAA offices which reviewed the final statement and must be approved by the environmental impact statement approving official.

c. If the decisionmaker wishes to take an action which was included within the range of alternatives of an approved environmental impact statement but was not the agency's preferred alternative as identified in the final statement, the decisionmaker shall first coordinate a new draft record of decision for concurrence with the same FAA and DOT offices whose concurrence was required for approval of the final statement. These offices may concur without comment, may concur on the condition that specific mitigation measures be incorporated in the record of decision, may request that a supplement to the environmental impact statement be prepared and circulated, or may nonconcur. The decisionmaker shall not approve the Federal action over a nonconcurrence.

d. If the alternative the decisionmaker now wishes to take action on involves a special interest (e.g., section 4(f) land, endangered species, wetlands, historic sites, or others), the FAA shall first complete any required evaluation and consultation that has not been done, supplementing the original environmental impact statement, prior to taking the action. Supplements to environmental impact statements shall be reviewed and approved in the same manner as the original document.

99. *Implementation of Environmental Commitments:*

a. In accordance with CEQ 1505.3, "Mitigation . . . and other conditions established in the environmental impact statement or during its review and committed as part of the decision shall be implemented by the lead agency or other appropriate consenting agency." This section of the CEQ Regulations further specifies actions which the lead agency shall take to implement environmental commitments. The FAA shall take steps as appropriate to the action, through special conditions in grant agreements, airport location approvals, property conveyance deeds, releases, airport layout plan approvals, and contract plans and specifications and shall monitor these as necessary to assure that representations made in the environmental documentation with respect to mitigation of impacts will be carrier out.

b. Generally, the following guidelines apply to the inclusion of special environmental assurances in grant agreements, property conveyance deeds, releases, and airport layout plan approvals:

(1) Include actions or commitments by the airport sponsor, if any, which are critical to the decision.

(2) Include significant measures for mitigation of adverse impacts.

(3) Include actions to be taken by the sponsor to identify mitigating measures or to encourage others to take mitigating measures.

(4) Include special commitments to ensure compatibility of the airport with the surrounding area.

(5) Do not include in grant agreements standard items that are incorporated in project plans and specifications.

(6) Do not include assurances which are found to derogate safety. APP–600 shall be contacted to discuss disposition of any previously approved environmental commitments which appear to fall into this category.

c. Any significant deviation from prescribed action that may reduce protection to the environment must be submitted through APP-600 to P-1 for concurrence if the approved statement was concurred in by P-1.

**Chapter 10. Tiering, Time Limitations, Written Reevaluations, Supplements**

100. *General.*—After a draft or final environmental impact statement or a finding of no significant impact has been prepared, there are circumstances which involve further environmental documentation. These are discussed in the following paragraphs.

101. Tiering:

a. Tiering is defined in CEQ 1508.28 and further discussed in CEQ 1500.4(i), 1502.4(d), and 1502.20. CEQ 1508.28 states that tiering is appropriate when the sequence of analyses is:

(1) "From a program, plan, or policy environmental impact statement to a program, plan, or policy statement or analysis of lesser scope or to a site-specific statement or analysis."

(2) "From an environmental impact statement on a specific action at an early stage (such as need and site selection) to a supplement (which is preferred) or a subsequent statement or analysis at a later stage (such as environmental mitigation). Tiering in such cases is appropriate when it helps the lead agency to focus on the issues which are ripe for decision and exclude from consideration issues already decided or not yet ripe."

b. In the Airports Program, tiering is most applicable in the circumstances listed below. Care must be exercised when tiering not to separate actions which are functionally related and have no independent utility.

(1) Program statements (as for new legislation or a new National Airport System Plan) followed by site specific statements as required.

(2) Environmental documents resulting from master planning covering specific short term projects, in a long term development context, to be followed at a later time when further specific projects become ripe for decision.

(3) Environmental documents for airport location approvals to be followed at a later time by specific development projects as the need develops. The subsequent environmental analysis or statement will then focus on the development which is proposed for decision and exclude from consideration the issue of airport location (including other airport sites as reasonable alternatives to the proposed action) since this has already been decided.

(4) Environmental documents for airport layout plan approvals (see paragraph 30). Tiering for airport layout plan approvals may work in either of two ways:

(a) All of the development on an airport layout plan may be environmentally approved (i.e., an unconditionally approved airport layout plan) if appropriate analyses have been completed and applicable assurances (such as for DOT section 4(f), relocation, wetlands, floodplains, coastal zone management programs) can be made. The appropriate environmental action choice for any future Federal actions involving development on an unconditionally approved airport layout plan would be either a written reevaluation or a supplement (see paragraphs 103 and 104, respectively). Tiering is more likely to be applied in this manner to airport layout plans which have resulted from master planning as described in subparagraph (2) above.

(b) More immediate range development shown on an airport layout plan may be environmental approved with deferral or environmental action on later stages of development because the time is not ripe for decision on these stages. This situation may occur either with or without master planning having been done. The latter method of tiering will result in conditionally approved airport layout plans. At the time that the later development is proposed for decision, a new environmental analysis or statement will be required.

c. For instructions relative to summarizing, referencing, and making available previously tiered environmental documents, see CEQ 1502.20.

102. Time Limitations for Environmental Documents:

a. The time limitations below have been established for all DOT environmental impact statements. The time limitations in subparagraph (2) apply to final environmental impact statements approved after July 30, 1979, and apply effective July 30, 1982, to final statements approved prior to July 30, 1979.

(1) A draft environmental impact statement may be assumed valid for a period of three years. If the final statement is not submitted within three years from the date of the draft statement circulation, a written reevaluation of the draft shall be prepared by the responsible Federal official to determine whether the consideration of alternatives, impacts, existing environment, and mitigation measures set forth in the draft statement remain applicable, accurate, and valid. If there have been changes in these factors which would be significant in the consideration of the proposal, a supplement to the draft statement or a new draft statement shall be prepared and circulated.

(2) With regard to approved final impact statements, four sets of conditions have been established:

(a) If major steps toward implementation of the proposed action (such as the start of construction, substantial acquisition, or relocation activities) have not commenced within three years from the date of approval of the final statement, a written reevaluation of the adequacy, accuracy, and validity of the final statement shall be prepared. If there have been significant changes in the proposed action, the affected environment, anticipated impacts, or proposed mitigation measures, a new or supplemental environmental impact statement shall be prepared and circulated.

(b) If the proposed action is to be implemented in stages or requires successive Federal approvals, a written reevaluation of the continued adequacy, accuracy, and validity of the final statement shall be made at each major approval point which occurs more than three years after approval of the final statement and a new supplemental statement prepared, if necessary.

(c) If major steps toward implementation of the proposed action have not occurred within the timeframe (if any) set forth in the final statement or, if no timeframe is set forth, within five years from the date of approval of the final statement, the written reevaluation required by (a) or (b) above shall be referred to the same concurring authority that concurred in the environmental impact statement.

(d) If the proposed action has been restrained or enjoined by court order or legislative process after approval of the final statement, the five-year period may be extended by the time equal to the duration of the injunction, restraining order, or legislative delay.

b. For Airports Program environmental actions, the above time limitations shall also apply to preliminary section 16(c)(4) findings of no significant impact which have been circulated to EPA and DOI and to final approved section 16(c)(4) findings of no significants impact.

103. Written Reevaluations.—When required by paragraphs 102a(1), a(2)(a), and a(2)(b) above, the responsible official shall prepare a written reevaluation of the continued applicability, adequacy, accuracy, and validity of a draft or final impact

statement. There is no requirement for a specific format or content, for coordination, or for publication of this written reevaluation. It shall include the name of the FAA responsible official and the date prepared and shall become part of the administrative record on the action. No further processing is required unless the written reevaluation indicates that a supplemental or new draft or final impact statement is necessary.

104. Supplements:

a. CEQ 1502.9(c) defines two circumstances requiring the preparation of supplements to draft or final impact statements, as follows:

(1) "The agency makes substantial changes in the proposed action that are relevant to environmental concerns; or

(2) "There are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts."

b. A change in the proposed action, in the environmental circumstances, or in the agency's decision (reference paragraph 98) may cause a supplement to a draft or final impact statement to be prepared soon after the original document. If a reasonable alternative which is significantly different from alternatives considered in the draft is identified, a supplement shall be prepared. A supplement is not required if the only change is the development of additional data, provided such data are not in conflict with the environmental impact statement. In other cases, a supplement may be required because the time limitation on an environmental document has been exceeded and a written evaluation has indicated that the contents of the original document are no longer applicable, adequate, accurate or valid per paragraph 102.

c. The format and contents of a supplement are not specified and are expected to vary depending on the extent of the changes. A supplement is likely to be in the form of either:

(1) A separate document which discusses the changed circumstances, identifies the parts of the original environmental document which have been affected, and presents the new data.

(2) Changes to the original environmental document in the form of new pages to replace existing pages and/or new pages to be added.

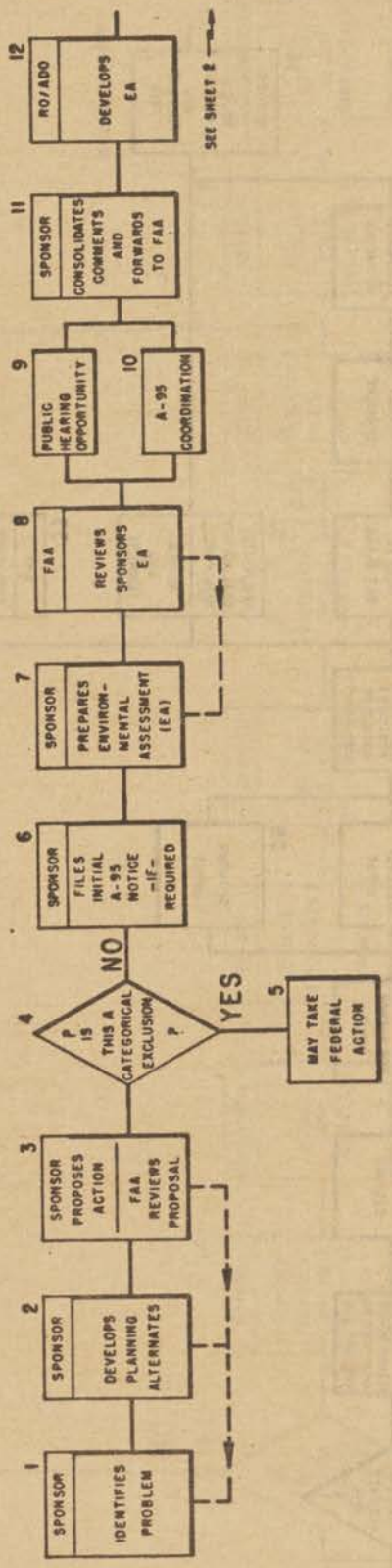
d. Supplements are subject to the same circulation and filing requirements as the original environmental document and to the same approval level (unless a new element is present which would raise the required approval level). Scoping is not required. A supplement is considered part of the documentation for decisionmaking. If a supplement changes a record of decision, a new record of decision must be issued after the required 30-day review period.

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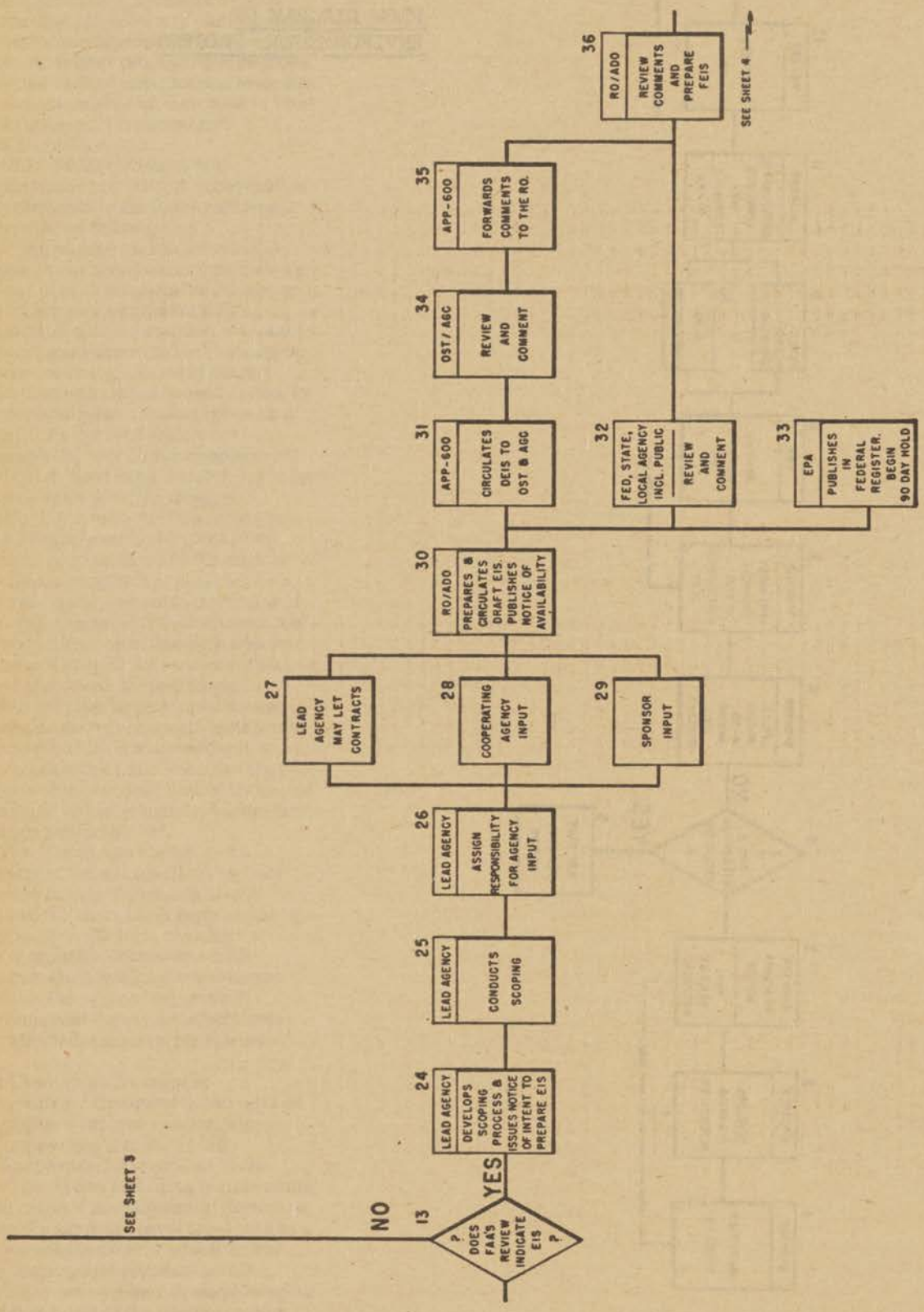
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Appendix 1

FLOW DIAGRAM OF ENVIRONMENTAL PROCESS.

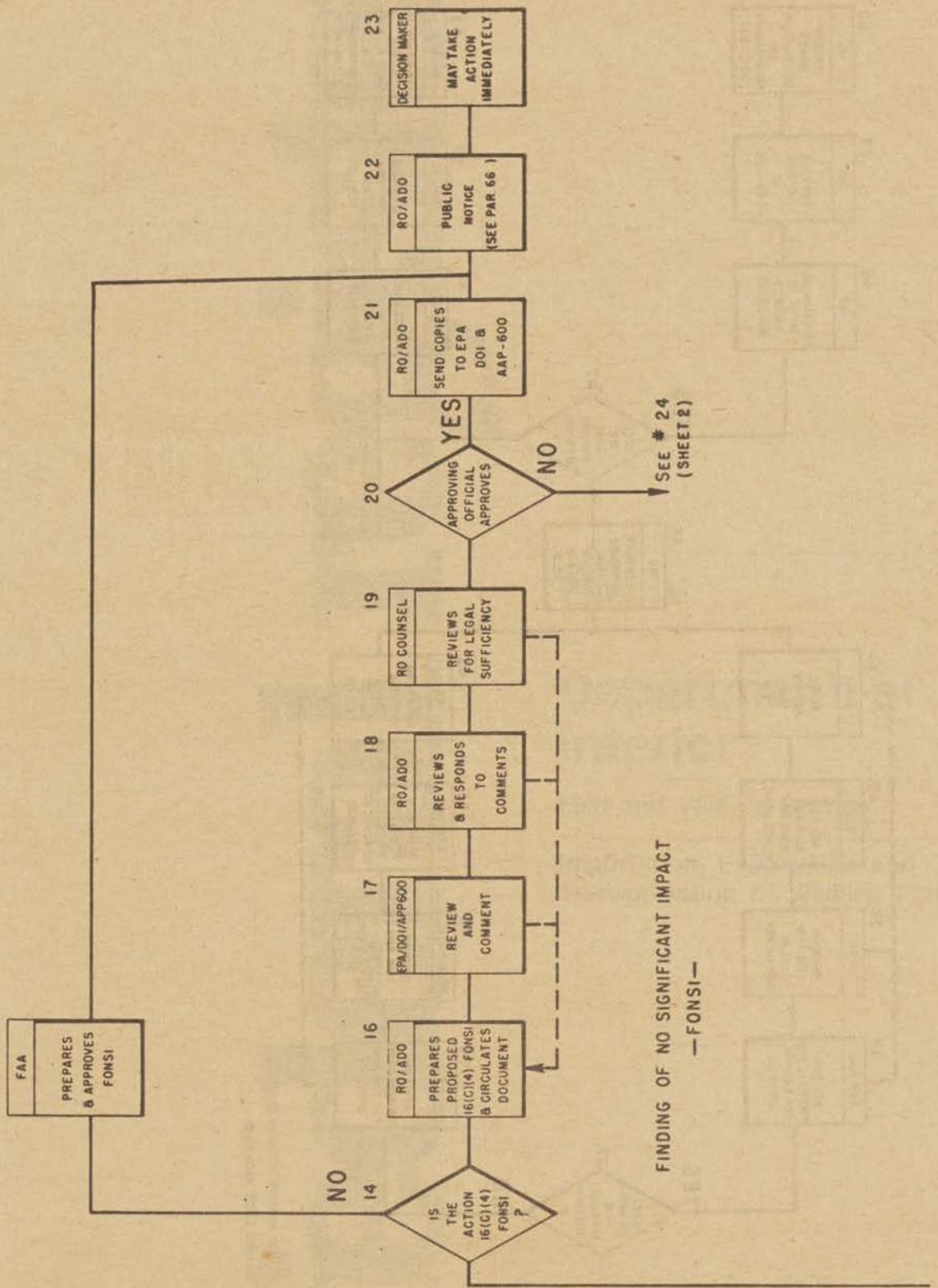


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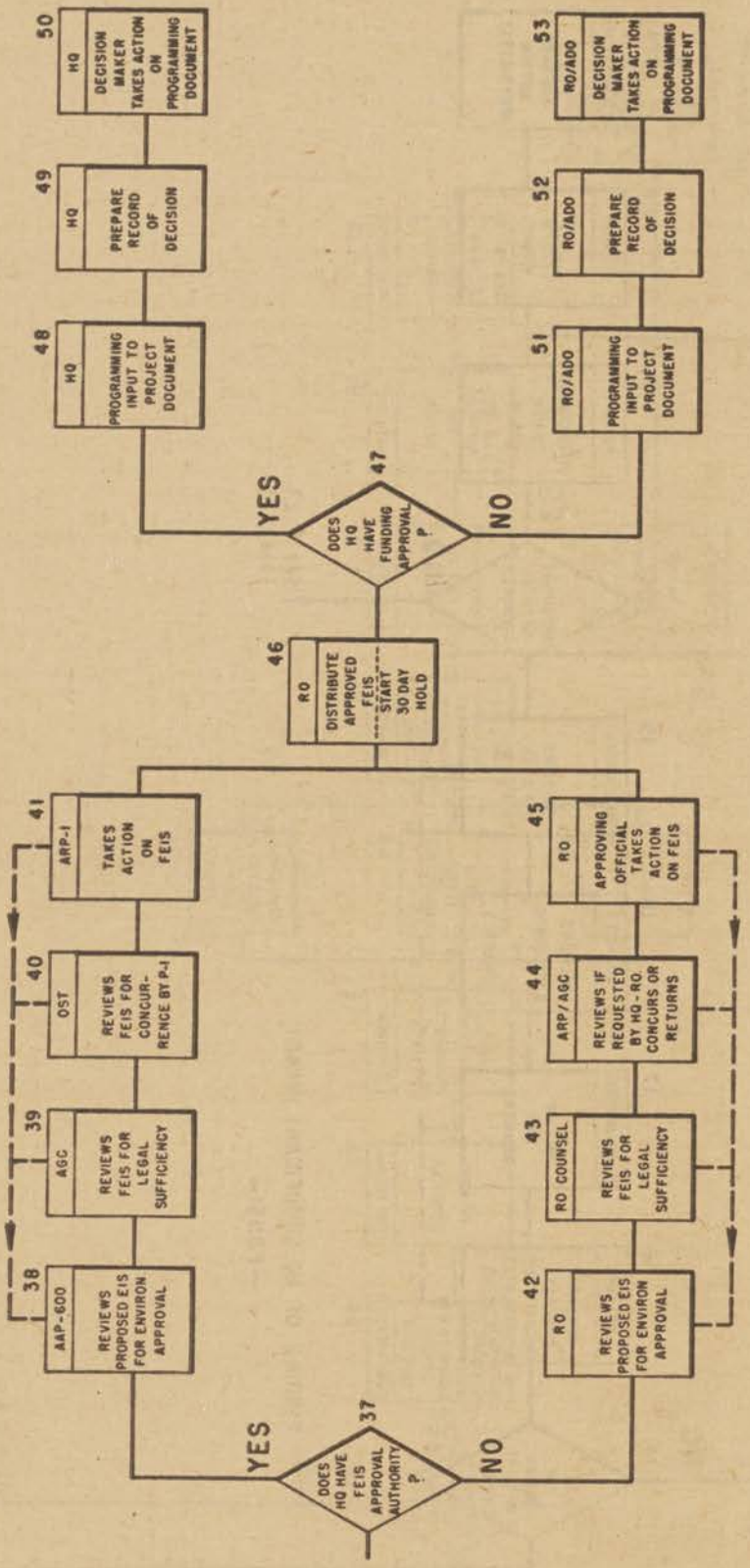
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federal register

Monday
August 25, 1980

Part IV

# Department of the Interior

## Fish and Wildlife Service

## Importation, Exportation and Transportation of Wildlife; Final Rules

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Parts 10, 13, and 14**

**Importation, Exportation and Transportation of Wildlife**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** This rulemaking implements provisions of the Endangered Species Act of 1973, the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the Lacey Act, the Black Bass Act, and other statutes administered by the Service, by amending certain regulations governing the importation, exportation, and transportation of wildlife. The temporary permission to do business granted in the **Federal Register** on March 5, 1974 (39 FR 8357), to all persons engaged in business as importers or exporters of wildlife is replaced by a licensing system which regulates all persons who import or export wildlife for grain or profit. The licensing system is intended to improve the Service's ability to monitor wildlife traffic, protect wildlife resources, and communicate with persons most affected by subsequent Service rulemakings. Controls on the exportation of wildlife, including declaration requirements, have been added to complement those in effect for the importation of wildlife. These controls, implementing obligations regarding certain wildlife exports placed on the Service by the Endangered Species Act of 1973 and the Convention, are expected to provide the Service with previously lacking information on export volume, in total and by species, and should further the Service's ability to protect wildlife resources. The definition of "fish or wildlife," the cornerstone of the regulatory scheme, has been broadened to include species not currently covered, yet remains restrictive enough to exclude domestic varieties of animals. Some ports through which certain wildlife may enter or leave the United States have been changed to coincide with actual wildlife traffic patterns, or to accommodate importers of personally owned pet birds or certain antique articles who must comply with the port of entry requirements of other Federal agencies. Finally, the container marking requirements derived from the Black Bass and Lacey Acts have been simplified.

**EFFECTIVE DATE:** September 24, 1980.

**FOR FURTHER INFORMATION CONTACT:** Mr. John T. Webb, Division of Law Enforcement, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, telephone: (202) 343–9242.

**SUPPLEMENTARY INFORMATION:**

**Background**

The Service enforces a variety of laws relating to the importation, exportation, and transportation of wildlife. Some of these laws apply only to certain species of wildlife, while others are of general applicability. Based on these laws, the Service regulates with varying emphasis the importation, exportation, and transportation of wildlife along the functional lines of wildlife transactions. This organization provides uniform rules and procedures for controlling the movement of wildlife within a comprehensive, understandable, and workable system.

The Service has reviewed these regulations which are enforced by the Service with the cooperation of the U.S. Customs Service and other Federal and State agencies. In its review, the Service found the need to resolve ambiguities, clarify requirements or procedures, or institute changes in procedures. This rulemaking is intended to accomplish these tasks.

In addition, both the Endangered Species Act of 1973 (16 U.S.C. 1531–1543, hereinafter referred to as the "ESA") and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (hereinafter referred to as the "Convention" or by the acronym CITES) obligate the United States to control the exportation of certain wildlife and plants. As a result, this rulemaking contains a general revision of regulations regarding the exportation of wildlife.

Also, section 9(d) of the ESA (16 U.S.C. 1538(d)) makes it unlawful for any person to engage in business as an importer or exporter of fish or wildlife, other than certain shellfish and fishery products, without first having obtained permission from the Secretary of the Interior. On March 5, 1974, the Service granted temporary permission to all such persons by a notice in the **Federal Register** (39 FR 8357). That notice indicated that rules for obtaining permission on a more permanent basis would be promulgated at a later date.

On March 27, 1978 (43 FR 12830–12837), the Service published a proposed rulemaking to amend its regulations pertaining to the importation, exportation, and transportation of wildlife, to meet the needs and obligations addressed above. All interested parties were invited to submit written comments which might contribute to the formulation of a final rulemaking. Additionally, in response to many requests, public hearings were held on October 6 and 12, 1978, in Denver, Colorado, and Washington, D.C., respectively, in which oral testimony was given by individuals who had requested to testify following the public hearing notice published in the **Federal Register** on August 23, 1978 (43 FR 37473). All written comments and hearing testimony have been considered in preparation of this rulemaking.

**Summary of Comments**

The comment period ran from March 27, 1978, to May 26, 1978, and was reopened on August 23, 1978, until October 31, 1978. A total of 630 responses (including oral testimony) were received and have been classified by origin as follows:

| | |
|---|---|
| Government (State and Federal) | 21 |
| Research (Medical and University) | 6 |
| Zoos, Museums | 20 |
| Conservation Groups | 13 |
| Pet Industry | 39 |
| Furriers | 65 |
| Taxidermists | 281 |
| Trappers | 20 |
| Breeders | 8 |
| Designated Port Requests | 44 |
| General Public | 113 |

The following is a summary of the comments arranged by topic; a discussion of any issue raised under a topic by a particular interest group, where applicable; and the Service's response to the comments, including changes from the proposed rulemaking, except corrections to typographical errors or minor technical or editorial changes.

*Definition of "Fish or Wildlife"*

A number of comments found the proposed definition of "fish or wildlife" in § 10.12 overbroad. The Service attempted to use the ESA definition, but encountered difficulties. The ESA definition does not exclude domestic animals; therefore, the regulations would have to be riddled with exceptions for the importers or exporters of domestic animals or their products, otherwise those importers or exporters would generally be required to use certain Customs ports and file a Declaration for Importation or Exportation of Wildlife (USFWS Form 3–177), and would be subject to sanctions if they did not. Instead, the Service has retained the word "wild" used in the former definition, which restricts the applicability of the regulations to those animals normally found in a wild state, whether or not

bred, hatched, or born in captivity. At the same time the definition has been broadened to include species covered by the ESA. Without providing specific exceptions, varieties of domestic animals have been eliminated from the rules coverage, which the Service has no need to monitor or control and those for which any attempt would be practically impossible. Furthermore, any ambiguity which may arise by basing exceptions on the word "domestic" is eliminated. No statutes enforced by the Service define that term, yet "wild" is defined by the Lacey Act (18 U.S.C. 42).

*Import/Export License*

By far the greatest number of comments addressed the Service's proposal to implement section 9(d) of the ESA by requiring any person who engages in business as an importer or exporter of wildlife to be licensed. Section 9(d) of the ESA, as noted above, makes it unlawful "for any person to engage in business as an importer or exporter of fish or wildlife * * * without having first obtained permission from the Secretary (of the Interior)." On its face section 9(d) applies to all wildlife as defined by the ESA, not to just endangered or threatened wildlife as suggested by many commenters. In addition, the permission required from the Secretary may take the form of a license or permit. These three terms, permission, license, and permit, were used interchangeably when section 9(d) was drafted by Congress.

Numerous commenters responded that there are adequate laws in force to monitor the import/export traffic in wildlife. The Service is aware that many persons required to be licensed by this rulemaking are covered by regulations promulgated by other agencies. However, the Service regulations provide a comprehensive scheme involving only wildlife resources. Through licensing the Service will be able to identify those persons who engage in business as importers or exporters of wildlife, which will in turn improve communications between the Service and these licensees, who are most likely to be affected by subsequent Service rulemakings. Further, the ESA requires more than the mere permission of the Secretary for a person to engage in business as an importer or exporter of wildlife. Such persons are subject to recordkeeping, inspection, and reporting requirements. Again, through licensing, these requirements can be enforced, with sanctions available for noncompliance.

The definition of "engage in business as an importer or exporter of wildlife" has been redefined. The word "continuously" has been deleted, and the activity involving the importation or exportation of wildlife need only be "for gain or profit." Strictly construed, the Service could not enforce the licensing provision with the adverb "continuously" included; importers or exporters whose activities are substantial, but intermittent, would remain unregulated. Importers or exporters have also been alerted that a license may be required even though they are not considered to be importers or exporters by the customs laws of the United States. Divergence from customs law is found in the definition of "import" under section 3(10) of the ESA, 16 U.S.C. 1532(10), which states explicitly that customs law is not controlling. Similar admonishments have been included under the import/export license.

A substantial number of commenters requested that the issuance of import/export licenses be mandatory and not discretionary, and that a grandfather clause be applied to all current importers or exporters. As noted above, the Service has for some time operated under a grandfather clause. On March 5, 1974 (39 FR 8357), the Service granted temporary permission to all persons engaged in business as an importer or exporter of wildlife, and specified that regulations would be promulgated establishing a system for obtaining permission on a more permanent basis. Issuance, denial, suspension, revocation, and renewal of these licenses are governed by the general permit procedures of Part 13. For clarity, a reference to Part 13 has been included under § 14.93(f). Also, § 13.21(b) removes much of the discretion the Service has in deciding whether to issue a license. A license shall be issued unless one of the stated conditions exists, whereupon the issuance becomes discretionary. For this reason § 14.93 contains the language "may," but the discretion of the Service is substantially limited.

Administrative review of the denial of a license is available under § 13.21(d). The Service is currently developing more explicit regulations in this area, and for the procedure to be followed when a violation of the license is alleged, including criteria for the suspension or revocation of a license.

Section 14.93(c) has been added to allow applicants for a license to continue to engage in business under the temporary permission of the Secretary of the Interior until the application has been finally acted upon by the Service, if a complete application is received by the Service on or before December 31, 1980. Concern of the pet industry that too much time would elapse between promulgation of the proposal and issuance of licenses should be alleviated by this provision.

Several commenters expressed the view that licenses should be valid indefinitely, or for some period greater than the two years provided. The Service believes that the two-year period, which is consistent with the time period for licenses issued by other Federal agencies, will enable the Service to maintain current and valid information on licensees, a task made otherwise difficult by the relatively high turnover rate of many of the businesses to be licensed.

The inclusion or deletion of certain persons required to be licensed resulted in opposition from a number of the affected groups. Taxidermists, which were the largest single group submitting comments, objected strenuously. However, only taxidermists importing or exporting wildlife in connection with the mounting, processing, or storage of trophies or specimens are required to be licensed. These taxidermists are responsible for the movement of wildlife and are involved in its shipping. It was frequently argued that they are only agents of the importer or exporter. Ownership of the wildlife, however, is not a prerequisite to the licensing requirement; consignees and others are also included. For this reason freight forwarders are also included over strenuous objections. Freight forwarders are often consignees of wildlife shipments. When a shipment is received, any evidence of the consignor is usually obliterated and the shipment is forwarded. Therefore, a wildlife shipment cannot be traced from the supplier to the purchaser or ultimate consignee, or from the purchaser or ultimate consignee to the supplier without guaranteed access to the records of the freight forwarder.

Section 14.91(c)(4), as it appeared in the proposed rulemaking, has been deleted, and laboratory research suppliers, who actually import the overwhelming percentage of animals imported for research purposes, have been shifted to subparagraph (c)(1) of the same section along with the addition of biological suppliers. Scientific researchers are not generally utilizing wildlife for commercial purposes, and their suppliers are otherwise covered by this section. Thus, the Service is still able to monitor the import/export traffic in wildlife without interfering with scientific research. That same section when read in conjunction with § 14.92(b)(3), providing for an exception to the licensing requirement for public

scientific or educational institutions, also proved to be ambiguous. New subparagraph (c)(4) of § 14.91 has been changed by the deletion of the word "manufacture" because it is inapplicable to items which have already been made into products.

The licensing exception provided to certain persons under § 14.92(b) generally includes persons already regulated by other governmental agencies whose importation or exportation of wildlife is incidental to their primary business purpose. An exception is also provided for governmental agencies and nonprofit organizations. These excepted categories have been redrawn to depict more accurately the persons covered and to indicate that, although a license is not required, other requirements remain in effect including recordkeeping. As described below, the Service is not requesting that a duplicate set of records be compiled, but only that the required information on any importation or exportation of wildlife be maintained, including the disposition of the wildlife. The disposition requirement was omitted from the proposal, but has been added to implement fully section 9(d)(2) of the ESA, 16 U.S.C. 1538(d)(2), which requires records to be kept which fully and correctly disclose the subsequent disposition of any imported or exported wildlife.

The exceptions to the licensing requirement given to importers or exporters of certain wildlife are derived from section 9(d) of the ESA, 16 U.S.C. 1538(d), except the one for captive-bred wildlife. The named captive-bred species were exempted because they are readily distinguished and considered by the Department of Agriculture to be domestic animals.

The application and recordkeeping requirements of the license were felt by many to be excessive, objectionable, and unnecessarily costly to the licensee. The proprietary information which must be included in the application has been simplified, by eliminating the need to furnish a copy of any corporate charter and bylaws.

The recordkeeping requirements of § 14.93(c) are not as burdensome as they might appear. The rulemaking does not direct either licensees or excepted persons to keep an additional set of records; it merely requires as a condition of licensing or as a requirement for certain persons to be excepted that certain information, as set forth in § 14.93(c) or § 14.92(b), be included as a part of whatever business records are presently maintained, and that such records be retained for a period of five years, which is consistent with the statute of limitations for laws administered by the Service. The requirement that the records fully and correctly disclose the subsequent disposition by the licensee or excepted person of the wildlife imported or exported may be met by records which are specimen-specific, on an inventory basis, or a combination of the two depending upon the normal business practice of the importer or exporter. It should be noted that a report of these records is required only if requested.

Finally, the $50 license fee has been retained. This fee is authorized by section 11(f) of the ESA, 16 U.S.C. 1540(f), which allows the Service to "* * * charge reasonable fees for expenses to the Government connected with permits or certificates authorized by this Act including processing applications and reasonable inspections." A $50 fee spread over two years is reasonable, and should help defer the costs of administering the program.

*Definition of "Export"*

The proposed definition of export has been deleted. The general meaning of export has been clearly defined by the Supreme Court as "to carry or send abroad." *Canton Railroad Co.* v. *Rogan*, 340 U.S. 511, 515 (1951). Also, utilization of judicial interpretations provides the flexibility necessary to deal with diverse factual situations which, depending on the circumstances, may or may not fall within the beginning of the export process.

*Wildlife Declarations*

Several commenters questioned the basis for providing an exception under § 14.64(b)(1) to the requirement that a Declaration for Importation or Exportation of Fish or Wildlife (USFWS Form 3–177) be completed, when the wildlife being exported is not intended for sale and the value is under $250. This exemption adopts the monetary amount provided by the Department of Commerce to exempt one from completing a Shipper's Export Declaration, 16 CFR 30.55. These exportations would clutter any statistical compilation and because of the manner in which the exception is drawn involve wildlife not otherwise specifically regulated by the Service.

The Service also overlooked the possibility that injurious wildlife could be exported without filing an export declaration. This oversight has been corrected and an export declaration must be completed for the exportation of injurious wildlife. Previously, these exportations were undocumented. Now data can be collected to determine if injurious wildlife is being reexported from the United States.

*Inspection and Clearance*

Many comments referred to the clearance requirements formerly found in Subpart D, which were designated "[Reserved]." This device is used where the provision is removed (*i.e.*, deleted) but reference to it maintains the integrity of the regulations and avoids the subsequent confusion which renumbering may cause.

Other comments were generally split between those which found the revised clearance procedure too lenient and those which found it too strict. One commenter argued that the new § 14.52(c) which replaces § 14.41 does not assure that the Lacey Act, 18 U.S.C. 43, is effectively enforced. For instance, documentation is no longer required to show that wildlife has been lawfully taken in the country of origin, when that country does not require any permit or document. The Service, however, believes that if the foreign country does not require official documentation, the documents presented upon importation will often be of doubtful reliability. Furthermore, under § 14.53(a), clearance may be refused whenever, under all the circumstances, there are reasonable grounds to believe that the Lacey Act, or any other Federal law or regulation, has been violated. Also, the Service has rejected suggestions to require only that documentation which physically accompanies the shipment. An importer must present all permits or other documents required by the laws or regulations of any foreign country, and clearance may be refused if they are not available or authentic.

Several commenters wanted inspection and refusal of clearance to be mandatory rather than discretionary and felt these activities should be conducted only by inspectors or agents of the Service. Others commented that the inspection and clearance requirements already involve too much delay. The inspection and clearance procedure adopted continues the past practice, with slight modification. The Service believes this procedure has been effective and expedient. In some situations where unreasonable delay is involved, clearance may be conducted by Customs officers, subject to post-clearance inspection and investigation by the Service. Clearance by either Service or Customs officers does not constitute a certification of the legality of an importation under the laws or regulations of the United States.

Although widllife exports may be subject to detention for inspection, no export clearance procedure has been

adopted. However, a procedure for permit validition by the Service prior to exportation remains as a permit condition for wildlife exports requiring either an export permit or a reexport certificate under the ESA or the Convention.

A description of the steps which may be taken when wildlife is refused clearance has been deleted. It would be impossible to specify in advance the appropriate procedure for each factual situation involving a refusal of clearance.

*Marking Requirements*

In response to a number of comments, § 14.82(a) has been simplified. The marking requirement may be satisfied by conspicuously marking on the outside of each package or container the word "fish" (or "wildlife" as appropriate) or the common name and attaching an invoice or packing list to the outside of just one package or container in the shipment. The use of the confusing term "generic" has also been omitted and scientific names need not be used if the alternatives to the marking requirement are followed. One commenter suggested that telephone numbers be placed on containers in the event of an emergency. Although not required by these regulations, anyone subject to the marking requirement may include such information.

*Ports*

1. *Generally.* Most commenters felt the activities which could be conducted at certain ports are too limited. The basis for regulations in this area is section 9(f) of the ESA, 16 U.S.C 1538(f). The designated port is the keystone of the importation and exportation process. No particular conditions are placed on the use of these ports. From these the Service has expanded to recognize border and special ports, through which certain wildlife may be moved, and recognized that certain wildlife may move through any port. This scheme involves balancing the convenience to the importer or exporter with the restrictions imposed by a limited number of Service personnel.

If the wildlife requires a permit or certificate under 50 CFR Parts 16, 17, 18, 21, or 23 it must move through a designated port unless an exception to that requirement is applicable. Otherwise, the convenience of the importer or exporter has been given considerable attention.

To ease the burden on persons applying for designated port exception permits the number and kinds of the wildlife involved need only be provided "where such number and kinds can be determined." This should provide enough flexibility in the issuance of permits to import or export wildlife at nondesignated ports where the species and amount are not determined in advance. However, identification of the wildlife must occur at the time of importation, except for scientific specimens which must be described within 180 days of the importation date.

Section 14.14 has been divided into subsections (a) and (b) in order to draw the distinction between the designated port in-transit requirement for imports into the United States and the exception from the designated port requirement provided for foreign in-transit shipment through the United States.

Section 14.19 has been divided into subsections (a), (b), and (c) to allow exports as well as imports through special ports for wildlife originating in or intended for final destination as appropriate, in the geographic locations specified for those special ports.

2. *Designated port requests.* A number of requests were made to designate Houston, Texas; Dallas, Texas; Denver, Colorado; San Diego, California; Boston, Massachusetts; and Washington, D.C., as ports where the importation or exportation of wildlife is authorized. Other comments sought the designation of certain border ports or objected to the deletion of others. As noted in the proposal these changes are in response to the volume of wildlife traffic through certain ports.

A substantial interest was demonstrated in designating Dallas/Ft. Worth as a port of entry. The Service found those comments persuasive, particularly after reviewing the volume of wildlife traffic through that area. As soon as possible the Service will attempt to establish Dallas/Ft. Worth as a designated port, subject to the availability of additional funds and resources with which to staff the port. For other cities the Service is continuing to study the situation and appreciates the evidence submitted on behalf on these cities. However, funding and personnel limitations preclude any expansion or reformulation of the list at this time.

3. *Designated port exceptions for personally owned pet birds and certain antique articles.* It has been brought to the attention of the Service that the Department of Agriculture has special regulations governing the importation of personally owned pet birds. Provisions have been added to allow for their importation at ports designated by the Department of Agriculture, and to allow clearance by Customs officials if Service personnel are unavailable.

Similarly, the U.S. Customs Service is proposing regulations to allow the importation of certain antique articles made from endangered or threatened wildlife. The Endangered Species Act Amendments of 1978 (Pub. L. 95–632, November 10, 1978, hereinafter referred to as the "Amendments") amended the ESA (16 U.S.C. 1539(h)) to permit the importation of certain antique articles (other than scrimshaw) which: (1) Were made before 1830, (2) are composed in whole or in part of any endangered or threatened species listed under 50 CFR 17.11 or 17.12, (3) have not been repaired or modified with any part of any endangered or threatened species on or after December 28, 1973, and (4) are entered at certain ports. Scrimshaw is defined in a 1976 amendment to the ESA, 16 U.S.C. 1539(f), as "any art form which involves the etching or engraving of designs upon, or the carving of figures, patterns, or designs from, any bone or tooth of any marine mammal of the order Cetacea."

Also under the amendments, the Secretary of the Treasury, after consultation with the Secretary of the Interior, is authorized to establish by regulation the documentation necessary for the importation of the specified antique articles and to designate a port or ports within each Customs region at which the articles must be entered.

Therefore, to coordinate with U.S. Customs Service regulations, importers of the above-described antique articles may use ports designated by Customs. Articles which are allowed entry by Customs are not required to be cleared by the Service. However, a completed Declaration for Importation or Exportation of Fish or Wildlife (USFWS Form 3–177) must be filed before release from Customs custody with the District Director of Customs, who will forward the form to the Service. Any article not entered by Customs will be treated as an import subject to all applicable Service regulations.

4. *Shellfish and fishery products.* Shellfish and fishery products imported for purposes of human or animal consumption or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes may be imported or exported at any Customs port of entry, unless they are listed as endangered or threatened species under Part 17. The exception for these items found in § 1421 is no longer limited to the listed portions of the Tariff Schedules of the United States (T.S.U.S.).

*Plants*

Several commenters, including State or Federal agencies and conservation

groups, questioned why the proposal made no provision for controlling import/export traffic in plants. While the Service recognizes that it has the responsibility under the ESA for designating ports for the importation and exportation of plants as well as wildlife, the Service does not desire to act in this regard without input from the Department of Agriculture. Representatives of the Service have met with officials from the Department of Agriculture's Animal and Plant Health Inspection Service in order to develop plans to enforce the ESA with respect to plants. However, it should be pointed out that such implementation was not intended as a part of this rulemaking when it was proposed. The Service feels that the best course of action is to implement the licensing program for wildlife with this rulemaking and to resolve the plant questions at a later date.

*Other Comments*

Many commenters felt an environmental impact statement should be completed. In response, the Service completed an environmental assessment, which is noted below. Also, a number of commenters felt an economic impact statement should be completed. This document has since been replaced by a regulatory analysis. As also noted below, the Service has determined that a regulatory analysis is not required.

**Description of the Final Rulemaking**

The final rules contain the provisions enumerated below:

1. The definition of "fish or wildlife" at § 10.12 is broadened to include any arthropod, coelenterate, or other invertebrate; and clarified to include any wild animal, whether or not bred, hatched, or born in captivity.

2. The border port status of Tok Junction, Alaska; Norton, Vermont; Noyes, Minnesota; Oroville, Washington; and San Luis, Arizona, is terminated. Border port status is conferred on Alcan, Alaska; Jackman, Maine; Pembina, North Dakota; and Lukeville, Arizona.

3. Tampa, Florida, is no longer a Customs port of entry authorized for the importation of tropical, ornamental, and aquarium fish.

4. Section 14.17 allows personally owned pet birds to be imported at any port designated under 9 CFR Part 92 as a port of entry for pet birds, if the provisions of 9 CFR Part 92 are met. Under § 14.54(c) clearance may be obtained from Customs officers if a Service officer is not available within a reasonable time.

5. Section 14.21 is modified to conform to section 9(f)(1) of the ESA which excepts shellfish or fishery products imported for human or animal consumption or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes from the designated port requirements, unless a permit or certificate is required by Part 17.

6. Section 14.22 allows certain antique articles, as defined, to be imported at ports designated by Customs. Under § 14.55(c) clearance of these articles by the Service is not required if they are allowed entry by Customs. If entry is refused the article will be treated as an import subject to all applicable Service regulations.

7. Export controls are accomplished by adding the word "exportation" where appropriate in the existing rules. The effect is to require most wildlife exports to occur at either a designated, border, or special port, unless an exception is available. Wildlife exports are subject to detention for inspection and inspection, but not clearance. The clearance requirements still apply only to wildlife imports. However, export permits or reexport certificates issued under 50 CFR Parts 17 or 23 include as a permit condition a procedure for permit validation by the Service prior to exportation.

8. The Convention has placed certain obligations on the United States to require import permits, export permits from the country of origin, or reexport certificates from the country of reexport for certain wildlife (50 CFR Part 23). In order to properly implement the Convention obligations, subpart D (foreign documentation) of Part 14 is deleted in its entirety. Instead, to obtain clearance for any wildlife under § 14.52 an importer must make available to a Service officer all permits or documents (including reexport certificates) required by the laws or regulations of any foreign country or the United States.

9. Subpart E of Part 14 restates the inspection provisions of the ESA (16 U.S.C. 1540(e)(3)). It requires that all wildlife imported at a designated port be cleared by a Service officer. Provisions are made for clearance by Customs officers of live animals imported at designated ports when a Service officer is temporarily unavailable. Wildlife lawfully imported under §§ 14.15, 14.16, or § 14.19 may also be cleared by Customs officers. However, any Customs inspection and clearance is subject to subsequent investigation by the Service.

10. Subpart F of Part 14 includes a new § 14.63, which requires a completed Declaration for Exportation of Fish or Wildlife (USFWS Form 3–177) to be filed with the Service prior to the exportation of any wildlife. This subpart also allows scientists importing unidentified wildlife for taxonomic or faunal survey purposes to file a declaration describing the imported wildlife in general terms, with an amended declaration to be filed at a later date after there has been an opportunity to identify the wildlife.

11. The container marking requirements of subpart H of Part 14 are altered to accommodate the accepted commercial practice of the shipping industry, by providing an abbreviated marking alternative when an invoice or packing list is attached to the outside of a package or container in the shipment.

12. A new Subpart I is added to Part 14 to implement the import/export licensing provisions of section 9(d) of the ESA, 16 U.S.C. 1538(d). The new Subpart I identifies certain persons who are required to be licensed, exempts certain wildlife from the licensing requirement, exempts certain persons provided certain recordkeeping and inspection conditions are satisfied, and provides for the administration of licenses by the Service. The application procedure, additional license conditions, and the duration of the license provisions are found in § 14.93. Provisions governing the issuance, denial, suspension, revocation, and renewal of an import/export license are found in Part 13.

**National Environmental Policy Act**

An environmental assessment has been prepared in conjunction with this rulemaking. It is on file in the Service's Division of Law Enforcement, 1375 K Street, NW., Washington, D.C., and may be examined during regular business hours. This assessment forms the basis for the decision that issuance of these rules is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969. The primary author of this rulemaking is Mr. John T. Webb, Division of Law Enforcement, (202) 343–9242.

**Regulations Promulgation**

Accordingly, Subchapter B of Chapter I Title 50 of the Code of Federal Regulations is hereby amended as set forth below:

## PART 10—GENERAL PROVISIONS

### § 10.12 [Amended]

1. Amend § 10.12 by adding the following definition in alphabetical order:

* * * * *

"The term 'fish or wildlife' means any wild animal, whether alive or dead, including without limitation any wild mammal, bird, reptile, amphibian, fish, mollusk, crustacean, arthropod, coelenterate, or other invertebrate, whether or not bred, hatched, or born in captivity, and including any part, product, egg, or offspring thereof."

* * * * *

## PART 13—GENERAL PERMIT PROCEDURES

### § 13.3 [Amended]

2. Amend § 13.3 by adding the following sentence to the end of the existing text:

* * * As used in this Part 13, the term "permit" shall refer to either a license, permit, or certificate as the context may require.

* * * * *

### § 13.11 [Amended]

3. Amend § 13.11(d) by adding to the end of the table of fees the following:

* * * * *

| | |
|---|---|
| Import/export license (Part 14 of this subchapter) | $50.00 |

* * * * *

### § 13.12 [Amended]

4. Amend § 13.12(a)(6) by deleting the reference to "§ 14.42" and substituting a reference to "§ 14.52(c)."

5. Amend § 13.12(b) by adding to the table of reference, after "Symbol marking * * * 14.83," the following:

* * * * *

| | |
|---|---|
| Import/export license | 14.93 |

* * * * *

6. Revise Part 14 to read as follows:

## PART 14—IMPORTATION, EXPORTATION, AND TRANSPORTATION OF WILDLIFE

### Subpart A—Introduction

Sec.

14.1 Purpose of regulations.
14.2 Scope of regulations.

### Subpart B—Importation and Exportation at Designated Ports

14.11 General restrictions.
14.12 Designated ports.
14.13 Emergency diversion.
14.14 In-transit shipments.
14.15 Personal baggage and household effects.
14.16 Border ports.
14.17 Personally owned pet birds.
14.18 Marine mammals.
14.19 Special ports.
14.20 Exceptions by permit.
14.21 Shellfish and fishery products.
14.22 Certain antique articles.

### Subpart C—Designated Port Exception Permits

14.31 Permits to import or export wildlife at nondesignated port for scientific purposes.
14.32 Permits to import or export wildlife at nondesignated port to minimize deterioration or loss.
14.33 Permits to import or export wildlife at nondesignated port to alleviate undue economic hardship.

### Subpart D—[Reserved]

### Subpart E—Inspection and Clearance of Wildlife

14.51 Inspection of wildlife.
14.52 Clearance of imported wildlife.
14.53 Refusal of clearance.
14.54 Unavailability of Service officers.
14.55 Exceptions to clearance requirements.

### Subpart F—Wildlife Declarations

14.61 Import declaration requirements.
14.62 Exceptions to import declaration requirements.
14.63 Export declaration requirements.
14.64 Exceptions to export declaration requirements.

### Subpart G—[Reserved]

### Subpart H—Marking of Containers

14.81 Marking requirement.
14.82 Exceptions and alternatives to the marking requirement.
14.83 Symbol marking permit.

### Subpart I—Import/Export Licenses

14.91 License requirement.
14.92 Exceptions to license requirement.
14.93 License application procedure, conditions, and duration.

**Authority:** Lacey Act (18 U.S.C. 42–44); Endangered Species Act of 1973 (16 U.S.C. 1538(d)–(f), 1540(f); Marine Mammal Protection Act of 1972 (16 U.S.C. 1382); Migratory Bird Treaty Act (16 U.S.C. 704, 712); Act of August 31, 1951, Ch. 376, Title 5, sec. 501 (31 U.S.C. 483a); Black Bass Act (16 U.S.C. 852c).

### Subpart A—Introduction

#### § 14.1 Purpose of regulations.

The regulations contained in this part provide uniform rules and procedures for the importation, exportation, and transportation of wildlife.

#### § 14.2 Scope of regulations.

The provisions in this part are in addition to, and do not supersede other regulations of this Subchapter B which may require a permit or prescribe additional restrictions or conditions for the importation, exportation, and transportation of wildlife.

### Subpart B—Importation and Exportation at Designated Ports

#### § 14.11 General restrictions.

Except as otherwise provided in this part, no person may import or export any wildlife at any place other than a Customs port of entry designated § 14.12.

#### § 14.12 Designated ports.

The following Customs ports of entry are designated for the importation or exportation of wildlife and are referred to hereafter as "designated ports:"

(a) Los Angeles, California;
(b) San Francisco, California;
(c) Miami, Florida;
(d) Honolulu, Hawaii;
(e) Chicago, Illinois;
(f) New Orleans, Louisiana;
(g) New York, New York; and
(h) Seattle, Washington.

#### § 14.13 Emergency diversion.

Wildlife which has been imported into the United States at any port or place other than a designated port solely as a result of a diversion due to an aircraft or vessel emergency must proceed as an in-transit shipment under Customs bond to a designated port, or to any port where a permit or other provision of this part provides for lawful importation.

#### § 14.14 In-transit shipments.

(a) Wildlife destined for a point within the United States may be imported into the United States at any port if such wildlife proceeds as an in-transit shipment under Customs bond to a designated port, or to any port where a permit or other provision of this part provides for lawful importation.

(b) Wildlife moving in-transit through the United States from one foreign country to another foreign country is exempt from the designated port requirements of this part, if such wildlife is not unloaded within the United States.

#### § 14.15 Personal baggage and household effects.

(a) Wildlife products or manufactured articles which are not intended for sale and are worn as clothing or contained in accompanying personal baggage may be imported into or exported from the United States at any Customs port of entry. However, this exception to the designated port requirement does not apply to any raw or dressed fur; raw, salted or crusted hide or skin; game trophy; or to wildlife requiring a permit pursuant to Part 16, 17, 18, 21, or 23 of this Subchapter B.

(b) Wildlife products or manufactured articles, including mounted game trophies or tanned hides, which are not

intended for sale and are part of a shipment of the household effects of persons moving their residence to or from the United States may be imported or exported at any Customs port of entry. However, this exception to the designated port requirement does not apply to any raw fur; raw, salted, or crusted hide or skin; or to wildlife requiring a permit pursuant to Part 16, 17, 18, 21, or 23 of this Subchapter B.

**§ 14.16 Border ports.**

(a) Except for wildlife requiring a permit pursuant to Part 16, 17, 18, 21, or 23 of this Subchapter B, wildlife whose country of origin is Canada or the United States may be imported or exported at any of the following Customs ports of entry:

(1) Alaska—Alcan;
(2) Idaho—Eastport;
(3) Maine—Calais, Houlton, Jackman;
(4) Massachusetts—Boston;
(5) Michigan—Detroit, Port Huron, Sault Sainte Marie;
(6) Minnesota—Grand Portage, International Falls, Minneapolis-St. Paul;
(7) Montana—Raymond, Sweetgrass;
(8) New York—Buffalo-Niagara Falls, Champlain;
(9) North Dakota—Dunseith, Pembina, Portal;
(10) Ohio—Cleveland;
(11) Vermont—Derby Line, Highgate Springs; and
(12) Washington—Blaine, Sumas.

(b) Except for wildlife requiring a permit pursuant to Part 16, 17, 18, 21, or 23 of this Subchapter B, wildlife whose country of origin is Mexico or the United States may be imported or exported at any of the following Customs ports of entry:

(1) Arizona—Lukeville, Nogales;
(2) California—Calexico, San Diego-San Ysidro; and
(3) Texas—Brownsville, El Paso, Laredo.

(c) Except for wildlife requiring a permit pursuant to Part 16, 17, 18, or 21 of this Subchapter B, wildlife lawfully taken by U.S. residents in the United States, Canada, or Mexico and imported or exported for noncommercial purposes, may be imported or exported at any Customs port of entry.

**§ 14.17 Personally owned pet birds.**

Any person may import a personally owned pet bird at any port designated under, and in accordance with, 9 CFR Part 92.

**§ 14.18 Marine mammals.**

Any person subject to the jurisdiction of the United States who has lawfully taken a marine mammal on the high seas and who is authorized to import such marine mammal in accordance with the Marine Mammal Protection Act of 1972 and implementing regulations (50 CFR Parts 18 and 216) may import such marine mammal at any port or place.

**§ 14.19 Special ports.**

(a) Except for wildlife requiring a permit pursuant to Part 16, 17, 18, 21, or 23 of this Subchapter B, wildlife which is imported for final destination in Alaska, Puerto Rico, or the Virgin Islands, may be imported through those Customs ports of entry named hereafter for the respective State or Territory of final destination:

(1) Alaska—Alcan, Anchorage, Fairbanks, Juneau;
(2) Puerto Rico—San Juan; and
(3) Virgin Islands—San Juan, Puerto Rico.

(b) Except for wildlife requiring a permit pursuant to Part 16, 17, 18, 21, or 23 of this Subchapter B, wildlife which originates in Alaska, Puerto Rico, or the Virgin Islands, may be exported through the following Customs ports for the respective State or Territory:

(1) Alaska—Alcan, Anchorage, Fairbanks, Juneau;
(2) Puerto Rico—San Juan; and
(3) Virgin Islands—San Juan, Puerto Rico.

(c) Except for wildlife requiring a permit pursuant to Part 16, 17, 18, 21, or 23 of this Subchapter B, wildlife which has a final destination of Guam or which originates in Guam may be imported or exported, as appropriate, through the port of Agana, Guam.

**§ 14.20 Exceptions by permit.**

Wildlife may be imported into or exported from the United States at any Customs port of entry designated in the terms of a valid permit issued pursuant to Subpart C of this part.

**§ 14.21 Shellfish and fishery products.**

Except for wildlife requiring a permit pursuant to Part 17 of this subchapter, shellfish and fishery products, imported or exported for purposes of human or animal consumption, or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes may be imported or exported at any Customs port of entry.

**§ 14.22 Certain antique articles.**

Any person may import any article (other than scrimshaw, which is hereby defined as any art form which involves the etching or engraving of designs upon, or the carving of figures, patterns, or designs from, any bone or tooth of any marine mammal of the order Cetacea) that was made before 1830, is composed in whole or in part of any endangered or threatened species listed under § 17.11 or § 17.12 of this subchapter, and has not been repaired or modified with any part of any endangered or threatened species on or after December 28, 1973, at any port designated under 19 CFR 12.26 for the importation of such antique articles.

## Subpart C—Designated Port Exception Permits

**§ 14.31 Permits to import or export wildlife at nondesignated port for scientific purposes.**

(a) *General.* The Director may, upon receipt of an application submitted in accordance with the provisions of this section and §§ 13.11 and 13.12 of this subchapter, and in accordance with the issuance criteria of this section, issue a permit authorizing importation or exportation of wildlife for scientific purposes at one or more named Customs port(s) of entry not otherwise authorized by Subpart B. Such permits may authorize a single importation or exportation, a series of importations or exportations, or importation or exportation during a specified period of time.

(b) *Application procedure.* Applications for permits to import or export wildlife at a nondesignated port for scientific purposes must be submitted to the Director. Each application must contain the general information and certification required by § 13.12(a) of this subchapter, plus the following additional information:

(1) The scientific purpose or uses of the wildlife to be imported or exported;
(2) The number and kinds of wildlife described by scientific and common names to be imported or exported where such number and kinds can be determined;
(3) The country or place in which the wildlife was removed from the wild (if known), or where born in captivity;
(4) The port(s) of entry where importation or exportation is requested, and the reasons why importation or exportation should be allowed at the requested port(s) of entry rather than at a designated port; and
(5) A statement as to whether the exception is being requested for a single shipment, a series of shipments, or shipments over a specified period of time and the date(s) involved.

(c) *Additional permit conditions.* In addition to the general conditions set forth in Part 13 of this Subchapter B, permits to import or export wildlife at a nondesignated port issued under this section are subject to the following

condition: Permittee shall file such reports as specified on the permit, if any.

(d) *Issuance criteria.* The Director shall consider the following in determining whether to issue a permit under this section:

(1) Benefit to a *bona fide* scientific research project, other scientific purpose, or facilitation of the exchange of preserved museum specimens;

(2) The kind of wildlife involved and its place of origin;

(3) The reasons why the exception is requested; and

(4) Availability of a Service officer.

(e) *Duration of permits.* Any permit issued under this section expires on the date designated on the face of the permit. In no case will the permit be valid for more than 2 years from the date of issuance.

**§ 14.32 Permits to import or export wildlife at nondesignated port to minimize deterioration or loss.**

(a) *General.* The Director may, upon receipt of an application submitted in accordance with the provisions of this section and §§ 13.11 and 13.12 of this subchapter, and in accordance with the issuance criteria of this section, issue a permit authorizing importation or exportation of wildlife, in order to minimize deterioration or loss, at one or more named Customs port(s) of entry not otherwise authorized by Subpart B. Such permits may authorize a single importation or exportation, a series of importations or exportations, or importation or exportation during a specified period of time.

(b) *Application procedure.* Applications for permits to import or export wildlife at a nondesignated port to minimize deterioration or loss must be submitted to the Director. Each application must contain the general information and certification required in § 13.12(a) of this subchapter, plus the following additional information:

(1) The number and kinds of wildlife described by scientific and common names to be imported or exported where such number and kinds can be determined;

(2) The country or place in which the wildlife was removed from the wild (if known), or where born in captivity;

(3) The port(s) of entry where importation or exportation is requested, and the reasons why importation or exportation should be allowed at the requested port(s) of entry rather than at a designated port (information must be included to show that an importation or exportation at a designated port would result in a substantial deterioration or loss to the wildlife); and

(4) A statement as to whether the exception is being requested for a single shipment, a series of shipments, or shipments over a specified period of time and the date(s) involved.

(c) *Additional permit conditions.* In addition to the general conditions set forth in Part 13 of this Subchapter B, permits to import or export wildlife at a nondesignated port issued under this section are to be subject to the following conditions:

(1) Permittee shall file such reports as may be specified on the permit, if any; and

(2) Permittee shall pay costs incurred by the Director in inspecting permittee's importations or exportations at nondesignated ports, including salary, overtime, transportation and per diem of Service officers.

(d) *Issuance criteria.* The Director shall consider the following in determining whether to issue a permit under this section:

(1) Likelihood of a substantial deterioration or loss of the wildlife involved;

(2) The kind of wildlife involved and its place of origin; and

(3) Availability of a Service officer.

(e) *Duration of permits.* Any permit issued under this section expires on the date designated on the face of the permit. In no case will the permit be valid more than 2 years from the date of issuance.

**§ 14.33 Permits to import or export wildlife at nondesignated port to alleviate undue economic hardship.**

(a) *General.* The Director may, upon receipt of an application submitted in accordance with the provisions of this section and §§ 13.11 and 13.12 of this subchapter, and in accordance with the issuance criteria of this section, issue a permit authorizing importation or exportation of wildlife in order to alleviate undue economic hardship at one or more named Customs port(s) of entry not otherwise authorized by Subpart B. Such permits may authorize a single importation or exportation, a series of importations or exportations, or importation or exportation during a specified period of time.

(b) *Application procedures.* Applications for permits to import or export wildlife at a nondesignated port to alleviate undue economic hardship must be submitted to the Director. Each application must contain the general information and certification required in § 13.12(a) of this subchapter, plus the following additional information:

(1) The number and kinds of wildlife described by scientific and common names to be imported or exported, where such number and kinds can be determined, and a description of the form in which it is to be imported, such as "live," "frozen," "raw hides," or a full description of any manufactured product;

(2) The country or place in which the wildlife was removed from the wild (if known), or where born in captivity;

(3) The name and address of the supplier or consignee;

(4) The port(s) of entry where importation or exportation is requested, and the reasons why importation or exportation should be allowed at the requested port(s) of entry rather than at a designated port (information must be included to show the monetary difference between the cost of importation or exportation at the port requested and the lowest cost of importation or exportation at the port through which importation or exportation is authorized by Subpart B without a permit); and

(5) A statement as to whether exception is being requested for a single shipment, a series of shipments, or shipments over a specified period of time and the date(s) involved.

(c) *Additional permit conditions.* In addition to the general conditions set forth in Part 13 of this Subchapter B, permits to import or export wildlife at a nondesignated port issued under this section are subject to the following conditions:

(1) Permittee shall file such reports as specified on the permit, if any; and

(2) Permittee shall pay costs incurred by the Director in inspecting permittee's importations or exportations at nondesignated ports, including salary, overtime, transportation and per diem of Service officers.

(d) *Issuance criteria.* The Director shall consider the following in determining whether to issue a permit under this section:

(1) The difference between the cost of importing or exporting the wildlife at the port requested and the lowest cost of importing or exporting such wildlife at a port authorized by these regulations without a permit;

(2) The severity of the economic hardship that likely would result should the permit not be issued;

(3) The kind of wildlife involved, including its form and place of origin; and

(4) Availability of a Service officer.

(e) *Duration of permits.* Any permit issued under this section expires on the date designated on the face of the permit. In no case will the permit be valid for more than 2 years from the date of issuance.

## Subpart D—[Reserved]

## Subpart E—Inspection and Clearance of Wildlife

### § 14.51 Inspection of wildlife.

Subject to applicable limitations of law, Service officers may detain for inspection and inspect any package, crate, or other container, including its contents, and all accompanying documents, upon importation or exportation.

### § 14.52 Clearance of imported wildlife.

(a) Except as otherwise provided by this subpart, all wildlife imported into the United States must be cleared by a Service officer prior to release from detention by Customs officers. Such clearance does not constitute a certification of the legality of an importation under the laws or regulations of the United States.

(b) Clearance by a Service officer may be obtained only at designated ports (§ 14.12), at border ports (§ 14.16), at special ports (§ 14.19), or at a port where importation is authorized by a permit issued under Subpart C of this part. Any wildlife released without a Service officer's clearance or clearance by Customs for the Service under authority of § 14.54 must be returned forthwith to a port where clearance may be obtained pursuant to this subpart.

(c) To obtain clearance, the importer, or the importer's agent, shall make available to a Service officer:

(1) All shipping documents (including bills of lading, waybills and packing lists or invoices);

(2) All permits or other documents required by the laws or regulations of the United States;

(3) All permits or other documents required by the laws or regulations of any foreign country; and

(4) The wildlife being imported.

### § 14.53 Refusal of clearance.

Any Service officer, or Customs officers acting under § 14.54, may refuse clearance of imported wildlife when there are reasonable grounds to believe that:

(a) A Federal law or regulation has been violated;

(b) The correct identity of the wildlife has not been established (in such cases, the burden is upon the owner, importer, or consignee to establish such identity);

(c) Any permit or other documentation required for clearance of such wildlife is not available or is not authentic; or

(d) The importer, or the importer's agent, has filed an incorrect or incomplete declaration for importation as provided in § 14.61.

### § 14.54 Unavailability of Service officers.

(a) *Designated ports.* All wildlife arriving at a designated port must be cleared by a Service officer before Customs clearance and release. However, if a Service officer is not available within a reasonable time, live wildlife may be cleared by Customs officers, subject to post-clearance inspection and investigation by the Service.

(b) *Border and special ports.* Wildlife lawfully imported at Canadian or Mexican border ports under § 14.16, or into Alaska, Puerto Rico, or the Virgin Islands, under § 14.19, may, if a Service officer is not available within a reasonable time, be cleared by Customs officers, subject to post-clearance inspection and investigation by the Service.

(c) *Permit imports.* Wildlife imported at a nondesignated port in accordance with the terms of a valid permit issued under Subpart C of this part, may, if a Service officer is not available within a reasonable time, be cleared by Customs officers, subject to post-clearance inspection and investigation by the Service.

(d) *Personal baggage and household effects.* Wildlife lawfully imported at any port of entry under § 14.15, may, if a Service officer is not available within a reasonable time, be cleared by Customs officers, subject to post-clearance inspection and investigation by the Service.

(e) *Personally owned pet birds.* Personally owned pet birds lawfully imported at a port of entry under § 14.17, may, if a Service officer is not available within a reasonable time, be cleared by Customs officers, subject to post-clearance inspection and investigation by the Service.

### § 14.55 Exceptions to clearance requirements.

Except for wildlife requiring a permit pursuant to Part 17 of this Subchapter B, clearance is not required for the importation of the following wildlife:

(a) Shellfish and fishery products imported for purposes of human or animal consumption or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes;

(b) Marine mammals lawfully taken on the high seas by United States residents and imported directly into the United States; and

(c) Certain antique articles as specified in § 14.22 which have been released from custody by Customs officers under 19 U.S.C. 1499.

## Subpart F—Wildlife Declarations

### § 14.61 Import declaration requirements

Except as otherwise provided by the regulations of this subpart, a completed Declaration for Importation or Exportation of Fish or Wildlife (Form 3–177), signed by the importer or the importer's agent, shall be filed with the Service at the time and place where clearance under § 14.52 is requested, unless the wildlife is to be transshipped under bond to a different port for release from custody by Customs officers under 19 U.S.C. 1499 or is a certain antique article as specified in § 14.22, in which case the Form 3–177 shall be filed with the District Director of Customs at that port before release from Customs custody. All applicable information requested on the Form 3–177 shall be furnished, and the importer, or the importer's agent, shall certify that the information furnished is true and complete to the best of his/her knowledge and belief.

### § 14.62 Exceptions to import declaration requirements.

(a) Except for wildlife requiring a permit pursuant to Part 17 of this Subchapter B, a Declaration for Importation or Exportation of Fish or Wildlife (Form 3–177) does not have to be filed for importation of shellfish and fishery products imported for purposes of human or animal consumption, or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes;

(b) Except for wildlife requiring a permit pursuant to Part 16, 17, 18, 21, or 23 of this subchapter B, a Declaration for Importation or Exportation of Fish or Wildlife (Form 3–177) does not have to be filed for importation of the following:

(1) Fish taken for recreational purposes in Canada or Mexico;

(2) Game mammals or birds from Canada or Mexico for which a Declaration for Free Entry of Game Mammals or Birds Killed by United States Residents (Customs Form 3315) has been filed with the U.S. Customs Service;

(3) Wildlife products or manufactured articles which are not intended for sale and are worn as clothing or contained in accompanying personal baggage, except that a Form 3–177 must be filed for raw or dressed furs; for raw, salted, or crusted hides or skins; and for game or game trophies where the exception in paragraph (b)(2) of this section does not apply; and

(4) Wildlife products or manufactured articles which are not intended for sale and are a part of a shipment of the household effects of persons moving

their residence to the United States, except that a delcaration must be filed for raw or dressed furs; and for raw, salted, or crusted hides or skins.

(c) *General declarations for certain specimens.* Notwithstanding the provisions of § 14.61, scientific specimens imported for scientific institutions for taxonomic or faunal survey purposes may be described in general terms on the Declaration for Importation or Exportation of Fish or Wildlife (Form 3–177), provided an amended Form 3–177 specifically describing the wildlife imported is submitted to the Service within 180 days after the filing of the general declaration. Extensions of this 180 day period may be granted by the Director.

**§ 14.63 Export declaration requirements.**

Except as otherwise provided by the regulations of this subpart, a completed Declaration for Importation or Exportation of Fish or Wildlife (Form 3–177) signed by the exporter, or the exporter's agent, shall be filed with the Service prior to the export of any wildlife at the port of exportation as authorized in subpart B of this part. All applicable information requested on the Form 3–177 shall be furnished, and the exporter or the exporter's agent shall certify that the information furnished is true and complete to the best of his/her knowledge and belief.

**§ 14.64 Exceptions to export declaration requirements.**

(a) Except for wildlife requiring a permit pursuant to Part 17 of this Subchapter B, a Declaration for Importation or Exportation of Fish and Wildlife (form 3–177) does not have to be filed for the exportation of shellfish and fishery products imported or exported for purposes of human or animal consumption or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes.

(b) Except for wildlife requiring a permit pursuant to Part 16, 17, 18, 21, or 23 of this Subchapter B, a Declaration for the Importation or Exportation of Fish or Wildlife (Form 3–177) does not have to be filed for the exportation of the following:

(1) Wildlife which is not intended for sale where the value of such wildlife is under $250; and

(2) Wildlife products or manufactured articles, including game trophies, which are not intended for sale and are worn as clothing or contained in accompanying personal baggage or are part of a shipment of the household effects of persons moving their residence from the United States.

## Subpart G—[Reserved]

## Subpart H—Marking of Containers

**§ 14.81 Marking requirement.**

Except as otherwise provided in this subpart, no person may ship, transport, carry, bring or convey any wildlife in interstate or foreign commerce unless the package or container in which such wildlife is contained has the name and address of the shipper and consignee and an accurate statement of the contents by species and numbers of each species of wildlife therein contained clearly and conspicuously marked on the outside thereof.

**§ 14.82 Exceptions and alternatives to the marking requirement.**

(a) The requirements of § 14.81 may also be met by (1) conspicuously marking on the outside of each package or container the word "Fish" (or "Wildlife" as appropriate) or the common name and (2) securely attaching to the outside of one package or container in the shipment an invoice or packing list which contains the name and address of the consignee and shipper and which accurately states the number or other appropriate measure of quantity of each species contained in the shipment.

(b) The requirements of § 14.81 do not apply to packages or containers containing:

(1) Fox, nutria, rabbit, mink, chinchilla, marten, fisher, muskrat, and karakul or their products, that have been bred and born in captivity if a signed statement certifying that the animals were bred and born in captivity accompanies the shipping documents;

(2) Furs, hides or skins that are shipped, transported, carried, brought or conveyed in interstate commerce if the names and addresses of the shipper and consignee are clearly and conspicuously marked on the outside thereof; and

(3) Wildlife shipped, transported, carried, brought, or conveyed in interstate or foreign commerce where such packages or containers are clearly and conspicuously marked with a symbol in accordance with the terms of a valid permit issued pursuant to § 14.83.

**§ 14.83 Symbol marking permit.**

(a) *General.* The Director may, upon receipt of an application and in accordance with the issuance criteria of this section, issue a permit authorizing the use of an identification symbol in lieu of the marking required by § 14.81.

(b) *Application procedures.* Applications for symbol marking permits must be submitted to the Director. Each application must contain the general information and certification required by § 13.12(a) of this subchapter, plus the following additional information:

(1) The estimated number and kinds of wildlife to be transported in interstate or foreign commerce, described by scientific and common names;

(2) Form in which transported, such as "raw skins," "fur garments," "pearl strands," or "fine leather goods;"

(3) The country or place in which the wildlife was removed from the wild (if known), or where born in captivity;

(4) A detailed statement of the reasons why the marking required by § 14.81 would create a significant possibility of theft of the package or its contents; and

(5) At the option of the applicant, a suggested symbol which is desired; provided that assignment of such symbol is subject to the discretion of the Director.

(c) *Additional permit conditions.* In addition to the general conditions set forth in Part 13 of this Subchapter B, permits to use symbol marking are subject to the following special conditions:

(1) The entire symbol must be clearly and conspicuously marked on the outside of each package;

(2) The symbol, together with other identifying numbers or characters, must appear on all shipping documents relating to the packages or containers, and on all declarations required by §§ 14.61 and 14.63; and

(3) The permittee shall, from the effective date of the permit, maintain complete and accurate records of all wildlife identified by the symbol which is actually shipped, transported, carried, brought, or conveyed in interstate or foreign commerce. The records must include a general description of the form of the wildlife, the number of items, the common and scientific names, a description of the package or container, the method of shipment, the date and place of shipment, and the air waybill or bill of lading number. Subject to applicable limitations of law, such records shall be open to inspection, auditing, or copying by Service officers during regular business hours.

(d) *Issuance criteria.* The Director shall consider the following in determining whether to issue a permit under this section:

(1) Whether the marking required by § 14.81 would create a significant possibility of theft of the package or its contents; and

(2) The kind of wildlife involved and its place of origin.

(e) *Duration of permits.* Any permit issued under this section expires on the

date designated on the face of the permit. In no case will the permit be valid for more than 2 years from the date of issuance.

## Subpart I—Import/Export Licenses

### § 14.91 License requirement.

(a) *Prohibition.* Except as otherwise provided in this subpart, it is unlawful after December 31, 1980, for any person to engage in business as an importer or exporter of wildlife without first having obtained a valid import/export license from the Director.

(b) *Definition.* As used in this subpart, the phrase "engage in business as an importer or exporter of wildlife" means for a person to devote time, attention, labor, or effort to any activity for gain or profit that involves the importation or exportation of wildlife whether or not such person is an importer or exporter within the meaning of the customs laws of the United States.

(c) *Certain persons required to be licensed.* The definition in paragraph (b) of this section includes, but is not limited to, persons who engage in the following activities:

(1) Persons importing or exporting wildlife for trade, sale, or resale, such as animal dealers, animal brokers, pet dealers and pet suppliers, and laboratory research suppliers:

(2) Persons importing or exporting wildlife in the form of fur for tanning, manufacture, or sale, such as fur trappers, fur dealers, fur brokers, and fur manufacturers;

(3) Persons importing or exporting wildlife in the form of hides and skins for tanning, manufacture, or sale, such as hide and skin dealers, hide and skin brokers, leather dealers, and leather brokers;

(4) Persons importing or exporting wildlife products (such as garments, bags, shoes, boots, jewelry, rugs, or curios) for sale, such as wholesalers, retailers, distributors, and brokers:

(5) Taxidermists importing or exporting wildlife in connection with the mounting, processing, or storage of trophies or specimens; and

(6) Freight forwarders.

### § 14.92 Exceptions to license requirement.

(a) *Certain wildlife.* Any person may engage in business as an importer or exporter of the following wildlife without procuring an import/export license:

(1) Shellfish and fishery products which do not require a permit under Part 17 of this Subchapter B and which are imported or exported for purposes of human or animal consumption;

(2) Shellfish and fishery products which do not require a permit under Part 17 of this Subchapter B and which are taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes; and

(3) Fox, nutria, rabbit, mink, chinchilla, marten, fisher, muskrat, and karakul or their products if the animals have been bred and born in captivity.

(b) *Certain persons.* The following persons may engage in business as importers or exporters of wildlife without procuring an import/export license: *Provided,* That such persons keep such records as will fully and correctly disclose each importation or exportation of wildlife made by them and the subsequent disposition made by them with respect to the wildlife, and that subject to applicable limitations of law, duly authorized Service officers at all reasonable times shall, upon notice, be afforded access to such persons' places of business, an opportunity to examine their inventory of imported wildlife and the records required above, and an opportunity to copy such records:

(1) Common carriers;

(2) Customs house brokers;

(3) Public museums, or other public, scientific or educational institutions, importing or exporting wildlife for research or educational purposes and not for resale;

(4) Federal, State, or municipal agencies;

(5) Circuses importing or exporting wildlife for exhibition purposes only and not for purchase, sale, or transfer of such wildlife.

### § 14.93 License application procedure, conditions, and duration.

(a) *General.* The Director may, upon receipt of an application submitted in accordance with the provisions of this section and §§ 13.11 and 13.12 of this subchapter, issue a license authorizing the applicant to engage in business as an importer or exporter of wildlife.

(b) *Application procedure.* Applications for import/export licenses must be submitted to the appropriate Special Agent in Charge (see § 10.22 of this subchapter). Each application must contain the general information and certification required by § 13.12(a) of this subchapter, plus the following additional information:

(1) A brief description of the nature of the applicant's business as it relates to the importation or exportation of wildlife, e.g., "live animal dealer," "fur broker," "taxidermist," "retail department store," and "pet shop;"

(2) If the application is in the name of a business, a statement disclosing the names and addresses of all partners and principal officers;

(3) A statement of where books or records concerning wildlife imports or exports will be kept;

(4) A statement of where inventories of wildlife will be stored; and

(5) Name, address, and telephone number of the officer, manager, or other person authorized to make records or wildlife inventories available for examination by Service officials.

(c) *Applications for licenses received by the Service on or before December 31, 1980.* If a complete application for an import/export license is received by the appropriate Special Agent in Charge on or before December 31, 1980, the applicant may engage in business as an importer or exporter of wildlife until the application has been finally acted upon by the Service.

(d) *Additional license conditions.* In addition to the general conditions set forth in Part 13 of this Subchapter B, import/export licenses are subject to the following special conditions:

(1) The licensee shall, from the effective date of the license, keep such records as will fully and correctly disclose each importation or exportation of wildlife made by the licensee and the subsequent disposition made by the licensee with respect to such wildlife. The records must include a general description of the form of the wildlife, such as "live," "raw hides," or "fur garments;" the quantity of wildlife, in numbers, weight, or other appropriate measure; the common and scientific names; the country or place of origin of the wildlife, if known; the date and place of import or export; the date of the subsequent disposition of the wildlife; the manner of disposition, whether by sale, barter, consignment, loan, delivery, destruction, or other means; and the name and address of the person who received the wildlife pursuant to such disposition, if applicable;

(2) Licensees shall include and retain in their records copies of all permits required by the laws and regulations of the United States and any country of export or origin;

(3) Licensees shall maintain such books and records for a period of five years;

(4) Subject to applicable limitations of law, duly authorized Service officers at all reasonable times shall, upon notice, be afforded access to the licensee's places of business, an opportunity to examine the licensee's inventory of imported wildlife and the records required to be kept under paragraph (d)(1) of this section, and an opportunity to copy such records;

(5) Licensees shall, upon written request by the Director, submit within 60 days of such request a report containing the information required to be maintained by paragraph (d)(1) of this section; and

(6) An import/export license is only permission to engage in business as an importer or exporter of wildlife. Such a license is in addition to, and does not supersede, any other requirement established by law for the importation or exportation of wildlife.

(e) *Duration of license.* Any license issued under this section expires on the date designated on the face of the license. In no case will the license be valid for more than 2 years from the date of issuance.

(f) *Issuance, denial, suspension, revocation, or renewal of license.* Additional provisions governing the issuance, denial, suspension, revocation, and renewal of an import/export license are found in Part 13 of this Subchapter B.

**Note.**—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

**Lynn A. Greenwalt,**

*Director, Fish and Wildlife Service.*

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Part V

# Department of Health and Human Services

## Office of Human Development Service

## Relocation of Social Services Programs Regulations

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Office of Human Development Services**

**45 CFR Chapters II and XIII**

# Relocation of 45 CFR Parts 220, 222, 226, 228, 229, and 231 from 45 CFR Chapter II to Chapter XIII, and a Restatement of 45 CFR Part 225 and Certain Sections of Part 205

**AGENCY:** Office of Human Development Services (HDS), Department of Health and Human Services (HHS).

**ACTION:** Final regulations.

**SUMMARY:** Chapter XIII of title 45 of the Code of Federal Regulations (CFR) has been designated as the locus of all HDS regulations. Accordingly, these final rules relocate all of the program regulations and either repeat or relocate most of the administrative regulations pertaining to the social services programs under the Social Security Act, from 45 CFR Chapter II to 45 CFR Chapter XIII.

The regulations also include two technical amendments. The first is a cross-reference to the Office of Personnel Management's revised "Standards for a Merit System of Personnel Administration." The second revises the staff development (training) requirements for social services programs in the Territories by cross-referencing to the training requirements for the financial assistance programs in the Territories. In addition, we have incorporated several recently published final regulations.

**EFFECTIVE DATE:** August 25, 1980.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Johnnie U. Brooks, Room 722–E, HHH Building, Department of HHS, 200 Independence Avenue, SW., Washington, D.C. 20201, (202) 472–4415.

**SUPPLEMENTARY INFORMATION:**

## Background

The Office of Human Development Services (HDS) is relocating the social services program regulations for titles I, IV–A, IV–B, X, XIV, XVI(AABD), and XX of the Social Security Act from 45 CFR Chapter II to Chapter XIII of the Code of Federal Regulations. In addition, certain administrative regulations related to these programs in 45 CFR Parts 205, 225, 226, and 229 are moved to or repeated in Chapter XIII. This relocation is the result of the 1977 HEW reorganization in which the Social and Rehabilitation Service was abolished and its constituent administrations were moved to other Department of Health, Education, and Welfare (HEW) principal operating components. At that time, the Administration for Public Services was moved to HDS. Chapter XIII of title 45 of the CFR is the locus of all HDS regulations.

Subchapter J (Social Services for Individuals and Families under Titles I, IV–A, X, XIV, and XVI(AABD) of the Social Security Act) and Subchapter K (Social Services for Individuals and Families under Title XX of the Social Security Act) will contain the following Parts which are relocated in Chapter XIII: Part 220 (Social Services for Children and Families under Titles IV–A and IV–B); Part 222 (Social Services for Aged, Blind, and Disabled under Titles I, X, XIV, and XVI(AABD)); Part 226 (Purchase of Service Requirements for Services under Titles I, IV–A, X, XIV, and XVI(AABD)); Part 228 (Social Services for Individuals and Families under title XX); Part 229 (Standard Setting Requirements for Facilities where SSI Recipients Reside); and Part 231 (Child Abuse and Neglect: Provisions Applicable under Titles IV–A and IV–B of the Social Security Act). Part 225 (Training and Use of Subprofessionals and Volunteers); and most of the sections of Part 205 (General Administration—Public Assistance Programs) which pertain to the social services programs under the Social Security Act are repeated in Chapter XIII.

There have been no policy changes made in these regulations, nor has there been any rewriting except to change Social and Rehabilitation Service to Office of Human Development Services; to correct cross-references due to other recoding and recently published rules (e.g., HEW Day Care Regulations); to delete in Part 222 the reference to title VI, a predecessor program to title XX for social services to the aged, blind, and handicapped; and to clarify in which jurisdictions the various titles are operating.

Since Chapter II of 45 CFR has been designated for the use of the Office of Family Assistance (OFA), Social Security Administration (SSA), the regulations which govern their programs (some of which were combined with social services rules), remain in their current location. Therefore, 45 CFR Part 225 and the applicable sections of Part 205 are repeated, (except for references to financial assistance), rather than relocated in Chapter XIII. In addition, we have made certain deletions in Parts 205 and 1391 to conform to 45 CFR Part 74.

## Technical Amendments

### *Personnel Administration*

The statutes for the social service programs authorized by titles I, IV–A, X, XIV, XVI(AABD), and XX of the Social Security Act require, as State plan requirements, that State agencies shall establish and maintain personnel standards on a merit basis that are found by the Secretary to be necessary for the proper and efficient operation of the programs. The Department has ruled that State agencies must conform to standards issued by the Office of Personnel Management (OPM), formerly the U.S. Civil Service Commission.

OPM published revised "Standards for a Merit System of Personnel Administration," (Vol. 44, No. 34, **Federal Register**, 10238–10264, 2/16/79). Two technical amendments are being made to cross-reference those revised standards. The title XX regulation regarding personnel administration (Merit System), fomerly found at 45 CFR 228.8, is retitled Standards of Personnel Administration, revised, and relocated in 45 CFR 1396.8. For the Territories, regulations for personnel administration under titles I, IV–A, X, XIV, and XVI(AABD) were found at 45 CFR 205.200. This rule vacates 45 CFR 205.200, revises its contents, and relocates it in 45 CFR 1391.50. The revisions remove duplicative language and reporting requirements, thus simplifying procedures for State agencies.

### *Staff Development*

The regulations implementing the social services programs in the Territories specify that the State plans for titles I, IV–A, X, XIV, and XVI(AABD) must provide for staff and volunteers, a staff development (training) program in accordance with 45 CFR 205.202. The purpose of this requirement is to improve the operation of the State's social services programs and to insure a high quality of service.

These rules contain a technical amendment to the current regulations for staff development (training) in the Territories. They make the final regulations recently published by the Office of Family Assistance (OFA) on training for the financial assistance programs applicable to the social services programs under titles I, IV–A, X, XIV, and XVI(AABD). We agree with the policies contained in the OFA regulation. Furthermore, since the same agency administers all the financial assistance programs as well as social services in these jurisdictions, we believe it is administratively desirable for training regulations to be made as

uniform as possible. This rule therefore, vacates 45 CFR 205.202 and places the new requirements in 45 CFR 1392.10 and 1393.8 as appropriate.

**Incorporation of Recently Published Final Regulations**

The following final rules, recently published in the **Federal Register**, are incorporated in these regulations in order to provide an up-to-date compilation of regulations applicable to the social services programs:

—45 CFR Part 71—HEW Day Care Regulations. These regulations are cross-referenced in 45 CFR 1392.10 and 1392.18 for titles IV–A and IV–B, and in 45 CFR 1396.42 and 1396.86 for title XX.

—Technical amendments to 45 CFR Part 228 pertaining to the disclosure of information required by P.L. 95–142.

—Technical amendments to 45 CFR Parts 220, 222 and 228 to insure that rules governing the social services programs comply with the Department's grant administration requirements as contained in 45 CFR Part 74.

**Changes in the Regulations Concerning Titles IV–A and IV–B**

When 45 CFR Part 220 was written, and until September 1978, titles IV–A and IV–B (services for children and families under AFDC, and child welfare services, respectively) were administered by the Administration for Public Services (APS) and its variously named predecessor agencies. Also, the title IV–B statute directed that the same State agency (with specified exceptions) which administered the title IV–A program was to administer the title IV–B program. Thus, Part 220 is written so that regulations for titles IV–A and IV–B are applicable to both programs in many respects. In September 1978, as part of the Departmental reorganization, the administration of the title IV–B program was moved from APS to the Administration for Children, Youth and Families (ACYF), another HDS unit. ACYF will revise the regulations for title IV–B once H.R. 3434 has been enacted and will place them in Subchapter G of 45 CFR Chapter XIII, Part 1355. Until that time, however, the regulations for title IV–B remain unchanged but are relocated in 45 CFR Part 1392.

In addition, 45 CFR Part 231 regarding child abuse and neglect, which is also applicable to both titles IV–A and IV–B, is placed in a new Subpart E of 45 CFR Part 1392.

Unlike the program regulations which pertain to title IV–B, we are not relocating those Sections of 45 CFR Part 205, and Part 225 that apply to title IV–B, but are leaving them in their current location for that program as well as for the financial assistance programs.

**The Next Step**

Concurrent with this relocation, we began an "Operation Common Sense" review of these regulations. This entails policy considerations, rewriting for clarity and simplicity, and possible reorganization of the material. The products of that effort will be issued as proposed regulations.

**Waiver of Proposed Rulemaking**

We find there is good cause to waive notice of proposed rulemaking because none of these regulations contain any substantive changes, and merely relocate HDS's rules, except for the technical amendments discussed earlier.

The day care regulations (which we cross-reference), were previously available for comment when published in the *FR* as an NPRM. The technical amendment in relation to the staff development regulations in the Territories, was also available for public comment when published as an NPRM by OFA, SSA.

**Redesignation Information**

Following the Departmental reorganization, as a first step in consolidating all HDS regulations in 45 CFR Chapter XIII, an outline of Subchapter designations was published in the **Federal Register**, November 15, 1977 (42 FR 59087). This outline designated Subchapter J as the location for the social services program regulations administered by APS and Subchapter K as the location for the APS–Work Incentive program (WIN) regulations.

It soon became clear that for clarity and flexibility, HDS needed an additional Subchapter, particularly to separate the regulations for the title XX program from the regulations for the social services programs in the Territories.

Therefore, Subchapter J in Chapter XIII is being redesignated from Subchapter J—*The Administration for Public Services, Social Services for Individuals and Families Program* to Subchapter J—*Social Services for Individuals and Families under Titles I, IV–A, X, XIV, and XVI(AABD) of the Social Security Act.*

Subchapter K in Chapter XIII is being redesignated from Subchapter K—*The Administration for Public Services, Work Incentive program* to Subchapter K—*Social Services for Individuals and Families under Title XX of the Social Security Act.*

A new Subchapter L will be created to accommodate the regulations governing the Work Incentive program when they are transferred to Chapter XIII at a later date.

**Tentative Outline of Subchapters**

*Subchapter J*—Social Services for Individuals and Families under Titles I, IV–A, X, XIV, and XVI(AABD) of the Social Security Act.

Part 1390—General Policies and Procedures on Grants to States for Services.

(Part 1390 which will contain 45 CFR Parts 201, 204, 213, and Section 205.5 will be established at a later time.)

Part 1391—General Administration and State Plan Requirements.

Subpart A—General Administration.

Subpart B—(Reserved).

Subpart C—Personnel Management.

Subpart D—Purchase of Services.

Part 1392—Service Programs for Families and Children: Title IV (Parts A and B) of the Social Security Act.

Part 1393—Service Programs for Aged, Blind, or Disabled Persons: Titles I, X, XIV, and XVI(AABD) of the Social Security Act.

*Subchapter K*—Social Services for Individuals and Families under Title XX of the Social Security Act.

Part 1394—General Policies and Procedures on Grants to States for Services.

(Part 1394 which will contain 45 CFR Parts 201, 204, 213 and Section 205.5 will be established at a later time.)

Part 1395—General Administration and State Plan Requirements.

Part 1396—Social Services Programs for Individuals and Families under Title XX of the Social Security Act.

Part 1397—Standard Setting Requirements for Medical and Non-Medical Facilities Where SSI Recipients Reside.

**Subchapter Redesignation Table**

*Subchapter J*

*Old Part and New Part*

45 CFR Part 205—45 CFR Part 1391.
45 CFR Part 220—45 CFR Part 1392.
45 CFR Part 222—45 CFR Part 1393.
45 CFR Part 225—45 CFR 1391.51.
45 CFR Part 226—45 CFR 1391.70, 1391.71.
45 CFR Part 231—45 CFR Part 1392, Subpart E.

*Subchapter K*

*Old Part and New Part*

45 CFR Part 228—45 CFR Part 1396.
45 CFR Part 229—45 CFR Part 1397.

**Redesignation Table for 45 CFR Part 205**

*Old Section and New Section*

45 CFR 205.30—45 CFR 1391.2; for titles I, IV–A, X, XIV, XVI(AABD).
45 CFR 205.50—45 CFR 1391.3; for titles I, IV–A, X, XIV, XVI(AABD). 45 CFR 1396.10; for title XX.

| | |
|---|---|
| 45 CFR 205.60—45 CFR 1391.4 | for titles I, IV–A, X, XIV, XVI(AABD) |
| 45 CFR 205.70—45 CFR 1391.5 | |
| 45 CFR 205.100—45 CFR 1391.6 | |
| 45 CFR 205.101—45 CFR 1391.7 | |
| 45 CFR 205.120—45 CFR 1391.8 | |
| 45 CFR 205.130—45 CFR 1391.9 | |
| 45 CFR 205.145—45 CFR 1391.10 | |

45 CFR 205.150—45 CFR 1392.64; for titles IV–A and IV–B. 45 CFR 1393.89; for titles I, X, XIV, XVI(AABD). 45 CFR 1395, Subpart A for title XX.
45 CFR 205.170—45 CFR 1391.11; for titles I, IV–A, X, XIV, XVI(AABD).
45 CFR 205.200—45 CFR 1391.50; for titles I, IV–A, X, XIV, XVI(AABD). 45 CFR 1396.8; for title XX.
45 CFR 205.200—45 CFR 1392.10; for title IV–A. 45 CFR 1393.8; for titles I, X, XIV, XVI(AABD).

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).)

(Catalog of Federal Domestic Assistance Programs No. 13.642, Social Services for Low Income and Public Assistance Recipients; No. 13.645, Child Welfare Services—State Grants; No. 13.810, Assistance Payments—State and Local Training.)

This regulation has been reviewed under the criteria in Executive Order 12044. It does not require a regulatory analysis, since it does not meet the threshold of criteria on economic impact.

Dated: June 6, 1980.

**Manuel Carballo,**

*Acting Assistant Secretary for Human Development Services.*

Approved: August 15, 1980.

**Nathan J. Stark,**

*Acting Secretary.*

A. 45 CFR Parts 205 and 225 are amended as follows to remove references to the social services programs under titles I, IV–A, X, XIV, XVI (AABD), and XX and to reserve two sections whose contents have been placed elsewhere. The regulations in Parts 205 and 225 will continue to be applicable to the financial assistance and child welfare services programs as indicated.

1. The table of contents is revised as follows:

## PART 205—GENERAL ADMINISTRATION—PUBLIC ASSISTANCE PROGRAMS

Sec.
205.5 Plan amendments.
205.10 Hearings.
205.20 [Reserved]
205.25 Eligibility of supplemental security income beneficiaries for food stamps or surplus commodities.
205.30 Methods of administration.
205.35 [Reserved]
205.40 Quality control system.
205.41 Reduction of FFP for incorrect payments by States.
205.45 Federal financial participation in relation to State emergency welfare preparedness.
205.50 Safeguarding information for the financial assistance programs.
205.60 Reports and maintenance of records.
205.70 Availability of agency program manuals.
205.100 Single State agency.
205.101 Organization for administration.
205.120 Statewide operation.
205.130 State financial participation.
205.145 [Reserved]
205.146 Specific limitations on Federal financial participation under title IV–A.
205.150 Cost allocation.
205.160 Non-expendable personal property.
205.170 State standards for office space, equipment, and facilities.
205.190 Standard-setting authority for institutions.
205.200 [Reserved]
205.202 [Reserved]

Authority: Sec. 1102, 49 Stat. 647; 42 U.S.C. 1302.

2. 45 CFR 205.30 is revised as follows:

**§ 205.30 Methods of administration.**

State plan requirements: A State plan for financial assistance under title I, IV–A, X, XIV or XVI (AABD) of the Social Security Act must provide for such methods of administration as are found by the Secretary to be necessary for the proper and efficient operation of the plan.

3. The heading and text of 45 CFR 205.50 is revised as follows:

**§ 205.50 Safeguarding information for the financial assistance programs.**

(a) *State plan requirements.* A State plan for financial assistance under title IV–A of the Social Security Act, except as provided in paragraph (d) of this section, must provide that:

(1) Pursuant to State statute which imposes legal sanctions:

(i) The use or disclosure of information concerning applicants and recipients will be limited to purposes directly connected with:

(A) The administration of the plan of the State approved under title IV–A, the plan or program of the State under title IV–B, IV–C, or IV–D, or under title I, X, XIV, XVI (AABD), XIX, or XX or the supplemental security income program established by title XVI (SSI). Such purposes include establishing eligibility, determining amount of assistance, and providing services for applicants and recipients.

(B) Any investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of any such plans or programs; and

(C) The administration of any other Federal or federally assisted program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need. Under the requirements of this paragraph (a)(1)(i), disclosure to any committee or legislative body (Federal, State, or local) of any information that identifies by name and address any such applicant or recipient shall be prohibited; and certification of receipt of AFDC to an employer for purposes of claiming tax credit under Pub. L. 94–12, the Tax Reduction Act of 1975, (see § 235.40 of this chapter) shall be considered to be for a purpose directly connected with the administration of the plan.

(ii) The State agency has authority to implement and enforce the provisions for safeguarding information about applicants and recipients:

(iii) Publication of lists or names of applicants and recipients will be prohibited.

(2) The agency will have clearly defined criteria which govern the types of information that are safeguarded and the conditions under which such information may be released or used. Under this requirement:

(i) Types of information to be safeguarded include but are not limited to:

(A) The names and addresses of applicants and recipients and amounts of assistance provided (unless excepted under paragraph (d) of this section);

(B) Information related to the social and economic conditions or circumstances of a particular individual including wage information (see § 205.51) obtained from the agency administering the State unemployment compensation laws or from the Social Security Administration;

(C) Agency evaluation of information about a particular individual;

(D) Medical data, including diagnosis and past history of disease or disability, concerning a particular individual.

(ii) The release or use of information concerning individuals applying for or receiving financial assistance is restricted to persons or agency representatives who are subject to standards of confidentiality which are comparable to those of the agency administering the financial assistance programs.

(iii) The family or individual is informed whenever possible of a request for information from an outside source, and permission is obtained to meet the request. In an emergency situation when the individual's consent for the release of information cannot be obtained, he will be notified immediately.

(iv) In the event of the issuance of a subpeona for the case record or for any agency respresentative to testify concerning an applicant or recipient, the court's attention is called, through proper channels to the statutory provisions and the policies or rules and regulations against disclosure of information.

(v) The same policies are applied to requests for information from a governmental authority, the courts, or a

law enforcement official as from any other outside source.

(3)(i) The agency will publicize provisions governing the confidential nature of information about applicants and recipients, including the legal sanctions imposed for improper disclosure and use, and will make these provisions available to applicants and recipients and to other persons and agencies to whom information is disclosed.

(ii) All information about wages (including that described in § 205.51) will be stored and processed so that no unauthorized personnel can acquire or retrieve the information by any means.

(iii) All persons with access to information about wages will be advised of the circumstances under which access is permitted and the sanctions imposed for illegal use or disclosure of the information.

(4) All materials sent or distributed to applicants, recipients, or medical vendors, including material enclosed in envelopes containing checks, will be limited to those which are directly related to the administration of the program and will not have political implications. Under this requirement:

(i) Specifically excluded from mailing or distribution are materials such as "holiday" greetings, general public announcements, voting information, alien registration notices;

(ii) Not prohibited from such mailing or distribution are materials in the immediate interest of the health and welfare of applicants and recipients, such as announcements of free medical examinations, availability of surplus food, and consumer protection information;

(iii) Only the names of persons directly connected with the administration of the program are contained in material sent or distributed to applicants, recipients, and vendors, and such persons are identified only in their official capacity with the State or local agency.

(b) [Reserved]

(c) *State plan requirements for programs of financial assistance in Puerto Rico, the Virgin Islands, and Guam.* A State plan under title I, X, XIV, or XVI (AABD) of the Social Security Act must meet all the requirements of paragraph (a) of this section and also provide for disclosure of information concerning applicants and recipients for use by public officials who require such information in connection with their official duties. Under this requirement, such information shall be available only to public officials who certify in writing that:

(1) They are public officials as defined by State or Federal law of general applicability; and

(2) The information to be disclosed and used is required in connection with their official duties.

(d) *Exception.* In respect to a State plan for financial assistance under title I, IV–A, X, XIV, or XVI (AABD) of the Social Security Act, exception to the requirements of paragraph (a)(1)(iii) of this section may be made by reason of the enactment or enforcement of State legislation, prescribing any conditions under which public access may be had to records of the disbursement of funds or payments under such titles within the State, if such legislation prohibits the use of any list or names obtained through such access to such records for commercial or political purposes.

4. 45 CFR 205.60 is revised as follows:

**§ 205.60 Reports and maintenance of records.**

(a) *State plan requirements.* A State plan for financial assistance under title I, IV–A, X, XIV or XVI (AABD) of the Social Security Act must provide that:

(1) The State agency will maintain or supervise the maintenance of records necessary for the proper and efficient operation of the plan, including records regarding applications, determination of eligibility, and the provision of financial assistance. Under this requirement, individual records are kept which contain pertinent facts about each applicant and recipient and include information as to the date of application and date and basis of its disposition; facts essential to determination of initial and continuing eligibility, need for, and provision of financial assistance, and basis for discontinuing assistance.

In addition, records kept under a State's IV–A plan will include the individual's social security number.

(2) Under title IV–A, the State agency will establish and maintain statistical records regarding the effect of the use of wage information received from agencies administering State unemployment compensation laws and from the Social Security Administration. The records will include—

(i) The number and dollar value of case closings per month;

(ii) The number and dollar value of grant reductions per month; and

(iii) The number and dollar value of grant increases per month.

5. 45 CFR 205.70 is amended by revising the introductory text and paragraph (a) to read as follows:

**§ 205.70 Availability of agency program manuals.**

*State plan requirements.* A State plan for financial assistance under title I, IV–A, IV–B, X, XIV, or XVI (AABD) of the Social Security Act must provide that:

(a) Program manuals and other policy issuances which affect the public, including the State agency's rules and regulations governing eligibility, need and amount of assistance, and recipient rights and responsibilities will be maintained in the State office and in each local and district office for examination on regular workdays during regular office hours by individuals, upon request for review, study, or reproduction by the individual.

* * * * *

6. 45 CFR 205.100 is revised as follows:

**§ 205.100 Single State agency.**

(a)(1) *State plan requirements.* A State plan for financial assistance under title I, IV–A, X, XIV, or XVI (AABD) of the Social Security Act must:

(i) Provide for the establishment or designation of a single State agency with authority to administer or supervise the administration of the plan.

(ii) Include a certification by the attorney general of the State identifying the single State agency and citing the legal authority under which such agency administers, or supervises the administration of, the plan on a statewide basis including the authority to make rules and regulations governing the administration of the plan by such agency or rules and regulations that are binding on the political subdivisions, if the plan is administered by them.

(2) [Reserved]

(b) *Conditions for implementing the requirements of paragraph (a) of this section.* (1) The State agency will not delegate to other than its own officials its authority for exercising administrative discretion in the administration or supervision of the plan including the issuance of policies, rules, and regulations on program matters.

(2) In the event that any rules and regulations or decisions of the single State agency are subject to review, clearance, or other action by other offices or agencies of the State government, the requisite authority of the single State agency will not be impaired.

(3) In the event that any services are performed for the single State agency by other State or local agencies or offices, such agencies and offices must not have authority to review, change, or disapprove any administrative decision of the single State agency, or otherwise substitute their judgment for that of the agency as to the application of policies,

rules, and regulations promulgated by the State agency.

7. 45 CFR 205.101 is revised as follows:

**§ 205.101 Organization for administration.**

(a) A State plan for financial assistance under title I, IV–A, X, XIV, or XVI (AABD) of the Social Security Act shall include a description of the organization and functions of the single State agency and an organizational chart of the agency.

(b) Where applicable, a State plan for financial assistance under title I, IV–A, X, XIV, or XVI (AABD) of the act shall identify the organizational unit within the State agency which is responsible for operation of the plan and shall include a description of its organization and functions and an organizational chart of the unit.

(c) [Reserved]

8. 45 CFR 205.120 is amended by revising the introductory text of paragraph (a) to read as follows:

**§ 205.120 Statewide operation.**

(a) *State plan requirements.* A State plan for financial assistance under title I, IV–A, X, XIV, or XVI (AABD) of the Social Security Act must provide that:

* * * * *

9. 45 CFR 205.130 is revised as follows:

**§ 205.130 State financial participation.**

State plan requirements:

(a) A State plan for financial assistance under title I, IV–A, X, XIV, or XVI (AABD) of the Social Security Act must provide that:

(1) State (as distiguished from local) funds will be used in both assistance and administration; and

(2) State and Federal funds will be apportioned among the political subdivisions of the State on a basis consistent with equitable treatment of individuals in similar circumstances throughout the State.

(b) A State plan under title I, IV–A, X, XIV, or XVI (AABD) of the Act must provide further that State funds will be used to pay a substantial part of the total costs of the assistance programs.

(c) [Reserved]

10. 45 CFR 205.145 is deleted and reserved as follows:

**§ 205.145 [Reserved]**

* * * * *

11. 45 CFR 205.150 is amended by revising paragraphs (a)(1)(i) and (a)(2) to read as follows:

**§ 205.150 Cost allocation.**

(a) *State plan requirements.* A State plan for financial assistance under titles I, IV–A, X, XIV, or XVI (AABD) of the Social Security Act must provide that:

(1) The single State Agency will have an approved cost allocation plan on file with the SSA, OFA Regional Commissioner, which identifies and describes the methods and procedures the State has established for properly charging the costs of administration, services (excluding purchased services) and training activities under the plan in accordance with the Federal requirements set out in 45 CFR Part 74, Appendix C, and in Department and SSA, OFA regulations and instructions. Under this requirement, the cost allocation plan shall:

(i) Include descriptions of the functions and activities by organizational units; estimated costs for an annual period by cost centers or pools which include the costs of all organizational units of the State department in which the single State agency is located (unless specifically waived by the Regional Commissioner); and the basis used for allocating the various pools of costs to programs and activities with justification for each;

(2) The single State agency shall revise its cost allocation plan whenever the allocation method shown in the existing plan is outdated due to organizational changes within the State agency, changes in Federal law or regulations, or other similar changes.

* * * * *

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302))

* * * * *

12. 45 CFR 205.170 is amended by revising the introductory text to read as follows:

**§ 205.170 State standards for office space, equipment, and facilities.**

State plan requirements: A State plan for financial assistance under title I, IV–A, X, XIV, or XVI(AABD) of the Social Security Act must provide that:

* * * * *

13. 45 CFR 205.190 is amended by revising the introductory text of paragraph (a) and revising paragraphs (a) (1) and (2) to read as follows:

**§ 205.190 Standard-setting authority for institutions.**

(a) *State plan requirements.* If a State plan for financial assistance under title I, X, XIV, or XVI(AABD) of the Social Security Act includes aid or assistance to individuals in institutions as defined in § 233.60(b) (1) and (2) of this chapter the plan must:

(1) Provide for the designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for such institutions;

(2) Provide that the State agency will keep on file and make available to SSA, OFA upon request:

* * * * *

14. 45 CFR 205.200 is vacated and reserved and the content revised and relocated to 45 CFR 1391.50.

**§ 205.200 [Reserved]**

15. 45 CFR 205.202 is vacated and reserved and the content revised and relocated to 45 CFR 1392.10 and 1393.8.

**§ 205.202 [Reserved]**

## PART 225—TRAINING AND USE OF SUBPROFESSIONALS AND VOLUNTEERS

16. 45 CFR 225.2 is amended by revising the introductory text and paragraph (a)(1) to read as follows:

**§ 225.2 State plan requirements.**

The State plan for financial assistance programs under titles I, IV–A, X, XIV, or XVI (AABD) of the Social Security Act for Guam, Puerto Rico and the Virgin Islands or for child welfare services under title IV–B of the Act must:

(a) Provide for the training and effective use of subprofessional staff as community service aides through part-time or full-time employment of persons of low income and, where applicable, of recipients and for that purpose will provide for:

(1) Such methods of recruitment and selection as will offer opportunity for full-time or part-time employment of persons of low income and little or no formal education, including employment of young and middle aged adults, older persons, and the physically and mentally disabled, and in the case of a State plan for financial assistance under titles I, IV–A, X, XIV, or XVI (AABD), of recipients: and will provide that such subprofessional positions are subject to merit system requirements, except where special exemption is approved on the basis of a State alternative plan for recruitment and selection among the disadvantaged of persons who have the potential ability for training and job performance to help assure achievement of program objectives:

* * * * *

17. 45 CFR 225.3 is revised to read as follows:

**§ 225.3 Federal financial participation.**

Under the State plan for financial assistance programs under titles I, IV–A, X, XIV, XVI (AABD) or for child welfare services under title IV–B of the Act, Federal financial participation in expenditures for the recruitment, selection, training, and employment and other use of subprofessional staff and

volunteers is available at the rates and under related conditions established for training, services, and other administrative costs under the respective titles.

## CHAPTER XIII—OFFICE OF HUMAN DEVELOPMENT SERVICES, DEPARTMENT OF HEALTH AND HUMAN SERVICES

### SUBCHAPTER J—SOCIAL SERVICES FOR INDIVIDUALS AND FAMILIES UNDER TITLES I, IV-A, X, XIV, AND XVI (AABD) OF THE SOCIAL SECURITY ACT

B. A new Part 1391 is established to contain the same rules in 45 CFR Parts 205 and 225 to apply to the social services' programs in the Territories, and to relocate 45 CFR Part 226 to read as follows:

## PART 1391—GENERAL ADMINISTRATION AND STATE PLAN REQUIREMENTS

### Subpart A—General Administration

Sec.
1391.1 [Reserved]
1391.2 Methods of administration.
1391.3 Safeguarding information for the social services programs.
1391.4 Reports and maintenance of records.
1391.5 Availability of agency program manuals.
1391.6 Single state agency.
1391.7 Organization for administration.
1391.8 Statewide operation.
1391.9 State financial participation.
1391.10 [Reserved]
1391.11 State standards for office space, equipment, and facilities.

### Subpart B—[Reserved]

### Subpart C—Personnel Management

Sec.
1391.50 Standards of personnel administration.
1391.51 Training and use of subprofessionals and volunteers.

### Subpart D—Purchase of Services

Sec.
1391.70 Purchase of services: State plan requirements.
1391.71 Purchase of services: Federal financial participation.

### Subpart A—General Administration

#### § 1391.1 [Reserved]

#### § 1391.2 Methods of administration.

State plan requirements: A State plan for services under title I, IV-A, X, XIV or XVI (AABD) of the Social Security Act must provide for such methods of administration as are found by the Secretary to be necessary for the proper and efficient operation of the plan.

#### § 1391.3 Safeguarding information for the social services programs.

(a) *State plan requirements.* A State plan for services under title IV-A of the Social Security Act, except as provided in paragraph (d) of this section, must provide that:

(1) Pursuant to State statute which imposes legal sanctions:

(i) The use or disclosure of information concerning applicants and recipients will be limited to purposes directly connected with:

(A) The administration of the plan of the State approved under title IV-A, the plan or program of the State under title IV-B, IV-C, or IV-D, or under title I, X, XIV, XVI (AABD), XIX, or XX or the supplemental security income program established by title XVI (SSI). Such purposes include establishing eligibility, determining amount of assistant, and providing services for applicants and recipients.

(B) Any investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of any such plans or programs; and

(C) The administration of any other Federal or federally assisted program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need. Under the requirements of this paragraph (a)(1)(i), disclosure to any committee or legislative body (Federal, State, or local) of any information that identifies by name and address any such applicant or recipient shall be prohibited; and certification of receipt of AFDC to an employer for purposes of claiming tax credit under Pub. L. 94-12, the Tax Reduction Act of 1975 (see § 235.40 of this chapter), shall be considered to be for a purpose directly connected with the administration of the plan.

(ii) The State agency has authority to implement and enforce the provisions for safeguarding information about applicants and recipients;

(iii) Publication of lists or names of applicants and recipients will be prohibited.

(2) The agency will have clearly defined criteria which govern the types of information that are safeguarded and the conditions under which such information may be released or used. Under this requirement:

(i) Types of information to be safeguarded include but are not limited to:

(A) The names and addresses of applicants and recipients and services provided (unless excepted under paragraph (d) of this section);

(B) Information related to the social and economic conditions or circumstances of a particular individual;

(C) Agency evaluation of information about a particular individual;

(D) Medical data, including diagnosis and past history of disease or disability, concerning a particular individual.

(ii) The release or use of information concerning individuals applying for or receiving services is restricted to persons or agency representatives who are subject to standards of confidentiality which are comparable to those of the agency administering the services programs.

(iii) The family or individual is informed whenever possible of a request for information from an outside source, and permission is obtained to meet the request. In an emergency situation when the individual's consent for the release of information cannot be obtained, he will be notified immediately.

(iv) In the event of the issuance of a subpoena for the case record or for any agency representative to testify concerning an applicant or recipient, the court's attention is called, through proper channels to the statutory provisions and the policies or rules and regulations against disclosure of information.

(v) The same policies are applied to requests for information from a governmental authority, the courts, or a law enforcement official as from any other outside source.

(3) The agency will publicize provisions governing the confidential nature of information about applicants and recipients, including the legal sanctions imposed for improper disclosure and use, and will make such provisions available to applicants and recipients and to other persons and agencies to whom information is disclosed.

(4) All materials sent or distributed to applicants, recipients, or medical vendors, including material enclosed in envelopes containing checks, will be limited to those which are directly related to the administration of the program and will not have political implications. Under this requirement:

(i) Specifically excluded from mailing or distribution are materials such as "holiday" greetings, general public announcements, voting information, alien registration notices;

(ii) Not prohibited from such mailing or distribution are materials in the immediate interest of the health and welfare of applicants and recipients, such as announcements of free medical examinations, availability of surplus food, and consumer protection information;

(iii) Only the names of persons directly connected with the administration of the program are contained in material sent or distributed to applicants, recipients, and vendors, and such persons are identified only in their official capacity with the State or local agency.

(b) [Reserved]

(c) *State plan requirements for services programs in Puerto Rico, the Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands.* A State plan for services under title I, X, XIV, or XVI (AABD) of the Social Security Act must meet all the requirements of paragraph (a) of this section and also provide for disclosure of information concerning applicants and recipients for use by public officials who require such information in connection with their official duties. Under this requirement, such information shall be available only to public officials who certify in writing that:

(1) They are public officials as defined by State or Federal law of general applicability; and

(2) The information to be disclosed and used is required in connection with their official duties.

(d) *Exception.* In respect to a State plan for services under title I, IV–A, X, XIV, or XVI (AABD) of the Social Security Act, exception to the requirements of paragraph (a)(1)(iii) of this section may be made by reason of the enactment or enforcement of State legislation, prescribing any conditions under which public access may be had to records of the disbursement of funds or payments under such titles within the State, if such legislation prohibits the use of any list or names obtained through such access to such records for commercial or political purposes.

**§ 1391.4 Reports and maintenance of records.**

(a) *State plan requirements.* A State plan for services under title I, IV–A, X, XIV or XVI (AABD) of the Social Security Act must provide that:

(1) The State agency will maintain or supervise the maintenance of records necessary for the proper and efficient operation of the plan, including records regarding applications, determination of eligibility, the provision of social services. Under this requirement, individual records are kept which contain pertinent facts about each applicant and recipient and include information as to the date of application and date and basis of its disposition; facts essential to determination of initial and continuing eligibility, need for, and provision of social services, and basis for discontinuing services.

**§ 1391.5 Availability of agency program manuals.**

*State plan requirements.* A State plan for services under title I, IV–A, X, XIV, or XVI (AABD) of the Social Security Act must provide that:

(a) Program manuals and other policy issuances which affect the public, including the State agency's rules and regulations governing eligibility, recipient rights and responsibilities, and services offered by the agency, will be maintained in the State office and in each local and district office for examination on regular workdays during regular office hours by individuals, upon request for review, study, or reproduction by the individual.

(b)(1) A current copy of such material will be made available without charge or at a charge related to the cost of reproduction for access by the public through custodians who (i) request the material for this purpose, (ii) are centrally located and publicly accessible to a substantial number of the recipient population they serve, and (iii) agree to accept responsibility for filing all amendments and changes forwarded by the agency.

(2) Under this requirement the material, if requested, must be made available without charge or at a charge related to the cost of reproduction to public or university libraries, the local or district offices of the Bureau of Indian Affairs, and welfare or legal services offices or organizations. The material may also be made available, with or without charge, to other groups and to individuals. Wide availability of agency policy materials is recommended.

(c) Upon request, the agency will reproduce without charge or at a charge related to the cost of reproduction the specific policy materials necessary for an applicant or recipient, or his representative, to determine whether a fair hearing should be requested or to prepare for a fair hearing; and will establish policies for reproducing policy materials without charge, or at a charge related to cost, for any individual who requests such material for other purposes.

**§ 1391.6 Single State agency.**

(a)(1) *State plan requirements.* A State plan for services under title I, IV–A, X, XIV, or XVI (AABD) of the Social Security Act must:

(i) Provide for the establishment or designation of a single State agency with authority to administer or supervise the administration of the plan.

(ii) Include a certification by the attorney general of the State identifying the single State agency and citing the legal authority under which such agency administers, or supervises the administration of, the plan on a statewide basis including the authority to make rules and regulations governing the administration of the plan by such agency or rules and regulations that are binding on the political subdivisions, if the plan is administered by them.

(2) [Reserved]

(b) *Conditions for implementing the requirements of paragraph (a) of this section.* (1) The State agency will not delegate to other than its own officials its authority for exercising administrative discretion in the administration or supervision of the plan including the issuance of policies, rules, and regulations on program matters.

(2) In the event that any rules and regulations or decisions of the single State agency are subject to review, clearance, or other action by other offices or agencies of the State government, the requisite authority of the single State agency will not be impaired.

(3) In the event that any services are performed for the single State agency by other State or local agencies or offices, such agencies and offices must not have authority to review, change, or disapprove any administrative decision of the single State agency, or otherwise substitute their judgment for that of the agency as to the application of policies, rules, and regulations promulgated by the State agency.

**§ 1391.7 Organization for administration.**

(a) A State plan for services under title I, IV–A, X, XIV, or XVI (AABD) of the Social Security Act shall include a description of the organization and functions of the single State agency and an organizational chart of the agency.

(b) Where applicable, a State plan for services under title I, IV–A, X, XIV, or XVI (AABD) of the act shall identify the organizational unit within the State agency which is responsible for operation of the plan and shall include a description of its organization and functions and an organizational chart of the unit. (See also 45 CFR Part 1392 for requirements concerning the organization for the administration of programs under title IV–A and B of the act, and 45 CFR Part 1393 for programs under title I, X, XIV, or XVI (AABD) of the act.)

(c) [Reserved]

**§ 1391.8 Statewide operation.**

(a) *State plan requirements.* A State plan for services under title I, IV–A, X,

XIV, or XVI (AABD) of the Social Security Act must provide that:

(1) It shall be in operation, through a system of local offices, on a statewide basis in accordance with equitable standards for assistance and administration that are mandatory throughout the State;

(2) If administered by political subdivisions of the State, the plan will be mandatory on such political subdivisions;

(3) The State agency will assure that the plan is continuously in operation in all local offices or agencies through:

(i) Methods for informing staff of State policies, standards, procedures and instructions; and

(ii) Regular planned examination and evaluation of operations in local offices by regularly assigned State staff, including regular visits by such staff; and through reports, controls, or other necessary methods.

(b) [Reserved]

**§ 1391.9 State financial participation.**

State plan requirements:

(a) A State plan for services under title I, IV–A, X, XIV, or XVI (AABD) of the Social Security Act must provide that:

(1) State (as distinguished from local) funds will be used for both services and administration; and

(2) State and Federal funds will be apportioned among the political subdivisions of the State on a basis consistent with equitable treatment of individuals in similar circumstances throughout the State.

(b) A state plan for services under title I, IV–A, X, XIV, or XVI (AABD) of the Act must provide further that State funds will be used to pay a substantial part of the total costs of the services programs.

(c) [Reserved]

**§ 1391.10 [Reserved]**

**§ 1391.11 State standards for office space, equipment, and facilities.**

State plan requirements: A State plan for services under title I, IV–A, X, XIV, or XVI (AABD) of the Social Security Act must provide that:

(a) The State agency will establish and maintain standards for office space, equipment, and facilities that will adequately and effectively meet program and staff needs. Under this requirement, offices must be well marked and clearly identifiable in the community as a public service.

(b) The State agency will assure that the standards are continuously in effect in all State and local offices or agencies, including agency suboffices, and special centers through:

(1) Making information about the standards available to State and local staff and other appropriate persons;

(2) Regular planned evaluation of housing and facilities by regularly assigned staff through visits, reports, controls and other necessary methods;

(3) Methods for enforcement when necessary to secure compliance with State standards.

## Subpart B—[Reserved]

## Subpart C—Personnel Management

**§ 1391.50 Standards of personnel administration.**

The State plan for services under title I, IV–A, X, XIV, and XVI (AABD) of the Act shall provide that methods of personnel administration will be established and maintained in conformity with the Standards for a Merit System of Personnel Administration, 5 CFR Part 900. These standards incorporate the Intergovernmental Personnel Act Merit Principles (Pub. L. 91–648, Section 2, 84 Stat. 1909), prescribed by the Office of Personnel Management pursuant to Section 208 of the Intergovernmental Personnel Act of 1970, as amended.

**§ 1391.51 Training and use of subprofessionals and volunteers.**

**Authority:** Sec. 1102, 49 Stat. 647; 42 U.S.C. 1302.

(a) *Definitions.*

(1) The classification of subprofessional staff as community service aides refers to persons in a variety of positions in the planning, administration, and delivery of health, social, and rehabilitation services in which the duties of the position are composed of tasks that are an integral part of the agency's service responsibilities to people and that can be performed by persons with less than a college education, by high school graduates, or by persons with little or no formal education.

(2) "Full-time or part-time employment" means that the person is employed by the agency and his position is incorporated into the regular staffing pattern of the agency. He is paid a regular wage or salary in relation to the value of services rendered and time spent on the job.

(3) The term "Volunteer" describes a person who contributes his personal service to the community through the agency's human services program. He is not a replacement or substitute for paid staff but adds new dimensions to agency services, and symbolizes the community's concern for the agency's clientele.

(4) "Partially paid volunteers" means volunteers who are compensated for expenses incurred in the giving of services. Such payment does not reflect the value of the services rendered, or the amount of time given to the agency.

(b) *State services plan requirements.* The State plan for social services under titles I, IV–A, X, XIV, and XVI (AABD) of the Social Security Act must:

(1) Provide for the training and effective use of subprofessional staff as community service aides through part-time or full-time employment of persons of low income and, where applicable, of recipients and for that purpose will provide for:

(i) Such methods of recruitment and selection as will offer opportunity for full-time or part-time employment of persons of low income and little or no formal education, including employment of young and middle aged adults, older persons, and the physically and mentally disabled, and in the case of a State plan under title I, IV–A, X, XIV, or XVI, of recipients; and will provide that such subprofessional positions are subject to merit system requirements, except where special exemption is approved on the basis of a State alternative plan for recruitment and selection among the disadvantaged of persons who have the potential ability for training and job performance to help assure achievement of program objectives;

(ii) An administrative staffing plan to include the range of service personnel of which subprofessional staff are an integral part;

(iii) A career service plan permitting persons to enter employment at the subprofessional level and, according to their abilities, through work experience, pre-service and in-service training and educational leave with pay, progress to positions of increasing responsibility and reward;

(iv) An organized training program, supervision, and supportive services for subprofessional staff; and

(v) Annual progressive expansion of the plan to assure utilization of increasing numbers of subprofessional staff as community service aides, until an appropriate number and proportion of subprofessional staff to professional staff are achieved to make maximum use of subprofessionals in program operation.

(2) Provide for the use of nonpaid or partially paid volunteers in providing services and in assisting any advisory committees established by the State agency and for that purpose provide for:

(i) A position in which rests responsibility for the development, organization, and administration of the

volunteer program, and for coordination of the program with related functions;

(ii) Methods of recruitment and selection which will assure participation of volunteers of all income levels in planning capacities and service provision;

(iii) A program for organized training and supervision of such volunteers;

(iv) Meeting the costs incident to volunteer service and assuring that no individual shall be deprived of the opportunity to serve because of the expenses involved in such service; and

(v) Annual progressive expansion of the numbers of volunteers utilized, until the volunteer program is adequate for the achievement of the agency's service goals.

(c) *Federal financial participation.*

Under the State plan for social services under titles I, IV–A, X, XIV, and XVI (AABD) of the Act, Federal financial participation in expenditures for the recruitment, selection, training, and employment and other use of subprofessional staff and volunteers is available at the rates and under related conditions established for training, services, and other administrative costs under the respective titles.

## Subpart D—Purchase of Services

**Editorial Note.**—This Editorial Note is applicable to §§ 1391.70 and 1391.71. At 40 FR 45818, Oct. 3, 1975, the regulations in 45 CFR Part 226, now 45 CFR 1391.70 and 1391.71, were superseded by 45 CFR Part 228 (40 FR 27354, June 27, 1975), now 45 CFR Part 1396, except that sections 1391.70 and 1391.71 continue in effect for Puerto Rico, the Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands for the operation of service programs under titles I, IV–A, X, XIV, and XVI (AABD) of the Social Security Act.

### § 1391.70 Purchase of services: State plan requirements.

(a) A State plan under Title I, IV–A, X, XIV, or XVI (AABD) of the Social Security Act, which authorizes the provision of services by purchase from other State or local public agencies, from nonprofit or proprietary private agencies or organizations, or from individuals, must, with respect to services which are purchased:

(1) Include a description of the scope and types of services which may be purchased under the State plan;

(2) Provide that the State or local agency will retain continuing, basic responsibility for determination as to;

(i) The eligibility of individuals for services; and

(ii) The authorization, selection, quality, effectiveness, and execution of a plan or program of services suited to the needs of an individual or of a group of individuals;

(3) Provide that the State agency will work with established and newly organized suppliers of purchased services to provide consultation and technical assistance, to assure satisfactory performance in providing such services, including periodic review, and to develop new and more effective approaches and methods of delivering purchased services;

(4) In the case of services authorized under the Vocational Rehabilitation Act, provide that such services will be obtained from the State vocational rehabilitation agency when that agency is willing and able to provide them, and that such services will be purchased from another source only when they are not obtainable from the State vocational rehabilitation agency;

(5) Assure progressive development of arrangements with a number and variety of agencies and other sources which meet applicable standards as to quality of services and rates of payment, with the aim of providing opportunities for individuals to exercise choice with regard to the source of purchased service;

(6) Assure that the sources from which services are purchased are licensed, approved as meeting State licensing standards, meet applicable accrediting standards, or in the absence of licensing or accrediting standards, meet standards or criteria established by the State agency to assure quality of service, including standards appropriate for services provided by new self-help groups and other organizations for which licensing or accrediting do not exist; and

(7)(i) Provide for the establishment of rates of payment for such services which:

(A) Do not exceed the amounts reasonable and necessary to assure quality of services, and in the case of services purchased from other public agencies, are in accordance with the cost reasonably assignable to such services; and

(B) Whenever possible are based on consideration of full cost of the services;

(ii) Describe the methods used in establishing and maintaining such rates; and

(iii) Indicate that information to support such rates of payment will be maintained in accessible form.

(b) In the case of services provided, by purchase, as emergency asssistance to needy families with children under Title IV–A, the State plan may provide for an exception from the requirements in paragraphs (a)(5), (6), and (7) of this section, but only to the extent and for the period necessary to deal with the emergency situation.

(c) All other requirements governing the State plans listed in paragraph (a) of this section are applicable to the purchase of services, including:

(1) General provisions such as those relating to single State agency, fair hearings and grievances, safeguarding of information, civil rights, and financial control and reporting requirements; and

(2) Specific provisions as to the programs of services such as those on required services, State-wideness and maximum utilization of other agencies providing services, to the extent feasible.

### § 1391.71 Purchase of services: Federal financial participation.

(a) Federal financial participation is available in expenditures for purchase of services under the State plans listed in § 1391.70 to the extent that payment for purchased services is in accordance with rates of payment established by the State which do not exceed the amounts reasonable and necessary to assure quality of service and, in the case of services purchased from other public agencies, the cost reasonably assignable to such services.

(b) Services which may be purchased with Federal financial participation are those for which Federal financial participation is otherwise available under Title I, IV–A, X, XIV, or XVI (AABD) of the Social Security Act and which are included under the approved State plan.

(c) Payments for subsistence (including payments for foster care), other items of individual or family need normally included in assistance payments, and medical or remedial care or services are not considered to be service costs. However, Federal financial participation is available in expenditures for the purchase of services which include subsistence or medical care items (as contrasted with payments made to provide financial or medical assistance), such as:

(1) Subsistence and medical care when they are included as an essential component of the furnishing of services in an institutional setting and cannot be separately identified, such as in a comprehensive rehabilitation center; and

(2) Under Title IV–A of the Act, medical care, for such items as:

(i) Family planning services; and

(ii) Medical examinations required for child care staff, when not otherwise available.

(For details as to these and other special conditions, see the pertinent regulations, such as those for emergency assistance to needy families with children, § 233.120 of this chapter, and services to

children and families under Title IV–A of the Act, to be published at a later date.)

[Sec. 1102, 49 Stat. 647; 42 U.S.C. 1302]

## PART 1392—SERVICE PROGRAMS FOR FAMILIES AND CHILDREN: TITLE IV PARTS A AND B OF THE SOCIAL SECURITY ACT

C. 45 CFR Parts 220 and 231, now located in Chapter II, are transferred to 45 CFR Chapter XIII, Subchapter J, and redesignated as a new Part 1392 to read as follows:

## PART 1392—SERVICE PROGRAMS FOR FAMILIES AND CHILDREN; TITLE IV PARTS A AND B OF SOCIAL SECURITY ACT

**Editorial Note:** At 40 FR 45819, Oct. 3, 1975, Part 220 (relocated in Part 1392) was amended and the extent of its applicability limited. Part 228 (relocated in Part 1396) 40 FR 27354, June 27, 1975), of this chapter supersedes Part 220 (relocated in Part 1392) with the following exceptions:

1. Regulations in this part relating to child welfare services under Part B of title IV of the Social Security Act, remain effective for the 50 States and the District of Columbia.

2. Regulations in this part pertaining to the operation of services programs (under titles I, IV–A, IV–B, X, XIV, and XVI (AABD) of the Social Security Act), remain in effect for Puerto Rico, Virgin Islands, and Guam and are now applicable to the Commonwealth of the Northern Mariana Islands.

4. Regulations in this part pertaining to the Work Incentive Program (WIN) are superseded by 45 CFR Part 224 (40 FR 43181, Sept. 18, 1975).

However, statutes affecting the social services programs have been enacted since the provisions of this Part 220 (relocated in Part 1392) were originally published. Therefore, relevant sections of the following acts must be applied in implementing Part 220 (relocated in Part 1392): (1) Social Security Amendments of 1972 (Pub. L. 92–603); (2) Revenue Sharing Act (Pub. L. 92–512); (3) extension of Renegotiation Act (Pub. L. 93–66); and (4) Pub. L. 93–233.

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Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302); Sec. 118 of Pub. L. 96–86.

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Authority: Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).

### Subpart A—Mandatory Provisions

#### § 1392.1 General.

(a) The State plans for AFDC services in Puerto Rico, the Virgin Islands, Guam and the Commonwealth of the Northern Mariana Islands, and for CWS in the Territories, the 50 States and the District of Columbia, pursuant to title IV, parts A and B of the Social Security Act must, with respect to the administration of the service programs for families and children,

(1) Contain provisions committing the State to meet the requirements in this subpart;

(2) Contain provisions committing the State to progress in the extension and improvement of services;

(3) Indicate the steps to be taken to meet the requirements; and

(4) For title IV–B, provide for the submission of such implementation and progress reports as may be specified.

(b) The State plans for services under title IV–A must contain provisions committing the State to comply with 45 CFR Part 74.

### Organization and Administration

#### § 1392.2 Single organizational unit.

(a) There must be a single organizational unit, within the single State agency, at the State level and also at the local level to provide or supervise all services to families and children included in the State plan for title IV, parts A and B. Within the single organizational unit the same subunits must be responsible for setting service policies and furnishing services for both AFDC and CWS cases. Specific services may be delegated within the agency for services common to other groups (e.g., homemaker service for the aged), provided that this does not tend to create differences in the quality of services for AFDC and CWS cases. (This requirement does not apply to States where the AFDC and CWS programs were administered by separate agencies on Jan. 2, 1968.)

(b) Such unit must, under the direction of its chief officer (who, at the State level, is not the head of the State agency), be responsible for:

(1) Development of policy and the maintenance of policy control for all parts of the service program.

(2) Direct program supervision of the local agency or otherwise be in a position to assure proper program implementation.

(c) The State plan must also include the structure of such unit and show its place in the overall welfare agency and the distribution of responsibilities among the major divisions within the unit.

**§ 1392.3 Full-time staff for services.**

(a) The functions of arranging or providing services to individuals should, to the maximum extent feasible, be performed by persons other than those who determine eligibility for financial and medical assistance and provide financial assistance.

(b) There must be adequate numbers of full-time staff assigned to service functions at all levels of agency operations and, to this end, there must be progress toward the objective of relieving all staff of nonservice functions. (This does not exclude service at intake, i.e., providing information, screening and referral within the agency and community for all families and children seeking agency help; and determining need for specific services.)

**§ 1392.4 Advisory committees.**

(a) An advisory committee on AFDC and CWS programs must be established at the State level and at local levels where the programs are locally administered, except that in local jurisdictions with small caseloads alternate procedures for securing similar participation may be established. The State plan must show that the advisory committee will:

(1) Advise the principal policy setting and administrative officials of the agency and have adequate opportunity for meaningful participation in policy development and program administration, including the furtherance of recipient participation in the program of the agency.

(2) Include representatives of other State agencies concerned with services, representatives of professional, civic or other public or private organizations, private citizens interested and experienced in service programs, and recipients of assistance or services or their representatives who shall constitute at least one-third of the membership. Such recipients or their representatives must be selected in a manner that will assure the participation of the recipients in the selection process and that they are representative of recipients of assistance or services.

(3) Be provided such staff assistance from within the agency and such independent technical assistance as are needed to enable it to make effective recommendations.

(4) Be provided with financial arrangements, where necessary, to make possible the participation of recipients in the work of the committee structure.

(b) An advisory committee on day care services must be established at the State level, either as a separate committee, or all or a part of the advisory committee on AFDC and CWS programs may be assigned this function. In either event, the committee must have at least one-third of its membership drawn from recipients or their representatives; and include representatives of agencies and groups concerned with day care or related services, i.e., other State agencies, professional or civic or other public or nonprofit private agencies, organizations or groups.

(c) The State plan must also show the structure and functions of the State and local committees for AFDC and CWS programs and for day care services; their relationship to other boards and committees associated with the State and local agencies; the system for selecting recipients or their representatives; and assure that the State committee for AFDC and CWS programs will be established no later than 90 days after plan approval.

**§ 1392.5 Use of professional staff.**

(a) There must be adequate numbers and suitable qualifications for personnel drawn from social work and other appropriate disciplines to plan, develop and supervise services and to provide specialized services to families and children; and there must be an adequate system of career development and progression for such individuals.

(b) The State plan must also include:

(1) The staffing pattern for professional positions carrying out the service functions.

(2) An explanation of how the quantity and quality of services will be maintained in instances where the number of professional personnel performing eligibility and service functions results in a caseload or workload higher than that in effect during fiscal year 1968.

**§ 1392.6 Use of subprofessional personnel.**

(a) No later than July 1, 1969 provision must be made for the training and effective use of subprofessional staff in the programs of services to families and children, including part-time or full-time employment of recipients and other persons of low income. (The term "subprofessional," as used here, means persons with less than college education, a high school graduate or a person with little or no formal education.)

(b) The State plan must also include:

(1) The methods of recruitment and selection, as will offer opportunities for employment of such persons.

(2) A career service plan that permits such persons to enter employment at the subprofessional level and progress to positions of increasing responsibility and remuneration.

(3) An organized training program, supervision and supportive assistance for such staff.

(4) Annual progression in the utilization of increasing numbers of such staff until there is optimal use of subprofessional staff in achieving the service goals for families and children.

**§ 1392.7 Use of volunteers.**

(a) No later than July 1, 1969, provision must be made for the training and effective use of nonpaid or partially paid volunteers representing various age groups, specifically including senior citizens and young persons, in the service programs for families and children and assisting related advisory committees.

(b) The State plan must also include:

(1) The methods of recruitment and selection which will assure participation of volunteers of all income levels.

(2) A program for organized training and supervision of such volunteers.

(3) Assignment to a specific position in which rests responsibility for the development, organization, and administration of the volunteer program, and for coordination of the program with related functions.

(4) Provision for meeting the costs incident to volunteer service.

(5) Annual progression in the utilization of volunteers until such use is sufficient for the achievement of the service goals for families and children.

**§ 1392.8 Relationship and use of other agencies.**

(a) There must be maximum utilization of and coordination with other public and voluntary agencies, including with respect to the latter their experience as well as their facilities, providing services similar or related to the services provided under the plan, where such services are available without additional cost.

(b) Consideration must be given to the appropriate use of other public and voluntary agencies as sources for the purchase of care and services and such use must be based on a determination that required program standards will be met, a comparison of the effectiveness with which the services are likely to be rendered and the anticipated costs thereof.

(c) The State plan must show ways in which public and voluntary agencies will be used, including types of services to be purchased.

**§ 1392.9 Delivery and utilization of services.**

(a) There must be progress in achieving organizational patterns and simplified administrative procedures that assure effective delivery and utilization of services.

(b) The State plan must also provide for continued assessment and necessary adaptations to achieve this requirement.

**§ 1392.10 Training.**

(a) For social services programs under title IV–A, the State agency shall:

(1) Provide for a training program to improve the operation of the program and to assure a high quality of service; and

(2) Implement its training program in accordance with the requirements of 45 CFR 235.61 through 235.65, except that copies of the annual training plan required by 45 CFR 235.62(c) shall be made available upon request to the Regional Administrator, Office of Human Development Services.

(3) Notwithstanding 45 CFR 235.62, 235.63 and 235.64, effective April 1, 1981, establish and implement a training plan for child day caregivers that meets the requirements of 45 CFR Part 71.

(b) For child welfare services programs under title IV–B:

(1) There must be staff development on a continuing, progressive and comprehensive basis for all staff responsible for the development and provision of services. Such staff development shall include orientation, in-service training and educational leave. Provision shall be made for increasing each year the number of educational leaves for professional training to assure an adequate number of professional staff for these programs; and

(2) The State agency shall, effective April 1, 1981, establish and implement a training plan for child day caregivers that meets the requirements of 45 CFR Part 71.

**§ 1392.11 Appeals, fair hearings and grievances.**

(a) There must be provision for a fair hearing, under which applicants and recipients may appeal denial of or exclusion from a service program , failure to take account of recipient choice of service or a determination that the individuals must participate in the service program. The results of appeals must be formally recorded and made available to the State advisory committee and all applicants and recipients must be advised of their right to appeal and the procedures for such appeal.

(b) There must be a system through which recipients may present grievances about the operation of the service program.

(c) The State plan must also describe the system for appeals and grievances and the methods of informing recipients of their right to appeal.

**Mandatory Services Applicable to Title IV, Part A**

**§ 1392.15 General.**

The State plan:

(a) Must assure that responsibility is assumed for the provision of services to all appropriate persons receiving aid and others in the home whose needs were considered in determining eligibility for such aid, as called for under each of the requirements in §§ 1392.16–1392.25; and

(b) Must be specific in its identification of the services to be provided or purchased and the families and children to whom they will be available.

**§ 1392.16 Service plan.**

(a) A service plan must be developed and maintained on a continuous basis for each family and child who requires service to maintain and strengthen family life, foster child development and achieve permanent and adequately compensated employment.

(b) By January 1, 1970, a service plan must be developed for each family and child in the current caseload and, within 1 year following approval for financial assistance for those added to the caseload after March 31, 1969.

(c) Such plans must be developed in cooperation with the family and must be responsive to the needs of each individual within the family, while taking account of the relation of individual needs to the functioning of the family as a whole. Families shall have the right to accept or reject such plans. (See 45 CFR Part 224 for special provisions on refusal without good cause under the WIN program and referral of Unemployed Fathers to the WIN program.)

(d) Service plans must, as a minimum, include the objectives and content of the service requirements in §§ 1392.15–1392.24.

(e) Each service plan must be reviewed as often as necessary, but at least annually, to assure that it is practically related to needs and is being effectively implemented.

**§ 1392.17 Employment objectives.**

(a) Services must be provided to assist all appropriate persons to achieve employment and self sufficiency.

(b) Priority must be given to screening the entire caseload, and new cases as added, to identify those persons who are immediately referrable for training and employment and development service plans for them.

(c) With respect to employment objectives, there must be as a minimum:

(1) Identification of individuals currently ready or with potentials for employment or training.

(2) Determination of the individuals appropriate for referral to programs offering training and employment services and referral of such individuals. (See 45 CFR Part 224 for policies governing referrals to the Work Incentive Program.)

(3) General and specialized diagnostic assessments (e.g., vocational, rehabilitation, education, medical, and psychological) of health, learning, and other limitations that prevent involvement in employment or training.

(4) Plans to insure that training and employment lead to stability of employment in jobs which take full advantage of the individual's potential.

(5) Provisions of services necessary to deal with personal and family barriers which prevent or limit individuals in their use of training and in their achievement of stable employment.

(6) Provision for utilization of public and voluntary agencies in the fields of vocational rehabilitation, health, vocational, and other education, including special attention to the capabilities of rehabilitation centers and workshops, community action agencies, neighborhood centers, and similar organizations.

**§ 1392.18 Child care services.**

(a) Child care services, including in-home and out-of-home services, must be available or provided to all persons referred to and enrolled in the Work Incentive Program and to other persons for whom the agency has required training or employment. Such care must be suitable for the individual child; and the caretaker relatives must be involved

in the selection of the child care source to be used if there is more than one source available. However, when there is only one source available, the caretaker relatives must accept it unless they can show that it is unsuitable for their child. The child care services must be maintained until the caretaker relatives are reasonably able to make other satisfactory child care arrangements.

(b) Progress must be made in developing varied child care resources with the aim of affording parents a choice in the care of their children.

(c) All child care services must meet the following standards:

(1) *In-home care.* (i) Homemaker service under agency auspices must meet the standards established by the State agency which must be reasonably in accord with the recommended standards of related national standard setting organizations, such as the Child Welfare League of America and the National Council for Homemaker Services.

(ii) Child care provided by relatives, friends, or neighbors must meet standards established by the State agency that, as a minimum, cover age, physical and emotional health, capacity and time of the caretaker to provide adequate care; hours of care; maximum number of children to be cared for; feeding and health care of the children.

(2) *Out-of-home care.* (i) Day care facilities, used for the care of children, must be licensed by the State or approved as meeting the standards for such licensing and day care facilities and services must comply with the standards of the Federal Interagency Day Care Requirements which are in effect through September 30, 1980, and the requirements of section 422(a)(1) of the Social Security Act (see § 1392.56).

(ii) Beginning October 1, 1980, FFP is available for the costs of out-of-home child day care services only if all the requirements of 45 CFR Part 71 are met.

(d) Both in-home and out-of-home child care provided for persons referred to the WIN program must be a service cost rather than an assistance cost.

**§ 1392.19 Foster care services.**

Effective July 1, 1969, services must be provided for children receiving aid in the form of foster care under title IV—part A, to:

(a) Assure placement appropriate to the needs of each child.

(b) Assure that the child receives proper care in such placement.

(c) Determine continued appropriateness of and need for placement through periodic reviews, at least annually.

(d) Improve the conditions in the home from which the child was removed, so that the child may be returned to his own home, or otherwise plan for the placement of the child in the home of other relatives, adoptive home or continued foster care, as appropriate.

(e) Work with other public agencies that have responsibility for the placement and care of any such children to assure that these agencies carry out their responsibilities in accordance with their agreement with the State agency administering or supervising the administration of AFDC.

**§ 1392.20 Prevention or reduction of births out-of-wedlock.**

There must be a program to prevent or reduce the incidence of births out-of-wedlock and to otherwise strengthen family life. Services to prevent and reduce births out-of-wedlock must be extended progressively to all appropriate adults and youths, with initial priority for mothers who have had children born out-of-wedlock within the 2 preceding years or who are currently pregnant out-of-wedlock and for youths living in conditions immediately conducive to births out-of-wedlock. Services must be provided for fathers of such children.

**§ 1392.21 Family planning services.**

(a) Family planning services must be offered and provided to those individuals wishing such services, specifically including medical contraceptive services (diagnosis, treatment, supplies, and followup), social services and educational services. Such services must be available without regard to marital status, age, or parenthood. Individuals must be assured choice of method and there must be arrangements with varied medical resources so that individuals can be assured choice of source of service. Acceptance of any services must be voluntary on the part of the individual and may not be a prerequisite or impediment to eligibility for the receipt of any other service or aid under the plan. Medical services must be provided in accordance with the standards of other State programs providing medical services for family planning (e.g., maternal and child health services).

(b) Federal financial participation in State claims for abortions is governed by 42 CFR 441.200 through 441.203 and 441.205 through 441.208.

(c) If a State authorized sterilization as a family planning service, it must comply with the provisions of 42 CFR Part 441, Subpart F.

**§ 1392.22 Services to meet particular needs of families and children.**

Services must be provided to families and children as follows:

(a) Assist children to obtain education in accordance with their capacities.

(b) Improve family living through assisting parents to overcome home-making and housing problems.

(c) Assist in reuniting families.

(d) Assist parents in money management, including consumer education.

(e) Assist parent in child rearing.

(f) Offer education for family living.

(g) Evaluate the need for, and in appropriate cases provide for, protective and vendor payments and related services.

**§ 1392.23 Protective services and cooperation with courts.**

(a) Protective services must be provided to children receiving aid who are found to be in danger of or subject to neglect, abuse or exploitation.

(b) There must be a specific plan whereby the State or local agency will bring cases of child abuse, neglect or exploitation to the attention of appropriate courts or law enforcement agencies. The same criteria for referral to courts or law enforcement agencies must be used as are used by the State or local agency for all other parents and children. There must be continued cooperation with such courts and officials to assist in planning of the child to serve his best interests.

**§ 1392.24 Services related to health needs.**

Services must be provided to families and children with health needs through identifying needs for preventive and remedial medical services; locating organizations or individuals who are willing to provide quality services on a dignified basis and helping to solve any problems which may prevent them from obtaining needed medical services and from making optimum use of the services available.

**Mandatory Services Applicable to Title IV, Part B**

**§ 1392.40 Child welfare services.**

(a) The State plan must assure progressive extension of child welfare services so that such services will be available in all political subdivisions by July 1, 1975, for all children in need of them; including annual progress in one or more of the following dimensions:

(1) Covering additional political subdivisions;

(2) Reaching additional children in need of services;

(3) Expanding the range of services provided;

(4) Improving the quality of services through additional trained child welfare personnel.

(b) The State plan must provide that:

(1) As a basis for giving priority in extending the provision of child welfare services to communities with the greatest need for such services, there will be a reasonable and objective method for assessing this need, taking into consideration their relative financial need.

(2) As a minimum, there will be child welfare services to children in their own homes and the provision of foster care of children.

(3) There will be a case plan, including diagnostic evaluation and plan for treatment, when a child is accepted for child welfare services; and periodic review of such plan.

(4) Child welfare services will be available on the basis of need for services and shall not be denied on the basis of financial need, legal residence, social status or religion.

(5) Child welfare services will not be limited to AFDC cases.

**Other Requirements Applicable to Title IV, Parts A and B, as Indicated**

**§ 1392.45 Community planning (applicable to IV-A and B).**

(a) There must be progress in developing State and local agency leadership for participation in community affairs which will result in the development of community resources necessary to achieve program objectives of title IV, parts A and B.

(b) The State plan must also show the steps to be taken to achieve this objective, including the staffing for this function.

**§ 1392.46 Reports and evaluations (applicable to IV-B).**

Such reports and evaluations must be furnished to the Secretary as he may specify showing the scope, results and costs of services for families and children.

**§ 1392.47 Implementation by local agencies (applicable to IV-A and B).**

(a) The State agency must have methods of assuring that local agencies are meeting the plan requirements.

(b) The State plan must also describe the methods to be used to carry out this requirement.

**§ 1392.48 [Reserved]**

**§ 1392.49 Other plan requirements for child welfare services under title IV-B (see also Subpart D of this part).**

(a) *Single State agency.* (1)(i) The State plan shall designate a State agency as the single agency for the administration of the plan or for supervision of the administration of part of the plan by local agencies.

(ii) Effective July 1, 1969, the State plan must provide that the State agency responsible for the State plan approved under title IV-A will also administer or supervise the administration of the plan under title IV-B, except that—

(A) If on January 2, 1968, the State agency administering the plan under title IV-B is different from the State agency responsible for the State plan approved under title IV-A, the requirement in this subdivision (ii) shall not apply so long as such agencies are different; or

(B) If on January 2, 1968, the local agency administering the plan approved under title IV-B is different from the local agency administering the plan approved under title IV-A, the requirement in paragraph (a)(1)(ii) of this section shall not apply with respect to such local agencies so long as such agencies are different.

(2) The State plan shall set forth the authority of the State agency under State law for the administration of the program. Where there is administration by local agencies, the plan shall set forth the legal basis for such administration or for the supervision of such administration by the State agency. Citations to all directly pertinent laws and copies of all interpretations of such laws by appropriate State officials, and citations to all directly pertinent interpretations of laws by courts, shall be furnished as part of the plan.

(b) *Organization for administration.* The State plan shall describe the organization of the State agency for the administration of the plan and of any local agencies engaged in such administration. It shall also describe the methods of administration utilized by the State agency in the administration of the plan and by any local agencies engaged in such administration. Where there is administration by local agencies, the State plan shall describe the nature and extent of the supervision exercised by the State agency.

(c) *Personnel standards.* (1) There shall be, with respect to the employees of the State agency and those of local agencies, personnel administration on a merit basis which shall be in accordance with current Federal Standards for a Merit System of Personnel Administration in 45 CFR Part 70. The State plan shall contain necessary materials relating to personnel administration to permit evaluation for compliance with the said Standards for a Merit System of Personnel Administration.

(2) The State plan must provide that the State agency will develop and implement an affirmative action plan for equal employment opportunity in all aspects of personnel administration as specified in 45 CFR 70.4. The affirmative action plan will provide for specific action steps and timetables to assure such equal opportunity. The plan shall be made available for review upon request.

(d) *Coordination with services under AFDC.* There shall be coordination between child welfare services and services in AFDC with a view to provision of welfare and related services which will best promote the welfare of such children and their families.

(e) *Reports.* The State plan shall provide that the State agency will make such reports with respect to any and all phases of the State program of child welfare services in such form and containing such information as HDS may find necessary to assure the correctness and verification of such reports.

**Subpart B—Optional Provisions**

**§ 1392.50 General.**

If a State elects under title IV-A to provide services for additional groups of families and children, i.e., current applicants or former or potential applicants and recipients of public assistance, the State plan must—

(a) Identify such group or groups and specify the services to be made available to such group;

(b) Contain provisions committing the State to meet the requirements in this subpart; and

(c) Indicate the steps to be taken to meet those requirements.

**Services in Aid to Families With Dependent Children**

**§ 1392.51 Range of optional services.**

(a) The Social Security Act (sec. 406(d)) defines the full range of family services in AFDC as follows:

"* * * services to a family or any member thereof for the purpose of preserving, rehabilitating, reuniting, or strengthening the family, and such other services as will assist members of a family to attain or retain capability for the maximum self-support and personal independence."

(b) The full range of or selected family services, and child welfare services as defined in this subpart, may be included except for those services excluded in § 1392.61.

(c) Following are types of selected services:

(1) *Child care services.* Child care services provided to families other than those required in § 1392.15, must meet the standards required in that section.

(2) *Emergency assistance—services.* Emergency assistance in the form of services to needy families with children, including migrants, may be provided. Such services must be planned and staffed, so as to assure immediate accessibility and prompt response, and separate policy instructions relating to emergency assistance must apply. (These separate policies do not apply to use of title IV–B funds.)

(3) *Educational and training services.* Educational and training services may be included where the Work Incentive Program has not been initiated in a local jurisdiction or is inadequate in scope or size to meet the needs of recipients; or where the Work Incentive Program has been initiated and there is an agreement with representatives of the Labor Department that these services are not available to recipients. Full use must be made of services available through the Employment Service.

(4) *Legal services.* Legal services may be included for families desiring the help of lawyers with their legal problems (see separate policies governing the provision of such services).

**§ 1392.52 Coverage of optional groups for services.**

(a) The agency may elect to provide services to all or to reasonably classified subgroups of the following:

(1) Families and children who are current applicants for financial assistance.

(2) Families and children who are former applicants or recipients of financial assistance.

(3) Families and children who are likely to become applicants for or recipients of financial assistance, i.e., those who:

(i) Are eligible for medical assistance as medically needy persons, under the State's title XIX plan.

(ii) Would be eligible for financial assistance if the earnings exemption granted to recipients applied to them.

(iii) Are likely, within 5 years, to become recipients of financial assistance.

(iv) Are at or near dependency level including those in low-income neighborhoods and among other groups that might otherwise include more AFDC cases, where services are provided on a group basis.

(4) All other families and children for information and referral service only.

(b) All families and children in the above groups, or a selected reasonable classification of families and children with common problems or common service needs, may be included.

**Child Welfare Services**

**§ 1392.55 Range of optional services and groups to be served.**

(a) The Social Security Act (sec. 425) defines the full range of child welfare services as follows: " * * * public social services which supplement, or substitute for, (1) parental care and supervision for the purpose of preventing or remedying, or assisting in the solution of problems which may result in the neglect, abuse, exploitation, or delinquency of children, (2) protecting and caring for homeless, dependent, or neglected children, (3) protecting and promoting the welfare of children of working mothers, and (4) otherwise protecting and promoting the welfare of children, including the strengthening of their own homes where possible or, where needed, the provision of adequate care of children away from their homes in foster family homes or day care or other child care facilities."

**§ 1392.56 Day care services.**

(a) If day care services are included under title IV–B, they must meet the standards required in § 1392.18(c)(2), and in addition, the State plan must indicate compliance with the following:

(1) Cooperative arrangements with State health and education agencies to assure maximum utilization of such agencies in the provision of health and education services for children in day care.

(2) An advisory committee on day care services as set forth in § 1392.4(b).

(3) A reasonable and objective method for determining the priorities of need, as a basis for giving priority, in determining the existence of need for day care, to members of low-income or other groups in the population and to geographical areas which have the greatest relative need for the extension of day care.

(4) Specific criteria for determining the need of each child for care and protection through day care services.

(5) Determination that day care is in the best interests of the child and the family.

(6) Provision for determining, on an objective basis, the ability of families to pay for part or all of the cost of day care and for payment of reasonable fees by families able to pay.

(7) Provision for the development and implementation of arrangements for the more effective involvement of the parent or parents in the appropriate care of the child and the improvement of his health and development.

(8) Provision of day care only in facilities (including private homes) which are licensed by the State or approved as meeting the standards for such licensing.

## Subpart C—Federal Financial Participation

**§ 1392.60 General.**

The regulations in this subpart deal separately with Federal financial participation in the costs of services under the AFDC and Child Welfare Services programs because these programs have different legal provisions governing the extent of Federal funding. However, in general there are no differences in the kinds of services or methods of providing services under these two programs.

**§ 1392.61 Federal financial participation; AFDC.**

(a) General. Federal financial participation is available in expenditures for—

(1) Properly and efficiently administering the plan;

(2) Providing the services for the groups of families and children; and

(3) Carrying out the activities described in subparts A and B of these regulations that are included in the approved State plan. Such participation will be at the rates prescribed in this subpart.

(b) *Persons eligible for service.* Federal financial participation is available under this section only for services provided to:

(1) A child or relative who is receiving aid under the plan and to any essential person living in the same household as such relative and child.

(2) The groups defined in § 1392.52; current applicants for aid, former and potential applicants or recipients and other individuals requesting information and referral service only. In respect to any child or relative who has formerly been an applicant for or recipient of aid, counseling and casework services may be provided. Other services may be provided only to those children or relatives who have received aid within the previous 2 years or who qualify under the definition of potential applicants or recipients.

(c) *Sources for furnishing services.* Federal financial participation is available under this section for services furnished:

(1) By State or local agency staff, i.e., full- or part-time employed staff; and volunteers, or

(2) By purchase, contract, or other cooperative arrangements with public or private agencies or individuals, provided that such services are not available without cost from such sources.

(d) *Provisions governing costs of certain services.* (1) Medical and assistance costs. Federal financial participation under this section will not be available in expenditures for subsistence and other assistance items or for medical or remedial care or services, except:

(i) For subsistence and medical care when they are provided as essential components of a comprehensive service program of a facility and their costs are not separately identifiable, such as, in a rehabilitation center, a day care facility or a maternity home;

(ii) For medical and remedial care and services as part of family planning services;

(iii) For required medical examinations for persons caring for children under agency auspices, when not otherwise available or not included in purchase arrangements;

(iv) For identifying medical problems of children in child care facilities; or

(v) For medical diagnosis and consultation when necessary to carry out service responsibilities, e.g., for recipients under consideration for referral to training and employment programs.

(2) Vocational rehabilitation services Federal financial participation is not available in the costs of providing services for the disabled as defined in the Vocational Rehabilitation Act except pursuant to an agreement with the State agency administering the vocational rehabilitation program. This applies to provision of services by staff of the agency and purchase.

(3) Federal financial participation is available in the costs of the following:

(i) Staff in providing services related to foster care, i.e., recruitment, study, and approval of foster family homes, services to children in foster care and their parents, and work with foster parents and staff of child-caring institutions. Vendor payments for foster care are assistance payments and are, therefore, not subject to the service rate of Federal financial participation.

(ii) Work related to child care resources to be used by the agency, i.e., the costs of staff engaged in the development, recruitment, study, approval, and subsequent evaluation of out-of-home child care resources, except the costs of staff primarily engaged in the issuance of licenses or in the enforcement of standards; study, approval, and subsequent evaluation of in-home care arrangements; and in the provision of technical assistance to improve the quality of child care.

(iii) Services provided in behalf of families and children, e.g., community planning, assuring accessibility to entitled service resources; and studies of service needs and results.

(iv) Certain services to assist individuals to achieve employment and self-sufficiency:

(A) Payments for additional expenses of individuals that are attributable to their participation in training or work experience projects, e.g., transportation, lunches, uniforms. (Not applicable to assistance recipients earning wages, including employment or on-the-job training, or on special work projects under Work Incentive Program, since such expenses will be deducted in determining net income.)

(B) Medical examinations that are necessary to determine physical and mental health conditions for training or employment.

(C) Education and training as provided in § 1392.51(c)(3).

(v) Agency staff engaged in locating and planning with deserting or putative fathers; assessing potentials and determining appropriate actions; developing voluntary support; assisting relatives to file petitions for the establishment of paternity; reuniting families; and cooperative planning with appropriate courts and law enforcement officials.

(e) *Federal financial participation for child care services.* Child care expenditures for WIN participants must be charged as a service expenditure and separately identified since Federal funds for this purpose come from a separate appropriation. Child care expenditures for other AFDC cases may be charged as a service expenditure or included as a financial assistance expenditure subject to matching under the title IV–A formula, depending on how the State plan specifies. Where child care is provided as a service the payment may be made either to the vendor of the service directly or to the recipient for payment by him. In either case documentation is needed in the form of statements of the type and quantity of services rendered for each recipient (receipted by vendor when the service payment is made directly to the recipient) to establish the fact that the expenditure was for services.

(f) *Rates and amounts of Federal financial participation (FFP) and cost allocation requirements for Puerto Rico, the Vrigin Islands, (delete) Guam, and the Commonwealth of the Northern Mariana Islands.* (1) FFP at the 60 percent rate is available for the service costs identified in paragraphs (d) and (e) of this section; and for training and staff development including costs of training provided to welfare staff by courts or law enforcement officials.

(2) FFP at the 50 percent rate is available for emergency services.

(3) For family planning services and referral for participation under the Work Incentive Program for any fiscal year beginning on or after July 1, 1967, the Federal share to:

(i) Puerto Rico shall not exceed $2 million.

(ii) The Virgin Islands shall not exceed $65,000.

(iii) Guam shall not exceed $90,000. Notwithstanding the limitations in paragraph (a)(3) of this section any funds which may become available under § 1396.52(c)(3) of this chapter may be used for any service activities under titles I, IV–A, X, XIV or XVI (AABD).

(4) Federal financial participation at the 50% rate is available in the costs of income maintenance activities and emergency assistance.

(5) Salaries and related expenses of staff who perform both service and income maintenance functions must be allocated between the two types of activities as a basis for claiming FFP at the rates specified in paragraphs (f) (1), (2) and (4) of this section. For purposes of this paragraph, income maintenance functions means all activities related to basic maintenance, i.e., determination of initial and continuing eligibility for financial and medical assistance and for food stamps. (*Provided.* That all members of the household are included in the assistance unit) and the authorization for purchase of coupons if prepared by the worker who determines eligibility for food stamps; furnishing of checks, warrants or food stamps for which the family is eligible; maintaining the case in payment or certification status; providing emergency services; and performing other related activities required in the administration of the income maintenance program.

(g) *Federal financial participation in the work incentive program.* (1) Federal financial participation at the rate of 90 percent is available in the costs of self-support services (and the related administrative costs) provided by the separate administrative units in accordance with 45 CFR 224.15(c).

(2) The amount of Federal funds available for Federal financial participation at the rate of 90 percent, as appropriated by Congress, will be apportioned among the States according to methods prescribed by the Secretary.

(3) This paragraph does not apply to Puerto Rico, the Virgin Islands, (delete) Guam, and the Commonwealth of the Northern Mariana Islands.

**§ 1392.62 Federal financial participation; CWS.**

(a) *Federal share.* The Federal share of service programs under title IV–B shall be at the rate specified in or promulgated pursuant to section 423 of the Act.

(b) *Persons eligible for service.* (1) Federal financial participation under title IV–B is available to serve all families and children in need of child welfare services without respect to whether they are receiving AFDC.

(2) Expenditures for care of children it, foster family homes, group homes, institutions, family day care homes or day care centers, or for care of unmarried mothers in foster family homes, group homes, institutions, or independent or other living situations, shall be for those children or unmarried mothers for whom the public welfare agency, through its child welfare services program, accepts responsibility for providing or purchasing such care. This responsibility includes; determining the need for such care and that the type of care is in the best interest of the child and his family or of the unmarried mother, determining the ability of the family to contribute to the cost of care; and developing a plan for continuing supervision of the child or unmarried mother in care.

(c) *Sources of services.* Federal financial participation is available under this section for services furnished:

(1) By State or local agency staff, i.e., full- or part-time employed staff, and volunteers, or

(2) By purchase, contract, or other cooperative arrangements with public or private agencies or individuals, provided that such services are not available without cost from such sources.

(d) *Kinds of expenses included.* Federal financial participation is available for expenditures for the following purposes: personnel services; professional education; institutes, conferences and short-term courses; foster care of children; care of unmarried mothers; day care of children; purchase of homemaker services, specialized services; return of runaway children; research and special facilitative services; merit system costs; advisory committees; membership fees; supplies, equipment and communication; and occupancy and maintenance of space.

**§ 1392.63 Relationship of costs under parts A and B of title IV.**

(a) There must be methods of allocating the costs of providing services under the child welfare services program and providing services under the AFDC program.

(b) Service expenses that jointly benefit title IV–A and B programs may be allocated between them using any reasonable basis or may be charged entirely to IV–A, or B if they are considered to be of primary benefit to such program. The title IV–A program may be considered to be primarily benefited if the number of AFDC children served represents at least 85 percent of the total children served. The 85 percent computation may be based on local agency totals or on statewide totals.

(c) The one exception to the policy expressed above in paragraph (b) of this section pertains to educational leave. States can elect to charge educational leave totally either to AFDC under title IV–A, or child welfare services under title IV–B, without regard to the proportion of time devoted to either program before or after educational leave. The only condition to be met is that the person returning from educational leave be employed in the single organizational unit supervising or providing all services for families and children under title IV–A and/or title IV–B of the Social Security Act, as amended. Where a single organization unit has not been established an allocation of costs must be made in accordance with existing policy.

**§ 1392.64 Provisions common to title IV–A and B.**

(a) *General.* Federal financial participation is available only if costs are incurred in accordance with the grants administration requirements of 45 CFR Part 74 and where appropriate, allocated in accordance with the cost allocation provisions of 45 CFR 1395.2.

(b) *Restrictions on State's share.* The State's share in claiming FFP under both Parts A and B of title IV shall be in accordance with 45 CFR 1396.53.

**§ 1392.65 Amount of Federal funding.**

(a) The amount of Federal funds available for services under title IV–A is dependent upon the availability of and extent of matching State funds, except as stated in § 1392.61(f), for Puerto Rico, Virgin Islands, (Delete), Guam, and the Commonwealth of the Northern Mariana Islands.

(b) The amount of Federal funds under title IV–B may not exceed the amount available under the allotment formula prescribed by law. The availability of these funds is dependent upon State expenditures, matched according to the formula prescribed by law.

**§ 1392.66 Nonexpendable personal property: Conditions for FFP.**

Federal financial participation in State claims for nonexpendable personal property is governed by 45 CFR 1396.93.

## Subpart D—Other Provisions Governing Child Welfare Services Programs

**§ 1392.70 Meaning of terms.**

Unless the context otherwise requires, the following terms, as used in this subpart have the following meanings:

(a) "Act" means title IV, part B of the Social Security Act, 42 U.S.C. 601–626.

(b) "HDS" means the Office of Human Development Services in the Department of Health and Human Services.

(c) "State" means the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands.

(d) "State agency" means the public welfare agency of a state which has been designated as the single agency for the purposes of administering or supervising the administration of a State plan for child welfare services.

(e) "Local agency" means the public welfare agency of a political subdivision of a State which is engaged in the administration of that part of the State plan that pertains to the locality and which, in such administration, is under the supervision of the State agency.

(f) "Offical forms" means forms supplied by HDS to State agencies for submitting required information and requests.

(g) "Children" means those individuals under the age of 21 years who are homeless, dependent, neglected or in danger of becoming delinquent regardless of the fact that they also may fall into other categories, and for whom services under the State program of child welfare services are authorized by State law.

(h) "Child welfare services" means public social services which supplement, or substitute for, parental care and supervision for the purposes set forth in section 425 of the Act.

(i) "Establishing, extending, and strengthening" means stabilizing, increasing where necessary and desirable the applicability of, and making stronger the State program of child welfare services and undertaking new child welfare services where

necessary and desirable for meeting the unmet needs of children.

(j) "State plan" means the plan developed jointly by the State agency and HDS for establishing, extending and strengthening the State program of child welfare services, taking into account the conditions of such program, the needs of children and the potential for meeting the unmet needs of children through Federal financial participation. It includes the basic plan and the annual budget pursuant to § 1392.71.

**§ 1392.71 The State plan; the annual budget; submission, approval, duration, purpose, revision.**

(a) *Submission, approval, duration.* Upon adoption by the State of a State plan (including a basic plan and an annual budget jointly developed by the State agency and HDS, it shall be certified by a duly authorized officer of the State agency and submitted to HDS for approval. Upon approval the State plan shall be in effect for the purposes of the Act. The basic plan, as approved and as it may be revised in accordance with paragraph (d) of this section from time to time, shall remain in continous effect without periodic renewal. The annual budget, as it may be revised in accordance with paragraph (d) of this section during the fiscal year, shall be in effect only for the fiscal year for which it is approved.

(b) *Basic plan, content, purpose.* The basic plan, as a part of the State plan, shall be a narrative description, together with appropriate illustrations, of the total State program of child welfare services. It shall be developed in accordance with instructions as to form and subject matter issued by HDS. A basic plan which is in effect in accordance with paragraph (a) of this section shall be the State plan for the purpose of allotment to the State of sums appropriated under the Act. From time to time, as determined by HDS, a new plan may be required of all States.

(c) *Annual budget, content, purpose.* The annual budget, as a part of the State plan, shall be jointly developed annually for the fiscal year and submitted by the State agency on official forms to HDS for approval. It shall be a statement certified by a duly authorized officer of the State agency, which includes proposed and estimated expenditures for carrying out those items described in the basic plan which the State agency and HDS have agreed upon as establishing, extending, and strenthening the State program of child welfare services for the fiscal year. The annual budget, upon approval, and subject to applicable provisions of the Act, the regulations in this subpart and the basic plan, shall be the State plan for the fiscal year for purposes of determining the amount of the Federal share of the total sum expended thereunder, and making payments to the State out of the sums allotted to it for the fiscal year.

(d) *Revision.* The State plan shall be revised whenever necessary because of any material change in the program provided by the plan, in the organization, policies or operations relating to the program, or any changes in pertinent law, and as may otherwise be deemed necessary by HDS. Revisions are subject to joint development by the State agency and HDS, and shall be submitted to HDS, certified by a duly authorized officer of the State agency, for approval. Revisions shall be incorporated into the State plan and shall be in effect for the purposes of the Act upon, and in accordance with, the approval. Except when it is not feasible for a revision to the annual budget to be submitted to HDS a reasonable time in advance of being carried out by the State agency, approval of revisions shall be prospective.

**§ 1392.72 [Reserved]**

**§ 1392.73 Allotment of Federal funds.**

Section 421 of the Act prescribes the following method for determining a State's allotment for State child welfare services for each fiscal year:

(a)(1) From the sums appropriated for each fiscal year for grants to States for State child welfare services, each State shall be entitled to an allotment of $70,000, and

(2) Each State shall be entitled to an allotment from the remainder of the sums appropriated of an amount which bears the same ratio to such remainder as the product of the population of such State under the age of 21 and its allotment percentage bears to the sum of the corresponding products of all the States.

(b) The "allotment percentage" for any State shall be 100 per centum less the State percentage, which is that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that the allotment percentage shall in no case be less than 30 per centum or more than 70 per centum, and the allotment percentage for Puerto Rico, the Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands shall be 70 per centum.

**§ 1392.74 Payments from allotments.**

Payments to a State from the sums available from its allotments under section 421 of the Act shall be computed and made pursuant to sections 422 and 423 of the Act, as follows:

(a) For any fiscal year the "Federal share" for any State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States except that the Federal share shall in no case be less than 33⅓ per centum or more than 66⅔ per centum, and the Federal share for Puerto Rico, the Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands shall be 66⅔ per centum.

(b) Estimates: Prior to the beginning of each fiscal quarter an authorized official of the State agency should submit to HDS on official forms an estimate of the amount of the Federal share which it will require from the sums available from its allotments under section 421 of the Act in carrying out the annual budget during such quarter.

(c) Payments: On the basis of the annual budget and the quarterly estimates the State agency submits, the Commissioner of the Administration for Children, Youth, and Families shall issue a grant award to each State. The award shall be made from the sums available from each State's allotment for the Federal share of the estimate, reduced or increased by any overpayment or underpayment to the State for any prior quarter not previously adjusted.

(d) The Departmental Federal Assistance Financing System (DFAFS) shall advance funds for the grant to the State under the procedures in Subpart K of 45 CFR Part 74, Treasury Circular No. 1075, and the DFAFS Recipient Users Manual.

**§ 1392.75 [Reserved]**

**§ 1392.76 [Reserved]**

**§ 1392.77 Fiscal year to which expenditures chargeable.**

An expenditure under an annual budget will be charged to that Federal fiscal year in which the obligation was incurred: *Provided,* That obligation incurred in 1 fiscal year for services and expenses continuing into the next fiscal year may be charged to the allotment for either year when consistent with the plan and with State laws, rules, and regulations governing the expenditure of State appropriated funds. Such budgets and expenditure reports as are required by HDS will be prepared on this basis. For the purposes of this section and § 1392.78, "obligation" shall mean only bona fide encumbrances or commitments which are supported by contracts or other evidence of liability

consistent with State purchasing procedure.

**§ 1392.78 Liquidation of obligations.**

All obligations of the State agency incurred in carrying out the annual budget shall be liquidated within 2 years after the close of the fiscal year in which the obligation was incurred unless otherwise authorized by HDS.

**§ 1392.79 [Reserved]**

**§ 1392.80 Apportionment of costs.**

Where an expenditure is made for the benefit of this program and any other programs, the amount to be charged as a cost of carrying out the State plan shall be governed by the cost principles specified by Subpart Q of 45 CFR Part 74.

**§ 1392.81 [Reserved]**

**§ 1392.82 Effect of payments.**

Neither approval of the State plan nor any payments to the State pursuant thereto shall be deemed to waive the failure of the State to observe before or after such administrative action any Federal requirements or the right or duty of the Federal Government to withhold funds by reason thereof.

**§ 1392.83 Promulgation.**

The Federal shares and the allotment percentages shall be promulgated between October 1 and November 30 of each even-numbered year, as required by and with the effect given by section 423(c) of the Act.

**§ 1392.84 Reallotment of funds.**

Under section 424 of the Act the amount of any allotment to a State under section 421 of the Act for any fiscal year which the State certifies will not be required for carrying out the State plan shall be available for reallotment to other States in accordance with the following:

(a) On or before dates fixed by HDS each State shall certify on an official form whether or not it will require the full amount of its allotment for carrying out the State plan for the fiscal year. If it is certified that the full amount will not be required, the certification shall contain the amount of the allotment not so required. If it is certified that the full amount will be required, and if the State has need for and will be able to use sums in excess of its allotment in carrying out the State plan, the State agency may so state in a letter to HDS together with an estimate of the amount of such sums.

(b) The total amount certified by States as not being required for carrying out their State plan for the fiscal year shall be tentatively apportioned among those States which have stated need for and capacity to use sums in excess of their allotments in carrying out their plans: *Provided,* That in no event shall the amount of such apportionment to a State exceed the estimated amount of its request under paragraph (a) of this section, and any excess shall be tentatively apportioned among the remaining States. HDS promptly shall notify such States of such tentative apportionment. Each such State, after taking into consideration the amount of the tentative apportionment to it, shall notify HDS on or before a date fixed by HDS whether or not it desires to continue to be considered for purposes of the reallotment.

(c) In the event that all such States notify HDS that they desire to continue to be considered for purposes of the reallotment, each State shall develop jointly with HDS a revision to the State plan covering the amount tentatively apportioned to it.

(d) In the event that a State notifies HDS that it does not desire to continue to be considered for purposes of the reallotment the tentative apportionment shall be recomputed without the withdrawing State. Each of the remaining States shall be notified of the recomputation and shall develop jointly with HDS a revision to the State plan covering the amount tentatively apportioned to it under the recomputation.

(e) Reallotment shall be made among those States which have plan revisions pursuant to paragraph (c) or (d) of this section and which HDS determines (1) have need in carrying out their State plan for the additional funds and (2) will be able to use such additional funds during the fiscal year.

(f) In computing the amount of the reallotted funds to each State consideration shall be given to the population under the age of 21 and the per capita income of each such State as compared with the population under the age of 21 and the per capita income of all such States participating in the reallotment.

(g) Any amount reallotted to a State shall be deemed part of its allotment under section 421 of the Act.

**§ 1392.85 [Reserved]**

## Subpart E—Child Abuse and Neglect: Provisions Applicable Under Titles IV-A and IV-B of the Social Security Act

**§ 1392.90 Scope.**

This subpart contains provisions to implement the requirements of paragraph (3) of Section 4(b) of Pub. L. 93-247, the Child Abuse Prevention and Treatment Act of January 31, 1974. The State plan requirements are applicable to all IV-B agencies and to title IV-A agencies that administer programs or projects related to child abuse and neglect.

**§ 1392.91 Definitions.**

As used in this subpart:

(a) "Act" means the Social Security Act.

(b) "Child" means a person under the age of eighteen.

(c) "Child abuse and neglect" means harm or threatened harm to a child's health or welfare.

(d) "Harm or threatened harm to a child's health or welfare" can occur through: Non-accidental physical or mental injury; sexual abuse as defined by State law; or negligent treatment or maltreatment, including the failure to provide adequate food, clothing, or shelter: *Provided, however,* That when a parent or guardian legitimately practicing his religious beliefs fails to provide specified medical treatment for a child, such failure alone shall not be considered neglect.

(e) "A person responsible for a child's health or welfare" includes the child's parent, guardian, or other person responsible for the child's health or welfare, whether in the same home as the child, a relative's home, a foster care home, or a residential institution.

**§ 1392.92 State plan requirements.**

A State plan under title IV-B of the Act and under title IV-A, if the single State agency for IV-A administers any program or project related to child abuse or neglect, shall:

(a) *State laws or legally binding administrative procedures.* Include a certification by the State Attorney General that there are in effect State laws or legally binding administrative procedures for the reporting of known or suspected instances of abuse or neglect of children up to age 18, for investigation of such reports, and for action pursuant to the results of investigation.

(b) *Provision for reporting.* Certify that the State or the State or local agency administering the program under Part A or B of title IV of the Act:

(1) Provides for the reporting of known or suspected instances of child abuse and neglect;

(2) Complies with all State laws and legally binding administrative procedures regarding such reporting; and

(3) If it enters into agreement for purchase of services or for the performance of any aspect of a program or project related to child abuse or

neglect, includes a requirement for the provider to report instances of child abuse or neglect.

(c) *Prompt investigation.* Provide that, upon receipt of a report of known or suspected instances of child abuse or neglect, regarding a child covered by the State's child welfare services program under title IV–B, or a program or project related to child abuse or neglect administered or supervised by the title IV–A agency, the State or local agency will promptly initiate an investigation to substantiate the accuracy of the report, unless, under State law or legally binding administrative procedures, such responsibility is exclusively reserved to some other agency, or unless the report involves the acts or omissions of the State or local agency itself. In the latter case, the investigation must be conducted by a different agency or organization.

(d) *Action upon a finding of abuse or neglect.* Provide that, upon a finding of abuse or neglect resulting from an investigation required pursuant to paragraph (c) of this section, the State or local agency will take immediate steps to protect the health and welfare of the abused or neglected child, as well as that of any other child under the same care, who may be in danger of abuse or neglect.

(e) *Confidentiality of records.* Certify that the State or local agency has in effect methods to preserve the confidentiality of all records concerning reports of child abuse and neglect in order to protect the rights of the child, and his parents or guardians, in accordance with 45 CFR 1391.3. For purposes of this section, the provisions of 45 CFR 1391.3 are applicable to title IV–B.

(f) *Cooperation among agencies.* Certify that law-enforcement officials, courts of competent jurisdiction, and appropriate State agencies providing human services in relation to prevention, identification, and treatment of child abuse and neglect cooperate with the State or local agency in carrying out the IV–B program and any projects or programs administered under title IV–A.

## PART 1393—SERVICE PROGRAMS FOR AGED, BLIND, OR DISABLED PERSONS: TITLES I, X, XIV, OR XVI (AABD) OF THE SOCIAL SECURITY ACT

D. 45 CFR Part 222, now located in Chapter II, is transferred to 45 CFR Chapter XIII, Subchapter J, and redesignated as a new Part 1393 to read as follows:

## PART 1393—SERVICE PROGRAMS FOR AGED, BLIND, OR DISABLED PERSONS: TITLES I, X, XIV, AND XVI (AABD) OF THE SOCIAL SECURITY ACT

**Editorial Note:** At 40 FR 45818, Oct. 3, 1975, the regulations in Part 222 relocated in Part 1393 were superseded by Part 228 relocated in Part 1396 (40 FR 27354, June 27, 1975), except that Part 222 relocated in Part 1393 remains in effect for Puerto Rico, the Virgin Islands and Guam for the operation of services programs under titles I, X, XIV and XVI (AABD) of the Social Security Act. This Part also applies to services programs under these titles in the Commonwealth of the Northern Mariana Islands.

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§ 1393.92 Nonexpendable personal property: Conditions for FFP.

**Authority:** Sec. 11.02, 102–103, 1002–1003, 1402–1403, 1602–1603 of the Social Security Act, 42 U.S.C. 1302, 302–303, 1202–1203, 1352–1353, 1382–1383 (AABD); Sec. 118 of Pub. L. 96–86.

### Subpart A—Mandatory Provisions for All Service Programs

#### § 1393.1 General.

A State plan under title I, X, XIV, or XVI of the Social Security Act that provides for any services to aged, blind, or disabled persons in Puerto Rico, the Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands must—

(a) Describe the services available under the State plan to current applicants and recipients;

(b) Identify which, if any, of the optional groups described in § 1393.55 are also eligible for services;

(c) Specify the services to be made available to each such group;

(d) Commit the State to comply with the requirements in this Subpart; and

(e) Commit the State to comply with the requirements of 45 CFR Part 74.

**§ 1393.2 Advisory committees.**

(a) An advisory committee on aged, blind, and disabled must be established at the State level and at the local levels where the programs are locally administered, except that in local jurisdictions with small caseloads alternate procedures for securing similar participation may be established. The advisory committee, which may be combined with AFDC–CWS advisory committee (as required in 45 CFR 1392.4) will:

(1) Advise the principal policy setting and administrative officials of the agency and have adequate opportunity for meaningful participation in policy development and program administration, including the furtherance of recipient participation in the program of the agency.

(2) Include representatives of other State agencies concerned with services, representatives of professional, civic or other public or private organizations, private citizens interested and experienced in service programs, and recipients of assistance or services or their representatives who shall constitute at least one-third of the membership.

(3) Be provided such staff assistance from within the agency and such independent technical assistance as are needed to enable it to make effective recommendations.

(4) Be provided with financial arrangements, where necessary, to make possible the participation of recipients in the work of the committee structure.

(b) The State agency must maintain information about the structure and functions of the State and local advisory committees with representation from the aged, blind, and disabled; their relationship to other boards and committees associated with the State and local agencies; and the system for selecting recipients or their representatives. The State advisory committee for aged, blind, and disabled must be established no later than 120 days after plan approval.

**§ 1393.3 Training and use of subprofessionals and volunteers.**

The State agency must conform to the regulations in 45 CFR 1391.51, Training and Use of Subprofessionals and Volunteers.

**§ 1393.4 Relationship to and use of other agencies.**

(a) There must be maximum utilization of and coordination with other public and voluntary agencies, including with respect to the latter their experience as well as their facilities, providing services similar or related to the services provided under the plan, where such services are available without additional cost.

(b) Consideration must be given to the appropriate use of other public and voluntary agencies as sources for the purchase of care and services and such use must be based on a determination that required program standards will be met, and a comparison of the effectiveness with which the services are likely to be rendered and the anticipated costs thereof.

(c) The State plan must show ways in which public and voluntary agencies will be used including types of services to be purchased, if any.

(d) The State agency must conform to the regulations in 45 CFR 1391.70 and 1391.71 regarding purchase of services.

**§ 1393.5 Availability of services.**

All of the services contained in the State plan must be available, accessible, and provided with reasonable promptness to all eligible persons needing the services.

**§ 1393.6 Notification of available services.**

Each applicant and recipient must be informed of the services available from the agency and extended an opportunity to express his need and to request services.

**§ 1393.7 Freedom to accept or reject services.**

Eligible individuals must be free to determine whether to accept or reject service from the agency.

**§ 1393.8 Training.**

The State agency shall:

(a) Provide for a training program to improve the operation of the program and to assure a high quality of service; and

(b) Implement its training program in accordance with the requirements of 45 CFR 235.61 through 235.65, except that copies of the annual training plan required by 45 CFR 235.62(c) shall be made available upon request to the Regional Administrator, Office of Human Development Services.

**§ 1393.9 Appeals, fair hearings, and grievances.**

(a) There must be provision under the agency's established fair hearings procedures for a fair hearing under which applicants and recipients may appeal denial of or exclusion from a service program or failure to take account of recipient choice of a service. Provisions governing fair hearings in relation to financial and medical assistance shall apply. The results of appeals pertaining to services must be formally recorded and made available to the State advisory committee on services and all applicants and recipients must be advised of their right to appeal and the procedures for such appeal.

(b) There must be a system through which recipients may present grievances about the operation of the service program.

**§ 1393.10 Reports.**

The State shall submit to the Secretary such reports as the Secretary may require concerning the use of Federal funds and the cost of services for aged, blind, or disabled persons.

**§ 1393.11 Special service units.**

If the State agency establishes special service units in metropolitan or rural settings, it must maintain information on the specific purposes and functions of such special service units.

**§ 1393.12 Services for protective payment cases.**

If the State plan provides for protective assistance payments on behalf of recipients, there must be provision of services to such recipients in accordance with applicable policies (see 45 CFR 234.70).

**§ 1393.13 Services for aged leaving mental hospitals.**

If the State plan under title I or XVI (AABD) provides for assistance payments to aged individuals in mental hospitals, the plan must provide for services to such recipients when leaving such hospitals, in accordance with the requirements of section 2(a)(12)(C) or section 1602(a)(16)(C) of the Social Security Act.

## Subpart B—Additional Mandatory Provisions for Federal Financial Participation at 75 Percent

**§ 1393.20 General.**

A State plan under title I, X, XIV, or XVI (AABD) to be eligible for 75 percent Federal financial participation in the costs of providing services, must:

(a) Commit the State to meet the requirements of this subpart.

(b) Commit the State to progress in the extension and improvement of services.

(c) Provide for the submission of such implementation and progress reports as may be specified.

### Organization and Administration

**§ 1393.21 Policy and program development and implementation.**

In administering the program there must be:

(a) A State level position (or positions) with authority and responsibility for the direction and

development of the adult services program.

(b) The use of State staff to supervise local agency performance in developing, maintaining, improving, and extending services, to assure proper program implementation.

**§ 1393.22 Individual service plans.**

There must be assessment of the individual's service needs and implementation of individual service plans in all cases where it is agreed between the agency and the applicant, or the person applying on his behalf, for service that service is needed. Each plan must be reviewed as often as necessary but at least annually, to assure that it is practically related to the individual's needs and is being effectively implemented. Each service plan and the services provided must be recorded.

**§ 1393.23 Full-time staff for services.**

(a) The functions of arranging or providing services to individuals should, to the maximum extent feasible, be performed by persons other than those who determine eligibility for financial and medical assistance and provide financial assistance.

(b) There must be adequate numbers of full-time staff assigned to service functions at all levels of agency operations and, to this end, there must be progress toward the objectives of relieving all staff of nonservice functions. (This includes service at intake, i.e., providing information, screening, and referral within the agency and community for all aged, blind, or disabled persons seeking agency help; and determining need for specific services.)

**§ 1393.24 Use of professional staff.**

There must be adequate numbers and suitable qualifications for personnel drawn from appropriate disciplines, e.g., social work, rehabilitation counseling, home economics, to plan, develop, and supervise services and, when applicable, to provide specialized services to aged, blind, or disabled persons; and there must be an adequate system of career development and progression for such individuals.

**§ 1393.25 Caseloads and workload standards.**

The State agency must make available on request an explanation of how the quantity and quality of services will be maintained in instances where the number of personnel performing direct service functions results in a caseload or workload higher than that in effect during fiscal year 1968 for the service programs in the States which qualified for Federal financial participation at the 75-percent rate.

**§ 1393.26 Bilingual interpreters.**

Provision must be made for bilingual staff or interpreters when there are substantial numbers of non-English-speaking applicants and recipients.

**§ 1393.27 Delivery and utilization of services.**

(a) There must be progress in achieving organizational patterns and simplified administrative procedures that assure effective delivery and utilization of services.

(b) The State plan must also provide for continued assessment and necessary adaptations to achieve this requirement.

**§ 1393.28 Public information program.**

There must be provision for a continuing program of public information specifically designed to assure that information about all the services the State agency provides in its plan, and how they may be secured, is effectively and appropriately promulgated throughout the State in a manner calculated to reach current and potential applicants and recipients for service and sources of referral of potential applicants. When there are substantial numbers of non-English-speaking applicants and recipients the informational materials must also be published in the native language most commonly used in the area.

**Mandatory Services**

**§ 1393.40 General.**

The State plan must provide for the required services (§§ 1393.41–1393.45) to be made available to all persons eligible under the State plan.

**§ 1393.41 Information and referral services.**

Such services must be available, without regard to eligibility for assistance or other service, to any aged, blind, or disabled person seeking information or advice with respect to his needs which can properly be met by the provision of direct information or referral to appropriate community resources.

**§ 1393.42 Protective services.**

Services must include, but are not limited to:

(a) Arranging for medical (including psychiatric) services to evaluate, and whenever possible, safeguard and improve the circumstances of those with serious impairments.

(b) Arrangements for guardianship, commitment, or other protective placement when necessary by the agency directly or through referral to another appropriate agency.

(c) Provision of services to assist individuals to move from situations which are, or are likely to become, hazardous to their health and well-being.

(d) Cooperating and planning with the courts as necessary on behalf of individuals with serious mental impairments.

**§ 1393.43 Services to enable persons to remain in or to return to their homes or communities.**

Services must include, but are not limited to: (a) Assistance in locating suitable independent living arrangements or arrangements for placement in foster family or protected care settings.

(b) Enlisting the help of interested relatives, friends, and other resources to assist the person to remain in or to return to the community and to maintain himself in the selected environment.

(c) Assisting the individual to carry out necessary medical, health, and health maintenance plans.

(d) Assistance in securing any additional special arrangements or supportive services that will contribute to a satisfactory and adequate social adjustment of the individual.

**§ 1393.44 Services to meet health needs.**

Services must include but are not limited to:

(a) Assistance in securing necessary diagnostic, preventive, remedial, ameliorative, and other health services (including prosthetic, orthotic, and assistive aids) available under Medicare, Medicaid (or other agency health services program) and from other agencies or providers of health services.

(b) Assistance in making arrangements for transportation to and from health resources.

(c) Planning with the individual relatives, or other appropriate persons, to assist the individual in carrying out medical recommendations.

(d) Maintaining necessary liaison with the physician, nurse, institution, or other provider of health services to assure the provision of social services necessary to carry out medical recommendations.

(e) In medical emergencies, obtaining services of a physician; arranging care of dependents and other social services required as a result of the individual's medical emergency.

(f) Providing, as necessary, the services of escorts and bilingual interpreters, who, whenever possible, shall be subprofessional staff who are residents of neighborhoods in which the persons reside.

**§ 1393.45 Self-support services for the handicapped.**

Such services must include but are not limited to:

(a) Exploring interests and potentials for self-support in whole or in part.

(b) Individual counseling, necessary to deal with family barriers which prevent or limit individuals in their use of training and employment opportunities.

(c) Providing for referral to and use of public and voluntary agencies in the fields of vocational rehabilitation, health, education, and employment, including special attention to the capabilities of rehabilitation centers and sheltered workshops, community action agencies, neighborhood centers, and similar organizations.

**§ 1393.46 Homemaker services.**

By April 1, 1974, State plans must provide for homemaker services which must:

(a) Include home management, home maintenance, and personal care services for adults who are determined by the agency to need this service.

(b) Be in accord with the recommended standards of related national standard setting organizations such as the National Council for Homemaker Service.

**§ 1393.47 Special services for the blind.**

By April 1, 1974, State plans must provide for special services for the blind.

**§ 1393.50 Community planning.**

(a) There must be provision for community planning by the staff of the agency at the State and local levels, with authority and responsibility assigned to assure development and utilization of community services and resources to meet the needs of low-income groups.

## Subpart C—Optional Provisions and Services

**§ 1393.55 Coverage of optional groups for services.**

(a) The agency may elect to provide services to all or to reasonably classified subgroups of the following:

(1) Aged, blind, or disabled persons who are former applicants for or recipients of financial assistance who request services or on whose behalf services are requested. See § 1393.86(b) for Federal financial participation.

(2) Aged, blind, or disabled persons who request services, or on whose behalf services are requested, and who are likely to become applicants for or recipients of financial assistance, i.e., those who:

(i) Are not money payment recipients but are eligible for medical assistance under the State's Title XIX plan.

(ii) Are likely, within 5 years, to become recipients of financial assistance.

(iii) Are at or near dependency level, including those in low income neighborhoods and among other groups that might be expected to include more aged, blind, or disabled assistance cases than other low-income groups, where the services are provided on a group basis.

(b) All aged, blind, or disabled persons in the above groups or a selected reasonable classification of such persons with common problems or common service needs may be included.

**§ 1393.56 Range of optional services.**

A State may elect to include in its State plan under title I, X, XIV, or XVI (AABD) of the Social Security Act provision for optional services as provided for in §§ 1393.57–1393.61 in the costs of which 75 percent Federal financial participation is available, provided that the State plan also meets all of the requirements contained in Subparts A and B of this part.

**§ 1393.57 Services to individuals to improve their living arrangements and enhance activities of daily living.**

Services may include any or all of the following individual service items: Housing improvement and assistance services; services to adults in foster care; day care; chore services; home delivered meals; companionship services; education services related to consumer protection and money management; and homemaker services.

**§ 1393.58 Services to individuals and groups to improve opportunities for social and community participation.**

Services may include any or all of the following individual service items: Assistance in obtaining recreational and educational services; opportunities to participate in volunteer and paid service roles with various community agencies and organizations; provision of social group services in agency or other settings, e.g., neighborhood centers, multipurpose senior centers.

**§ 1393.59 Services to individuals to meet special needs.**

(a) Services may include any or all of the following individual service items: Legal services for persons desiring the help of lawyers with their legal problems (see separate policies governing the provision of such services); family planning; services for such groups as alcoholics, drug addicts, and mentally retarded individuals; special services to the blind, deaf, and other disabled individuals.

(b) Regarding the provision of family planning services:

(1) If a State authorizes abortions, Federal financial participation in State claims is governed by 42 CFR 441.200 through 441.203 and 441.205 through 441.208.

(2) If a State authorizes sterilization, it must comply with the provisions of 42 CFR Part 441, Subpart F.

**§ 1393.60 Other services.**

A State may submit other optional services for consideration and approval by the Department of Health and Human Services.

**§ 1393.61 Consultant services.**

A State may use those services which consist of advice and consultation provided by persons who are expert in such matters as medical (including psychiatric), social, legal, educational, psychological, nutritional, and employment problems of individuals, for the purposes of assisting agency staff, as necessary, in diagnosing and developing service plans to meet individual applicant or recipient needs and in the development and evaluation of agency service programs.

## Subpart D—Definitions

**§ 1393.65 Chore services.**

Chores services means services in performing light work, or household tasks which eligible persons are unable to do for themselves because of frailty or other conditions and which do not require the services of a trained homemaker or other specialist. Chore services may include such activities as: Help in shopping, lawn care, simple household repairs, running errands, etc.

**§ 1393.66 Community planning.**

Community planning means activities of the staff of the agency, at the State and local levels, in providing leadership in the planning, development, extension, and improvement of the broad range of services, facilities, and opportunities required to prevent dependency for low income adults and to meet the current and anticipated service needs of all aged, blind, or disabled applicants and recipients. Staff activities include work with other agencies, organizations, and interested citizens' groups, including State and local commissions on aging and the blind, in stimulating community support and action on behalf of all the aged, blind, or disabled so that in developing and extending community services to the total group, applicants and recipients will also benefit.

**§ 1393.68 Day care services.**

Day care services means services provided during the day to eligible persons in a protective setting approved by the State agency for purposes of personal care and to promote their social, health, and emotional well being through opportunities for companionship, self-education and other satisfying leisure time activities.

**§ 1393.69 Education services related to consumer protection and money management.**

Education services related to consumer protection and money management mean services that help eligible persons learn how to manage household budgets effectively and to use sound consumer practices.

**§ 1393.70 Home delivered meals.**

Home delivered meals means service which consists of preparing and delivering one or more hot meals daily to the homes of eligible persons who are unable to obtain or prepare nourishing meals.

**§ 1393.71 Homemaker services.**

Homemaker services means home management and maintenance services, and personal care services, provided to maintain, strengthen and safeguard the functioning of eligible persons in their own homes where no responsible person is available for this purpose.

**§ 1393.72 Housing improvement and assistance service.**

Housing improvement and assistance services means services, in cooperation with the applicant or recipient, landlord, and others to assist in the upgrading of substandard rental housing in which the applicant or recipient resides; to obtain repairs to his own home if substandard or unsuitable; or to find other housing in the community suitable and adequate to his needs at prices which he can afford to pay; and to help to increase the supply and availability of safe and suitable housing for applicants or recipients who have housing problems through cooperative community planning activities with appropriate individuals and groups in the community.

**§ 1393.73 Protective services.**

Protective services means a system of services (including medical and legal services which are incidental to the service plan) which are utilized to assist seriously impaired eligible individuals who, because of mental or physical dysfunction, are unable to manage their own resources, carry out the activities of daily living, or protect themselves from neglect or hazardous situations without assistance from others and have no one available who is willing and able to assist them responsibly.

**§ 1393.74 Services to adults in foster care.**

Services to adults in foster care means services to eligible persons to assure placement in settings approved by the appropriate State and/or local authority and suitable to the needs of each individual; assure that the person receives proper care in such placement; and to determine continued appropriateness of and need for placement through periodic reviews, at least annually.

**§ 1393.75 Services to meet health needs.**

Services to meet health needs mean services provided for the purpose of assisting eligible persons to attain and retain as favorable a condition of health as possible by helping them to identify and understand their health needs and to secure and utilize necessary medical treatment as well as preventive and health maintenance services including services in medical emergencies.

**§ 1393.76 Social group services.**

Social group services mean use of group methods to provide eligible persons with opportunities for group experiences. Such experiences can help individuals to cope with personal problems, develop capacities for more adequate social and personal functioning, relieve social isolation, develop friendships and mutual aid, and increase understanding between the group and the agency.

**§ 1393.77 Special services for the blind.**

Special services for the blind means services related to age, presence of other disabilities and amount of residual vision. Such services may include assistance in securing mobility training, personal care, home management and communication skills; also arrangements for talking book machines and obtaining special aids and appliances to solve or reduce problems arising from blindness as well as help in securing safety items, particularly those necessary to assure safe housing and prevent accidents. Arrangements for educational counseling to assure appropriate classroom placement and when timely, guidance from a school and/or rehabilitation program to prepare for a vocation are essential for the young blind to reach their full potential. Additionally, services may include referral of parents of blind children to agencies with special counseling competence in this field.

## Subpart E—Federal Financial Participation

**§ 1393.85 General.**

Federal financial participation is available in expenditures as found necessary by the Secretary:

(a) For the proper and efficient administration of the plan.

(b) For the costs of providing the services for the groups of aged, blind, or disabled.

(c) For carrying out the activities described in Subparts A, B, and C of this part that are included in the approved State plan. Such participation will be at the rates prescribed in this subpart.

**§ 1393.86 Persons eligible for services.**

Federal financial participation is available under this subpart only for services provided to:

(a) An aged, blind, or disabled person applying for or receiving assistance under the plan.

(b) The groups defined in § 1393.55, former and potential applicants or recipients who request services or on whose behalf services are requested, and other individuals requesting information and referral service only. In respect to any aged, blind, or disabled person who has formerly been an applicant for or recipient of assistance, counseling and casework services may be provided. Other services may be provided only to those aged, blind, or disabled persons who have received assistance within the previous 2 years or who qualify under the definition of potential applicants or recipients (see § 1393.55(a)(2)).

**§ 1393.87 Sources for furnishing services.**

Federal financial participation is available for services furnished:

(a) By State or local agency staff, i.e., full- or part-time employed staff; and volunteers, or

(b) By purchase, contract, or other cooperative arrangements with public or private agencies or individuals, provided that such services are not available without cost from such sources.

**§ 1393.88 Provisions governing costs of certain services.**

(a) *Medical and assistance costs.* Federal financial participation will not be available under this subpart in expenditures for subsistence and other assistance items or for medical or remedial care or services, except:

(1) For subsistence and medical care when they are provided as essential components of a comprehensive service program in a facility and their costs are not separately identifiable, such as, in a

rehabilitation center, day care facility, or neighborhood service center.

(2) For medical and remedial care and services as part of family planning services;

(3) For medical diagnosis and consultation when necessary to carry out service responsibilities, e.g., for recipients under consideration for referral to training and employment programs.

(b) *Vocational rehabilitation services.* Federal financial participation is not available in the costs of providing vocational rehabilitation services for handicapped individuals as defined in the Vocational Rehabilitation Act except pursuant to an agreement with the State agency administering the rehabilitation program. This applies to provision of services by staff of the agency and purchase.

(c) *Services related to adult foster care.* Federal financial participation is available in the costs of staff in providing services related to adult foster care, i.e., recruitment, study, and approval of foster family homes (except staff primarily engaged in the issuances of licenses or in the enforcement of standards); services to adults in foster care, and work with foster families and staff of institutions caring for adults, such as homes for the aged. Payments for the foster care itself are assistance payments and are, therefore, not subject to the service rate of Federal financial participation.

(d) *Services provided in behalf of aged, blind, or disabled persons.* Federal financial participation is available for services provided in behalf of aged, blind, or disabled persons, e.g., community planning; assuring accessibility to resources to which the person is entitled; and studies of service needs and results.

**§ 1393.89 Conditions for FFP.**

(a) *General.* Federal financial participation is available only if costs are incurred in accordance with the grants administration requirements of 45 CFR Part 74 and where appropriate, allocated in accordance with the cost allocation provisions of 45 CFR 1395.2.

(b) *Restrictions on State's share.* The State's share in claiming FFP under this part shall be in accordance with 45 CFR 1396.53.

**§ 1393.90 Rates of Federal financial participation.**

(a) *FFP at the 75 percent rate.*

(1) General. FFP is available at the rate of 75 percent for the eligible service costs identified in § 1393.88, for training and staff development, and for other costs specified in Paragraph (a)(2) of this section, provided that the State plan meets all of the requirements of Subparts A and B of this Part.

(2) *Kinds of expenses for which FFP is available at the 75 percent rate:*

(i) Salary and travel costs of service workers (including volunteers) and their supervisors giving full-time to services, and for staff entirely engaged (either at State or local level) in developing, planning, and evaluating services.

(ii) Salary costs of service-related staff such as supervisors, clerks, secretaries, and stenographers, which represent that portion of the time spent in supporting full-time service staff.

(iii) Related expenses of staff performing service or service-related work under Paragraphs (a)(2) (i) and (ii) of this section in proportion to their time spent on services. Such related expenses include communication, equipment, supplies, and office space.

(iv) Other expenses related to the provision of service in support of full-time service staff, including a portion of the salary costs of any agency person (except the service worker who must be on a full-time basis) who is working part-time on service functions (either at the State or local agency level). Such expenses include the portion of salary costs of supervisors related to supervision of service work, a portion of fiscal costs related to services, a portion of research costs related to services, a portion of salary costs of field staff, etc.

(3) *Definitions applicable to this section:*

(i) Full-time service work means the performance of functions related to the provision of services by persons assigned exclusively to such functions, regardless of the number of hours they are employed.

(ii) Service work means the activities of staff in providing the services and carrying out the related responsibilities specified in Subparts A, B, and C of this Part. This includes services to families and children, and referring questions from former and potential recipients about income maintenance and medical benefits to staff responsible for those programs. It does not include securing information or taking actions in respect to determining initial and continuing eligibility for financial or medical assistance or to change the amount of financial assistance being provided.

(iii) Service-related work means activity of staff other than service workers which is necessary to fully administer a service program. This includes activities of secretaries, stenographers, and clerks serving service staff; of supervisors of service workers and their supervisors; of staff responsible for developing and evaluating service policies; and of staff collecting and summarizing financial and statistical data on services.

(iv) Staff means persons individually or in groups performing service or service-related work. This includes professional, subprofessional (e.g., recipients and other workers of low income), and volunteer staff.

(b) *FFP at the 50 percent rate.* FFP is available at the rate of 50 percent for the following:

(1) Salaries and travel of workers carrying responsibility for both services and financial or medical eligibility functions, supervisory costs related to such workers, and all or part of the salaries of supporting secretarial, stenographic, or clerical staff depending on whether they work full-time or part-time for the workers specified in this Paragraph (b)(1).

(2) Salaries and travel of staff primarily engaged in developing processes for, or determining eligibility for financial or medical assistance and their supervisors and supporting staff.

(3) Expenses related to staff described in Paragraphs (b) (1) and (2) of this section, such as for communication, equipment, supplies and office space.

(4) Other expenses of administration not specified at the 75 percent rate.

**§1393.91 [Reserved]**

**§ 1393.92 Nonexpendable personal property: Conditions for FFP.**

Federal financial participation in State claims for nonexpendable personal property is governed by 45 CFR 1396.93.

[44 FR 20432, Apr. 5, 1979]

## SUBCHAPTER K—SOCIAL SERVICES FOR INDIVIDUALS AND FAMILIES UNDER TITLE XX OF THE SOCIAL SECURITY ACT

## PART 1395—GENERAL ADMINISTRATION AND STATE PLAN REQUIREMENTS

E. A new Part 1395, Subpart A is established to contain the same rules in 45 CFR 205.150 to apply to the social service program under title XX to read as follows:

## PART 1395—GENERAL ADMINISTRATION AND STATE PLAN REQUIREMENTS

### Subpart A—General Administration

Sec.
1395.1 [Reserved]
1395.2 Cost allocation.

**§ 1395.1 [Reserved]**

**§ 1395.2 Cost allocation.**

(a) *State plan requirements.* A State for services under title XX of the Social

Security Act must provide that: (1) The single or appropriate State Agency will have an approved cost allocation plan on file with the HDS Regional Administrator, which identifies and describes the methods and procedures the State has established for properly charging the costs of administration, services (excluding purchased services) and training activities under the plan in accordance with the Federal requirements set out in 45 CFR Part 74, Appendix C, and in Department and Office of Human Development Services (HDS) regulations and instructions. Under this requirement, the cost allocation plan shall:

(i) Include descriptions of the functions and activities by organizational units; estimated costs for an annual period by cost centers or pools which include the costs of all organizational units of the State department in which the single or appropriate State agency is located (unless specifically waived by the HDS Regional Administrator); and the basis used for allocating the various pools of costs to programs and activities with justification for each;

(The estimated costs are included solely to permit evaluation of the methods of allocation and therefore approval of the cost allocation plan shall not constitute approval of these estimated costs for use in calculating claims for Federal financial participation.)

(ii) Contain such other information as is necessary to document the validity of the cost allocation methods and procedures; and

(iii) Include methods and procedures for:

(A) Allocating the costs as specified in this paragraph (a)(1) of the State department in which the State agency is located between Federally-aided and non Federally-aided programs;

(B) Identifying, of the costs applicable to more than one of the Federally-aided programs, those applicable to each of the separate programs, in accordance with program classifications specified by the Secretary; and

(C) Segregating costs in paragraph (a)(1)(iii)(B) of this section by service and income maintenance functions, where applicable, and by such other classifications as are found necessary by the Secretary;

(2) The single or appropriate State agency shall revise its cost allocation plan whenever the allocation method shown in the existing plan is outdated due to organizational changes within the State agency, changes in Federal law or regulations, or other similar changes.

(b) *Federal financial participation.* (1) As a condition for receipt of Federal financial participation in administration services (excluding purchased services) and training for any quarterly period, a State's claim for such expenditures must be in accord with a cost allocation plan on file with and approved by the HDS Regional Administrator for that period.

(2) If a State agency fails to submit for any quarter a cost allocation plan revising an outdated plan as required by paragraph (a)(2) of this section, or the submitted revision has not been approved, the HDS Regional Administrator in reviewing the expenditures claimed for such quarter, shall: (i) Defer payment of any amount he believes to be overstated; or (ii) Disallow any amount which he determines to be overstated.

(3) If a State does not have any cost allocation plan on file with the HDS Regional Administrator, payment will be made only for those costs of administration, services, and training which are entirely chargeable to a function or activity within a given title having one rate of Federal financial participation. Payment for the remaining cost of administration, services and training which requires an allocation method, will be disallowed.

(4) Any costs disallowed under paragraph (b)(2) and (b)(3) of this section may be reclaimed after the HDS Regional Administrator approves a cost allocation plan for the quarter for which the expenditures were claimed, to the extent such reclaimed amounts are supported by the approved plan.

(5) Within 60 days of receipt of a cost allocation plan, the HDS Regional Administrator shall give to the State written notice of approval or written notice of changes required for approval.

(6) The time frames specified in 45 CFR 201.15 and the procedures set forth in § 201.15(c) are applicable to deferral of claims made pursuant to paragraph (b)(2) of this section.

[(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302))]

## PART 1396—SOCIAL SERVICES PROGRAMS FOR INDIVIDUALS AND FAMILIES: TITLE XX OF THE SOCIAL SECURITY ACT

F. 45 CFR Part 228, now located in Chapter II is transferred to 45 CFR Chapter XIII, Subchapter K, and redesignated as a new Part 1396 as follows:

## PART 1396—SOCIAL SERVICES PROGRAMS FOR INDIVIDUALS AND FAMILIES: TITLE XX OF THE SOCIAL SECURITY ACT

### Subpart A—Scope and Definitions

Sec.

1396.0 Scope of program.
1396.1 Program definitions.

### Subpart B—State Plan Requirements, Reports, Maintenance of Effort, Compliance

1396.4 State plan requirements.
1396.5 Appropriate State agency.
1396.6 State financial participation.
1396.7 Statewide operation.
1396.8 Standards of personnel administration.
1396.9 Requirement to obtain certain information.
1396.10 Safeguarding information.
1396.11 Residency requirements.
1396.12 Standards for institutions or foster homes.
1396.13 Standards for child day care services.
1396.14 Fair hearings.
1396.15 Amendments to State plan.
1396.16 Submittal of State plan and amendments for approval by the Secretary.
1396.17 Reports and maintenance of records.
1396.18 Maintenance of effort.
1396.19 Noncompliance.

### Subpart C—Comprehensive Annual Services Program Plan

1396.20 Conditions for FFP.
1396.21 Establishment of program year.
1396.22 Services plan.
1396.23 Program goals and objectives.
1396.24 Individuals to be served.
1396.25 Availability of services by geographic area.
1396.26 Services.
1396.27 Estimates of individuals to be served and expenditures.
1396.28 Program resources.
1396.29 Program coordination and utilization.
1396.29–a Timing for initial publication of standards for residential facililties for SSI recipients.
1396.30 Organizational structure.
1396.31 Needs assessment.
1396.32 Planning, evaluation and reporting.
1396.33 The public review process.
1396.34 Regional review of proposed and final services plan.
1396.35 Correction of proposed and final services plans and display advertisements.
1396.36 Amendments to final services plan.

### Subpart D—Limitation: Services

1396.39 General.
1396.40 Minor medical and remedial care.
1396.41 Room or board.
1396.42 Child care standards.
1396.43 Educational services.
1396.44 Services to individuals living in hospitals, skilled nursing facilities, intermediate care facilities (including hospitals or facilities for mental diseases or for the mentally retarded), or prisons.

1396.45 Special services provided by foster family homes.
1396.46 Emergency shelter.
1396.47 Payments to recipient for services.
1396.48 Confidentiality regarding services to drug and alochol abusers.

**Subpart E—Limitations: Financial**

1396.50 Services and individuals covered in the services plan.
1396.51 Matching rates.
1396.52 Allotments to States.
1396.53 Restrictions on State's share in claiming FFP.
1396.54 [Reserved]
1396.55 [Reserved]
1396.56 Fifty Percent Rule.

**Subpart F—Limitations: Individuals Served, Eligibility and Fees**

1396.60 Persons eligible and access to services.
1396.61 Determination and redetermination of eligibility.
1396.62 Fees for services.
1396.63 Family Planning Services.
1396.64 Information and referral services.
1396.65 Services directed at the goal of preventing or remedying neglect, abuse, or exploitation of children or adults unable to protect their own interests.
1396.66 Monthly gross income.

**Subpart G—Purchase of Service**

1396.70 Procurement standards.
1396.71 Rates of payment.
1396.72 Disclosure of information about ownership and business transactions.
1396.73 Disclosure of information about individuals convicted of crimes.

**Subpart H—Training and Retraining**

1396.80 Conditions for FFP.
1396.81 Who may be trained.
1396.82 Grants to educational institutions.
1396.83 Financial assistance to trainees.
1396.84 Activities and costs matchable as training expenditures.
1396.85 Activities and costs not matchable as training expenditures.
1396.86 Training of title XX child day caregivers.

**Subpart I—General Provisions**

1396.90 Expenditures for which Federal financial participation is available.
1396.91 Expenditures for which Federal financial participation is not available.
1396.92 Federal financial participation in State claims for abortions.
1396.93 Nonexpendable personal property; conditions for FFP.

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302); Sec. 118 of Pub. L. 98–86.

## Subpart A—Scope and Definitions

### § 1396.0 Scope of program.

(a) Federal financial participation is available, in accordance with title XX of the Social Security Act and this Part, with respect to expenditures under a State program for the provision of services, to low income individuals and families, directed at the goals of:

(1) Achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency;

(2) Achieving or maintaining self-sufficiency, including reduction or prevention of dependency;

(3) Preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating, or reuniting families;

(4) Preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care, or

(5) Securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions.

### § 1396.1 Program definitions.

As used in this Part:

*Act* means the Social Security Act, as amended:

*Assistant Secretary* means the Assistant Secretary for Human Development Services (HDS) of the U.S. Department of Health and Human Services.

*Categories of individuals* means groupings of persons on the basis of common characteristics such as recipient status (AFDC, SSI, Medicaid), income level, age, physical or mental condition or any other characteristic that the State specifies in its comprehensive annual services plan.

*Family* means one or more adults and children, if any, related by blood, or law, and residing in the same household. Where adults, other than spouses, reside together, each may be considered a separate family by the State. Emancipated minors and children living under the care of individuals not legally responsible for that care may be considered one-person families by the State.

*Fiscal year* means the Federal fiscal year unless otherwise specified.

*FFP* means Federal financial participation.

*Geographic area* means any identifiable area encompassed within the State.

*Indian tribal council* means the official Indian organization administering the government of an Indian tribe, but only with respect to those tribes with a reservation land base. This includes Inter Tribal Councils whose membership tribes have reservation status.

*Indian tribe* means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native region, village or group as defined in the Alaska Native Claims Settlement Act (85 Stat. 688), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians or any Indian Tribe, band, nation, or other organized group or community which is so recognized as an Indian Tribe by any State commission, agency, or authority which has the statutory power to extend such recognition.

*Medical or remedial care* means care directed toward the correction or amelioration of a medical condition which has been diagnosed as such by a licensed medical practitioner operating within the scope of medical practice as defined by State law, and which care is provided by or under the direct supervision of such a medical practitioner or other health professionals licensed by the appropriate professional organization.

*Monthly gross income* means the monthly sum of income received from sources identified by the U.S. Census Bureau in computing median income. (See § 1396.66.)

*Room* means shelter only; and *board* means 3 meals a day or any other full nutritional regimen.

*Secretary* means the Secretary of U.S. Department of Health and Human Services.

*Services plan* means the State Comprehensive Annual Services Program Plan under section 2004 of the Act.

*SSI* (*Supplemental Security Income*) means monthly cash payments made by the Social Security Administration to an aged, blind or disabled individual who meets the requirements for such aid under title XVI of the Act, and also includes State supplementary payments made by a State on a regular basis to an individual receiving SSI, or who would, but for his income, be eligible to receive such benefits, as assistance based on need in supplementation of such benefits.

*State* means the 50 States and the District of Columbia.

*State agency* means the appropriate State agency, designated by the chief executive officer of the State or as otherwise provided by the laws of the State, to administer or supervise the administration of the State's program, and except where the context otherwise requires, includes local agencies administering the program under the supervision of the State agency.

*State plan* means the State plan under section 2003 of the Act.

*Title XX* means title XX of the Social Security Act.

## Subpart B—State Plan Requirements, Reports, Maintenance of Effort, Compliance

### § 1396.4 State plan requirements.

Each State which establishes a services plan under title XX shall operate it under a State plan, approved as meeting the requirements of § 1396.5 through 1396.16.

### § 1396.5 Appropriate State agency.

(a) *Designation of appropriate State agency.* The State plan shall provide:

(1) For the designation, by the chief executive officer of the State or as otherwise provided by the laws of the State, of a State agency with authority to administer or supervise the administration of the State's program under title XX; and

(2) For a description of the appropriate State agency, and inclusion of an organizational chart showing location of the agency within the State Government.

(b) If on December 1, 1974, a separate agency administered or supervised the service program for the blind under title VI, such agency may continue to do so for title XX. Both agencies shall use the same program year.

(c) *Administration of title IV–B of the Act.* Under title IV–B of the Act, the State agency shall administer or supervise the administration of title IV–B of the Social Security Act unless, prior to December 1, 1974, title IV–A and IV–B of the Act were administered by separate agencies.

(d) *Legal authority.* The Attorney General of the State shall submit a certification identifying the State agency and certifying the legal authority under which such agency administers or supervises the administration of the State program including the authority to make rules and regulations governing the administration of the program.

(e) *Authority and responsibility of the agency.* There shall be maintained within the appropriate State agency the authority and responsibility for:

(1) The State plan;

(2) The services plan;

(3) The projection of estimated expenditures;

(4) The accountability for Federal funds;

(5) The establishing and maintaining of standards for the determination of eligibility;

(6) The administration or supervision of the administration for the provision of services;

(7) Operating the program on a Statewide basis;

(8) Complying with any program reporting requirements;

(9) Maintaining a working relationship between the Secretary and the State; and

(10) Overall supervision, control and oversight of title XX activities.

(f) *Administrative support agreements.* In carrying out the responsibilities under paragraph (e) of this section, the State agency may enter into agreements with other public agencies and private entities to procure administrative support. A local agency administering the program under the supervision of the State agency may also enter into such agreements.

### § 1396.6 State financial participation.

A State plan under title XX shall provide that State funds will be included in meeting the cost of the program.

### § 1396.7 Statewide operation.

A State plan shall provide that the State's program for the provision of services described in its services plan shall be in effect in every political subdivision of the State. Every part of every political subdivision shall be part of a geographic area described in the services plan.

### §1396.8 Standards of personnel administration.

The State plan shall provide that methods of personnel administration will be established and maintained in conformity with the Standards for a Merit System of Personnel Administration, 5 CFR Part 900. These standards incorporate the Intergovernmental Personnel Act Merit Principles (Pub. L. 91–648, section 2, 84 Stat. 1909), prescribed by the Office of Personnel Management pursuant to section 208 of the Intergovernmental Personnel Act of 1970, as amended.

### §1396.9 Requirement to obtain certain information.

The State plan shall provide that the State require the following providers of title XX services to comply with the requirements of §1396.72 regarding submission of information concerning ownership or control and past business transactions:

(a) Each private provider (other than an individual practitioner or group of practitioners) with whom the State or local agency contracts for medical or remedial care (as defined in §1396.1); and

(b) Each private agency with whom the State or local agency contracts for health-related homemaker services (as defined in §1396.72(a)(4)).

### §1396.10 Safeguarding information.

*State plan requirements.* A State plan under title XX of the Social Security Act must provide that—

(a) Pursuant to State statute which imposes legal sanctions:

(1) The use or disclosure of information concerning applicants and recipients will be limited to purposes directly connected with the administration of that program, the plan of the State approved under Part A of title IV, the plan of the State developed under Part B of that title, the Supplemental Security Income program established by title XVI, or the plan of the State approved under title XIX. Such purposes include establishing eligibility, determining amount of assistance, and providing services for applicants and recipients.

(2) The State agency has authority to implement and enforce the provisions for safeguarding information about applicants and recipients.

(3) Publication of lists or names of applicants and recipients will be prohibited.

(b) The agency will have clearly defined criteria which govern the types of information that are safeguarded and the conditions under which such information may be released or used. Under this requirement:

(1) Types of information to be safeguarded include but are not limited to:

(i) The names and addresses of applicants and recipients and services provided;

(ii) Information related to the social and economic conditions or circumstances of a particular individual;

(iii) Agency evaluation of information about a particular individual;

(iv) Medical data, including diagnosis and past history of disease or disability, concerning a particular individual.

(2) The release or use of information concerning individuals applying for or receiving services is restricted to persons or agency representatives who are subject to standards of confidentiality which are comparable to those of the agency administering the services programs.

(3) The family or individual is informed whenever possible of a request for information from an outside source, and permission is obtained to meet the request. In an emergency situation when the individual's consent for the release of information cannot be obtained, he will be notified immediately.

(4) In the event of the issuance of a subpoena for the case record or for any agency representative to testify concerning an applicant or recipient, the court's attention is called, through

proper channels to the statutory provisions and the policies or rules and regulations against disclosure of information.

(5) The same policies are applied to requests for information from a governmental authority, the courts, or a law enforcement official as from any other outside source.

(c) The agency will publicize provisions governing the confidential nature of information about applicants and recipients, including the legal sanctions imposed for improper disclosure and use, and will make such provisions available to applicants and recipients and to other persons and agencies to whom information is disclosed.

(d) All materials sent or distributed to applicants, recipients, or medical vendors, including material enclosed in envelopes containing checks, will be limited to those which are directly related to the administration of the program and will not have political implications. Under this requirement:

(1) Specifically excluded from mailing or distribution are materials such as "holiday" greetings, general public announcements, voting information, alien registration notices;

(2) Not prohibited from such mailing or distribution are materials in the immediate interest of the health and welfare of applicants and recipients, such as announcements of free medical examinations, availability of surplus food, and consumer protection information;

(3) Only the names of persons directly connected with the administration of the program are contained in material sent or distributed to applicants, recipients, and vendors, and such persons are identified only in their official capacity with the State or local agency.

**§ 1396.11 Residency requirements.**

The State plan shall provide that no requirements as to duration of residence or citizenship will be imposed as a condition of participation in the State's program for the provision of services.

**§ 1396.12 Standards for institutions or foster homes.**

Where a services plan includes services to individuals living in institutions or foster homes, the State plan shall provide for the establishment or designation of a State authority or authorities, that may include Indian tribal councils on Indian reservations, which shall be responsible for establishing and maintaining standards which are reasonably in accord with recommended standards of national standard setting organizations concerned with standards for such institutions or homes including standards related to admissions policies, safety, sanitation, and protection of civil rights. For purposes of this section, "institution" includes all residential facilities providing for group living.

**§ 1396.13 Standards for child day care services.**

Where a services plan provides for child day care services, the State plan shall provide for the establishment or designation of a State authority or authorities, that may include Indian tribal councils on Indian reservations, which shall be responsible for establishing and maintaining standards for licensing, registration, certification, or approval of such services which are reasonably in accord with recommended standards of national standard setting organizations for such services including standards related to admissions policies for facilities providing such services, safety, sanitation and protection of civil rights.

**§ 1396.14 Fair hearings.**

The State plan shall provide for a system of hearings under which applicants for, or recipients of, services or an individual acting on behalf of an applicant or recipient, may appeal denial, reduction, or termination of a service, or failure to act upon a request for service with reasonable promptness. Under this requirement, the procedures and provisions of 45 CFR 205.10 shall apply.

**§ 1396.15 Amendments to State plan.**

The State plan shall provide that it will be amended whenever necessary to reflect new or revised Federal statutes or regulations, or material change in any State law, organization, policy, or State agency operation.

**§ 1396.16 Submittal of State plan and amendments for approval by the Secretary.**

Upon adoption by the State of a State plan, or an amendment to a State plan, it shall be certified by a duly authorized officer of the State agency and submitted to the Regional Administrator, HDS, in accordance with 45 CFR Part 201.

**§ 1396.17 Reports and maintenance of records.**

(a) Each State which participates in the program shall maintain or supervise the maintenance of records necessary for the proper and efficient operation of the program, including records regarding applications, determination of eligibility, the provision of services, and administrative cost; and statistical, fiscal and other records necessary for reporting and accountability required by the Secretary; and shall retain such records for such periods as are prescribed by the Secretary.

(b) The State agency shall make such reports in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as he finds necessary to assure the correctness and verification of such reports.

**§ 1396.18 Maintenance of effort.**

Each State which participates in the program shall assure that the aggregate expenditures from appropriated funds from the State and political subdivisions for the provision of services during each services program year with respect to which payment is made under this Part is not less than the aggregate expenditures from such appropriated funds for the provision of services during the fiscal year ending June 30, 1973, or the fiscal year ending June 30, 1974, with respect to which payment was made under the plan of the State approved under title I, X, XIV, or XVI, or Part A of title IV, whichever is less, except that the requirements of this subsection shall not apply to any State for any services program year if the payment to the State under this Part, for each fiscal year any part of which is included in that services program year, with respect to expenditures, other than expenditures for personnel training or retraining directly related to the provision of services, equals the allotment of the State for that fiscal year under § 1396.52 of this part. Where such sum totals appropriated include privately donated funds that are identifiable and documented, such donated funds are not considered part of the aggregate expenditures from appropriated funds.

**§ 1396.19 Noncompliance.**

(a) *Withholding of payment.* If the Secretary, after reasonable notice and opportunity for a hearing to the State, in accordance with 45 CFR Part 213, finds that the plan of the State no longer complies with any of the requirements of §§ 1396.5 through 1396.16, that in the administration of the plan, there is a substantial failure to comply with any of those requirements, or that there is a substantial failure to comply with the requirements of § 1396.17 or 1396.18, he shall, except as provided in paragraph (b) of this section, notify the State that further payments will not be made to the State under this part until he is satisfied that there will no longer be any such failure to comply.

(b) *Alternate 3 percent penalty.* The Secretary may suspend implementation of any termination of payments under paragraph (a) of this section for such period as he deems appropriate and, alternatively, reduce the amount otherwise payable to the State under this part for expenditures during that period by 3 percent for each requirement set forth in §§ 1396.5 through 1396.18 with respect to which there was a finding of noncompliance and with respect to which he is not yet satisfied that there will no longer be any failure to comply.

## Subpart C—Comprehensive Annual Services Program Plan

### § 1396.20 Conditions for FFP.

(a) The State's final services plan shall meet all requirements of this Subpart and of § 1396.50; if it does not (except for family planning services provided pursuant to § 1396.26(h)), there will be no FFP in expenditures for services under the services plan.

(b) FFP will be available in expenditures under the final services plan for services that are provided:

(1) No earlier than 90 days after a proposed services plan has been published and made available for public review and any corrections necessary to bring such proposed plan into compliance with all requirements of §§ 1396.21 through 1396.33 have been published, with 45 days for public comment; and

(2) No earlier than the date of publication of a final services plan that meets all requirements of §§ 1396.21 through 1396.35 (if applicable).

### § 1396.21 Establishment of program year.

The State shall establish the beginning of the Federal fiscal year or the fiscal year of the State government as the beginning of the State's services program year. In order to exercise this option, the State may have a program year of less than 12 months or may extend the program year to 15 months.

### § 1396.22 Services plan.

(a) The Chief Executive Officer of the State, or such other official as the laws of the State shall provide, shall publish in both proposed and final form the Comprehensive Annual Services Plan (hereinafter in this part referred to as the services plan) prepared by the State agency prior to the beginning of each services program year. The proposed and final services plans shall meet all requirements of this Subpart.

(b) The final services plan shall also include: (1) A summary of the public comments; including the State's response to the comments; and

(2) An explanation of differences between the proposed and final services plan, if any and the reasons therefor.

### § 1396.23 Program goals and objectives.

(a) The services plan shall provide that services offered are directed at the goals of:

(1) Achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency;

(2) Achieving or maintaining self-sufficiency, including reduction or prevention of dependency;

(3) Preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating, or reuniting families;

(4) Preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care; or

(5) Securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions.

(b) The objectives to be achieved under the program shall be directed to the goals in paragraph (a) of this section, and shall be stated in the services plan in measurable terms so that an assessment may be made of the extent to which they are achieved.

### § 1396.24 Individuals to be served.

The proposed and final services plans shall:

(a) Specify which of the categories of individuals described in §1396.60 will be provided services in the forthcoming program year: describe the income levels for eligibility, and include the Statewide definition of family in accordance with § 1396.1;

(b) If the State limits services to individuals with certain characteristics, describe the limitations imposed for each category in sufficient detail to enable individuals to know if they are likely to meet the eligibility requirements, e.g., one parent families whose income is not more than 80 percent of the median income; mentally retarded SSI recipients, or alcohol abusers whose income does not exceed 50 percent of the median income;

(c) Specify which of the categories to be served will be charged a fee;

(d) Include the fee schedule, specifying any variations by service or by geographic area, as permitted under § 1396.62; and

(e) Specify whether family planning services, information and referral services, and services to prevent or remedy neglect, abuse, or exploitation will be provided without regard to income.

(f) If the State is determining eligibility on a group basis in accordance with § 1396.61, the services plan shall so state and describe any specific conditions or characteristics (other than income), that must be met or that individuals must have so that they will know if they might qualify to receive a particular service for which eligibility is determined on a group basis. Conditions or characteristics that may be used by the State as a basis for determining that a service is to be offered on a group eligibility basis may include one or more of the following: the nature of the service, characteristics of persons to receive the service (such as age, physical or mental condition, place of residence, single parenthood, common problems, etc.), location of the service site(s), nature of the community where the service will be provided, or other factors which lead the State to reasonably conclude that substantially all the persons to whom the services will be offered are members of families which have a monthly gross income of no more than 90 percent of the State's median income, adjusted for family size.

### § 1396.25 Availability of services by geographic area.

For the purpose of delivering services described in the service plan, the State agency may divide the State into geographic areas, but only if such geographic areas encompass the entire State, including Indian reservations. The State shall consider, in defining geographic areas, the boundaries of planning areas of other human services programs. If the State chooses to establish such geographic areas, the services plan shall:

(a) Describe those geographic areas;

(b) Provide that the services described in § 1396.26(f) will be available to eligible individuals' in every geographic area; and

(c) Where different services are made available to a category of individuals in different geographic areas, provide that the services furnished in a geographic area will be available to all eligible individuals in that category who reside in that area.

### § 1396.26 Services.

The services plan shall: (a) Describe each discrete service, including the service(s) which is (are) available to individuals on the basis of group determination of eligibility, in as much detail as necessary to enable a reasonably prudent person to understand what is included in the

service. For purposes of this paragraph, services such as "child welfare services", "services to alcoholics", or "protective services" are not discrete services but rather clusters of services, each of which shall be separately described. If medical or remedial care or room or board as described in §§ 1396.40 and 1396.41 are part of a service, the plan shall so specify in describing that service.

(b) Specify the effective date when each discrete service is available if the effective date is other than the beginning of the program year. For each discrete service that is to be offered in a prescribe time frame, specify the effective date on which that service is available and the effective date on which that service is to be discontinued. (See § 1396.50(a)(2).)

(c) Specify the method of delivery for each service, i.e., directly by the State agency, by a provider (public or private), or both;

(d) Indicate the relationship of each service to one or more of the program goals and one or more of the program objectives specified in § 1396.23;

(e) Specify the categories of individuals in each geographic area to whom each service will be provided, including any services provided on a group basis;

(f) Include among the services to be provided in each geographic area:

(1) At least three services for SSI recipients;

(2) At least one service directed at each of the program goals specified in §1396.23.

(g) Describe the foster care services required under section 408 of the Act to be provided to all recipients of AFDC–FC, if such services are available under title XX;

(h) Describe any family planning services that will be provided pursuant to section 402(a)(15) of the Act. Failure to include such family planning services will not constitute a deficiency in the services plan. However, failure to provide family planning services pursuant to section 402(a)(15) of the Act may result in a loss of FFP to the State under its AFDC program.

**§ 1396.27 Estimates of individuals to be served and expenditures.**

In order to provide residents of the State with information on the scope of the services program, the services plan shall include estimates of State and Federal expenditures applicable to the title XX program as follows:

(a) For each discrete service, a list of estimated expenditures and estimated numbers of individuals to be served, by each category of eligible individuals and by each geographic area;

(b) Estimated expenditure for the forthcoming program year; and

(c) A comparison of estimated aggregate non-Federal expenditures for the forthcoming program year with those of the preceding completed program year.

**§ 1396.28 Program resources.**

(a) The services plan shall indicate how the State intends to finance its title XX program by providing an estimate of the funds to be used from the State's title XX allotment, and by separately identifying and estimating State and local appropriated funds, and the aggregate of donated and other funds to be used to meet the expenditures under the program. ("Other funds" include any State or local funds used in the title XX program that are in excess of the State's allotment ceiling so long as such funds are administered in accordance with all requirements of this Part.)

(b) Where a State program year is the same as the Federal fiscal year, States shall include in the services plan the full amount of the federal allotment. Where a State program year extends through more than one Federal fiscal year, States shall include in the services plan the full amount of the federal allotment for both fiscal years. The services plan shall also indicate the proportion of each Federal fiscal year encompassed by the State's program year.

**§ 1396.29 Program coordination and utilization.**

The services plan shall describe:

(a) How the planning and the provision of services under the program will be coordinated with and utilize the following programs:

(1) Under the Social Security Act:

(i) Title IV–A, AFDC (including WIN);

(ii) Title IV–B; Child Welfare Services;

(iii) Title XVI, SSI; (see paragraph (b)(3) of this section regarding State services plan content on standards for facilities housing SSI recipients); and

(iv) Title XIX, Medical Assistance (Medicaid); and

(2) Other appropriate programs for the provision of related human services within the State—for example, programs for the aging, children, developmentally disabled, alcohol and drug abusers; programs in corrections, public education, vocational rehabilitation, mental health, housing, medical and public health, employment and manpower.

(b) The service plan shall contain:

(1) A general description of the steps taken to assure maximum feasible utilization of services under these programs to meet the needs of the low income population; and

(2) A general description of the steps taken to assure public participation in the development of the services program, including contacts with public and private organizations, officials of county and local general purpose government units, and citizen groups and individuals, including recipients of services.

(3) Information on standards established by designated standard-setting authorities for residential facilities for SSI recipients, as follows:

(i) A summary (listing of the items) of each standard established for each type of facility in which the State has determined that a significant number of SSI recipients resides or will reside, in accordance with 45 CFR 1397.20(a); and

(ii) The name and address of each standard-setting agency designated in accordance with 45 CFR 1397.10, and a statement that interested individuals may obtain from such agencies without charge a single copy of:

(A) A complete set of standards for each type of facility;

(B) The procedures used in the State to ensure the enforcement of each standard;

(C) The criteria for waiving each standard and a list of the names and addresses of facilities and the standards for which they have been granted waivers; and

(D) The list giving the names and addresses of facilities in violation of a standard, and the details of each violation.

**§ 1396.29–a Timing for initial publication of standards for residential facilites for SSI recipients.**

States shall publish the information about standards required under § 1396.29(b)(3) no later than the publication dates of their services plans for their first title XX program year starting after October 1, 1977.

**§ 1396.30 Organizational structure.**

The services plan shall:

(a) Describe the organizational structure of the State agency through which the program will be administered, including where individuals may apply for services and have their eligibility determined;

(b) Provide a brief description of the State's use of volunteers and volunteer activities or an estimated number of volunteers; and

(c) Identify the point in its organizational structure of the level of staff where it has placed authority;

(1) To make the decision for the State that it is not feasible to furnish child day

care in a day care center or group day care home which complies with Federal staffing standards; and

(2) To furnish child day care by granting a waiver of otherwise applicable Federal staffing standards in a day care center or group day care home which serves few title XX funded children (see § 1396.42(c)(2)) and meets applicable State staffing standards.

**§ 1396.31 Needs assessment.**

(a) The services plan shall describe the steps taken to assure that the needs of all residents of, and all geographic areas in, the State are taken into account in development of the services plan. The description shall include data sources used (or to be used).

**§ 1396.32 Planning, evaluation and reporting.**

The services plan shall describe the planning, evaluation, and reporting procedures and activities the State has carried out or plans to carry out in connection with its services program. Examples of these procedures and activities which may be described include the following:

(a) *Planning.* Relationship with the State budget process and the legislature; input from other State, regional and local planning units and from local general purpose governmental units; citizen organizations and individuals; relationship of needs assessment and service resources inventory to setting of program priorities and allocation of resources.

(b) *Evaluation.* Purpose, scope and timing of current and proposed evaluations, and the schedule for dissemination of evaluation results.

(c) *Reporting.* Description of planned formal reports, such as reports to elected officials or to the public (but excluding reports furnished to HDS, and the schedule for issuance.

**§ 1396.33 The public review process.**

A State's services plan does not become effective for its services program year until the public review process is completed in accordance with §§ 1396.33, 1396.34, and 1396.35 (if applicable).

(a) *Purpose.* The purpose of the public review process is to enable the residents of each State to participate meaningfully in the State decision making processes with respect to the States services plan. The public review process is intended to assure that each State has provided opportunity for prior public participation of title XX clients, title XX advisory groups, public and private organizations, public officials and the general public in needs assessment, identification of priorities and allocation of resources throughout the development of the services plan. (See § 1396.29)

(b) *Scope.* The public review process shall include at least:

(1) Publication of the proposed services plan and a display advertisement describing that plan, and a summary of the plan, if any, at least 90 days before the beginning of the program year, with a 45-day period for public comment;

(2) Consideration of, and public access to, comments received;

(3) Publication of any corrections required to bring the proposed services plan into compliance with the requirements of §§ 1396.21 through 1396.33;

(4) Publication of the final services plan and a display advertisement announcing its publication no earlier than 45 days after publication of the proposed services plan;

(5) Publication of any necessary corrections to the final plan;

(6) Publication of any proposed amendments to the final plan with a 30–day period for comments;

(7) Publication of any corrections required to bring the proposed amendment into compliance with the requirements of §§ 1396.21 through 1396.33;

(8) Publication of the final amendments; and

(9) Publication of any necessary corrections to the final amendment;

(10) Public access to copies of the proposed and final services plans.

(c) *Approval prior to publication.* Prior to publication, the proposed and final services plans shall each be approved by the Governor or such other official as the laws of the State provide.

(d) *Retention of published services plans.* Copies of the proposed and final services plans shall be retained for at least three years in specified local public offices and made available for public and Federal inspection throughout the program year.

(e) *Handling of public comments.* (1) Written comments on the proposed services plan shall be considered by the State agency if received within 45 days after publication of the display advertisement announcing publication and availability of the proposed services plan; and

(2) Such comments shall be retained for at least 3 years for inspection by the public and by Federal officials.

(f) *Display advertisement; general requirements.* (1) A display advertisement is one prepared for and published within the main news section of a newspaper; advertisements placed in the legal or classified sections of a newspaper do not meet this requirement.

(2) Such advertisement must be published in the newspaper of widest circulation (and in foreign languages or foreign language newspapers where appropriate) in each geographic area described in the proposed and final services plans.

(g) *Display advertisement for the proposed plan.* A display advertisement shall at least:

(1) Specify the beginning and ending dates of the program year;

(2) Include a brief description of the services to be offered under the services plan;

(3) Describe the categories of individuals to be served:

(i) Identify those whose eligibility is based on income maintenance status (AFDC or SSI); and

(ii) Specify the maximum dollar amount of income that a family of four can have and still be eligible on the basis of income status; and

(iii) Indicate that such dollar amount is adjusted by family size.

(4) If the State has different income levels for different services, or different income levels for different geographic areas, specify that those different income levels are described in the proposed plan and in the plan summary (if the State has published a summary);

(5) Indicate beginning and ending dates of the 45–day period for public review and comment.

(6) Specify a toll-free telephone number that can be called to obtain without charge either a copy of the proposed plan or a summary thereof; or state that such copies can be obtained by calling a specified local public agency in each county, such as the local social services agency.

(7) Identify a local public agency in each county such as the social services agency where copies of the proposed services plan are available for public review; available for distribution to the public either free (if no summary is provided) or at a reasonable cost; or where copies of the proposed service plan may be ordered, if distributed from another source; and

(8) Specify the address where written comments may be sent and, if there are to be public hearings on the proposed plan, the location, date, and time for such hearings; or state that information concerning the hearings can be obtained by calling a specified toll-free number or by telephoning specified local agencies after a given date.

(9) Include a statement that the plan includes information on standards for non-medical and medical (other than those certified for Medicaid or

Medicare) residential facilities for SSI recipients; a system for enforcing the standards; and the names and addresses of standard-setting authorities who will respond to requests for information on standards, their enforcement, waivers, and the identity of deficient facilities.

(h) *Summary of proposed services plan.* If the State publishes a services plan summary (to be provided free in lieu of a free copy of the entire services plan), it shall contain at least the following information:

(1) The beginning and ending dates of the program year;

(2) The categories of individuals including any limitations, who are eligible for services;

(3) The categories of individuals to whom a fee will be charged if they wish to be provided services under the services plan;

(4) Fee schedules, including any variations by service or by geographic area;

(5) A description of each discrete service to be provided under the plan;

(6) The services that will be made available to each category of individuals in each geographic area under the services plan;

(7) For each service, estimated expenditures, and estimated numbers to be served by each category of eligible individuals and by each geographic area;

(8) Amount of the Federal allotment to the State and the amounts of State and local appropriated funds and of other funds to finance the services program; and

(9) A toll-free telephone number that can be called to obtain information on where to apply for services or the name of a local public agency in each county where applications for services will be accepted.

(10) A listing of the items that comprise each standard established for each type of residential facility where a significant number of SSI recipients resides or is likely to reside, and the name and address of each standard-setting authority from which interested individuals may obtain, without charge:

(i) A full copy of each standard;

(ii) A copy of the procedures used in the State to insure enforcement of the standards;

(iii) A copy of the criteria for waiving each standard and a copy of the list giving the names and addresses of facilities granted waivers; and

(iv) A copy of the list giving the names and addresses of facilities in violation of a standard, and the details of each violation.

(i) *Display advertisement of the final services plan.* The display advertisement of the final services plan shall contain at least:

(1) A statement that the final services plan has been published and is available for review by the public;

(2) An explanation of any differences between the proposed and final services plans and the reasons therefor (including any differences in the standards for residential facilities for SSI recipients, or facts about the standard-setting authorities);

(3) A toll-free telephone number that can be called to obtain information about the services plan and where to apply for services; or the name of a local public agency in each county, where information regarding the services plan will be made available and where applications for services will be accepted;

(4) The name of a local public agency in each county where copies of the final services plan are available for public review and distribution to the public either free or at a reasonable cost; and

(5) The location where public comments on the proposed services plan are available for review.

**§ 1396.34 Regional review of proposed and final services plans.**

(a) *Proposed services plan.* (1) Not later than 5 working days after publication of the proposed services plan, the State shall submit to the HDS Regional Administrator the following: 7 copies of the proposed services plan and its summary, if any; a dated copy of the display advertisement: the names of the newspapers in which the display advertisement appeared; and the geographic areas covered by those newspapers.

(2) The HDS Regional Administrator will review the materials submitted to determine whether all requirements of §§ 1396.21 through 1396.33 have been met.

(3) Within 10 working days following receipt of the materials described in paragraph (a)(1) of this section, the HDS Regional Administrator will notify the director of the State agency in writing that those materials meet all the requirements of this subpart, or will specify the deficiencies that must be corrected in accordance with § 1396.35. For purposes of this paragraph, a display advertisement which does not meet each requirement of paragraphs (f) and (g) of § 1396.33, or a proposed services plan which does not comply with each required item under §§ 1396.21 through 1396.32 and 1396.33(c) is deficient.

(4)(i) If correction(s) to the proposed services plan or to the display advertisement announcing the proposed services plan is necessary, the State shall submit to the HDS Regional Administrator no later than 5 working days after publication of such correction(s), the following:

(A) For correction(s) to the proposed services plan, 7 copies of the corrected pages and one dated copy of the display advertisement announcing the correction(s). (The State shall file the corrected pages in the proposed services plan.)

(B) For correction(s) to the display advertisement announcing the proposed services plan, one dated copy of the display advertisement containing the correction(s) to the original display advertisement.

(ii) Within 5 working days of receipt of the materials submitted pursuant to paragraph (a)(4)(i) (A) and (B) of this section, the HDS Regional Administrator will notify the director of the State agency in writing that the correction meets the requirements of §§ 1396.21 through 1396.32, 1396.33(c), and 1396.35; and that the State is free to publish its final services plan following expiration of the 45-day comment period; or will specify the additional correction that must be made in accordance with § 1396.35.

(b) *Final services plan.* (1) Not later than 5 working days after publication of the final services plan, the State shall transmit to the HDS Regional Administrator; 7 copies of such plan; a dated copy of the display advertisement; and a statement containing the date of publication of the final services plan; the names of newspapers where the display advertisement appeared; and the geographic areas in the services plan covered by those newspapers;

(2) The Regional Administrator will review the materials submitted to determine whether all requirements of §§ 1396.21 through 1396.33 have been met;

(3) Within 5 working days following receipt of the materials described in paragraph (b)(1) of this section, the HDS Regional Administrator will notify the director of the State agency in writing that the final services plan meets all the requirements of §§ 1396.21 through 1396.33, or will specify the deficiencies that must be corrected in accordance with § 1396.35. For purposes of this paragraph (b)(3), a display advertisement that does not meet all requirements of § 1396.33(i), or a final services plan that does not comply with each requirement of §§ 1396.21 through 1396.32, and 1396.33(c) is deficient.

(4)(i) If correction(s) to the final services plan or to the display advertisement announcing the final services plan is necessary, the State

shall submit to the HDS Regional Administrator no later than 5 working days after publication of such correction(s), the following:

(A) For correction(s) to the final services plan, 7 copies of the corrected pages and one dated copy of the display advertisement announcing the correction(s). (The State shall file the corrected pages in the final services plan.)

(B) For correction(s) to the display advertisement announcing the final services plan, one dated copy of the display advertisement containing the correction(s) to the original display advertisement.

(ii) Within 5 working days of the receipt of the materials specified in paragraph (b)(4)(i) (A) and (B) of this section, the HDS Regional Administrator will notify the State agency in writing that the correction(s) meets all the requirements of §§ 1396.21 through 1396.32, 1396.33(c), and 1396.35; and that the final services plan is in effect: or specify the additional corrections that are required before the plan can become effective.

**§ 1396.35 Correction of proposed and final services plans and display advertisements.**

(a) A display advertisement which is deficient shall be corrected by publication of correct information for each deficient item in a display advertisement in all newspapers in which the original display advertisement appeared.

(b) A deficient proposed or final services plan shall be corrected by publishing the following information in a display advertisement in all newspapers in which the original advertisement appeared:

(1) The items being corrected;

(2) A statement that corrected pages for insertion in the plan are available without charge; and

(3) A toll-free number or the address of the local public office where corrected pages may be obtained.

(c) For correction of a proposed services plan, the display advertisement shall contain the information specified in paragraph (b) of this section and also indicate the beginning and ending dates of the new 45-day comment period on the corrected plan, and the method for submitting comments.

**§ 1396.36 Amendments to final services plan.**

(a) Amendments to the final services plan are necessary at least when:

(1) Change is to be made in the period of time encompassed by the program year (See § 1396.21);

(2) Geographic areas are to be realigned; or

(3) Any of the following changes are to be made, whether applicable Statewide or only in particular geographic areas:

(i) Specific services are to be added or deleted;

(ii) Fees are to be changed, or the charging of fees is to be initiated or discontinued; or

(iii) The categories of individuals to be served are to be changed.

(b) Any amendment to a final services plan shall be prepared by the state agency and approved, published, and made generally available to the public by the Chief Executive Officer or such other official as the laws of the State provide in the following manner:

(1) The proposed amendment shall be published in a display advertisement in the newspaper of widest circulation (and in foreign languages or foreign language newspapers, where appropriate) in each geographic area in which the change has impact, and shall provide for a public comment period of at least 30 days. The display advertisement shall contain at least:

(i) A description of the proposed changes and the reasons therefor, and the proposed effective date of the changes which shall be no earlier than 30 days after publication of the proposed changes;

(ii) The method for public comment and where comments will be received; and

(iii) The beginning and ending dates of the 30 day period for public comment.

(2) Not later than 5 calendar days after publication of the proposed amendment, the State shall submit to the HDS Regional Administrator 7 copies of the proposed amendment and a dated copy of the display advertisement which announced the proposed amendment.

(3) The HDS Regional Administrator will review the proposed amendment(s) to determine whether applicable requirement(s) of §§ 1396.21 through 1396.33 have been met. Within five working days following receipt of the amendment(s) the Regional Administrator will notify the director of the State Agency in writing that the amendment meets the applicable requirement(s) of §§ 1396.21 through 1396.33 or will specify deficiencies.

(4) Corrections to the proposed amendment(s) shall be made in accordance with the procedures for corrections to the proposed plan as described in § 1396.34(a)(4) except that the period for public review and comment prior to publication of the final amendment is 30 days.

(5) No earlier than 30 days following the publication of the proposed amendment, the final amendment shall be published as a display advertisement in each newspaper in which the proposed amendment was published. This display advertisement shall contain at least:

(i) A description of the final amendment of the services plan;

(ii) The effective date of the amendment;

(iii) An explanation of the State's response to the public comments; and

(iv) An explanation of the differences between the proposed and final amendments if any and the reasons therefor.

(c) The effective date of an amendment shall be no earlier than the date of publication of the final amendment.

(d)(1) Notwithstanding paragraph (c), of this section, when a State amends its services plan so that it may provide family planning services without regard to income, or determine eligibility on group basis for the provision of a service, the final amendment to the services plan may have a retroactive effective date of October 1, 1975 (or later, depending on when the State began providing the particular service specified in the amendment). FFP is available for a service which is the subject of an amendment made in accordance with this paragraph (d)(1), *Provided,* That the service was in the State's services plan when the service was delivered.

(2) The State shall publish the proposed and final amendments to the services plan, in accordance with the provisions of this section, and specify therein the relevant retroactive dates.

(e) Not later than 5 calendar days following publication of the final amendment the State agency shall submit to the HDS Regional Administrator 7 copies of the final amendment and a dated copy of the display advertisements which announced the final amendments.

(f) The HDS Regional Administrator will review the final amendment(s) to determine whether applicable requirement(s) of §§ 1396.21 through 1396.33 have been met. Within 5 working days following receipt of the amendment(s) the Regional Administrator will notify the director of the State agency in writing that the amendment meets the applicable requirement(s) of §§ 1396.21 through 1396.33 or will specify deficiencies.

(g) Corrections to the final amendment(s) shall be made in accordance with procedures for

corrections to the final plan as described in § 1396.35(b).

## Subpart D—Limitations: Services

### § 1396.39 General.

FFP is available for services provided to eligible individuals pursuant to the State's services plan only if the requirements set forth in the sections of this subpart are met.

### § 1396.40 Minor medical and remedial care.

(a) FFP is not available for medical and remedial care, other than family planning services, except when they are an integral but subordinate part of a service described in the services plan, and the medical and remedial care is not available to the individual under the State's approved title XIX plan and to the extent the individual or the provider is not eligible to receive payment under title XVIII for the provision of the service to the individual.

(b) Medical and remedial care are deemed to be integral but subordinate components of a service if:

(1) They are necessary to achieve the objective of that service and not merely to correct a medical condition; and

(2) The specific medical and remedial care are described and included in the State's services plan along with the description of the service of which they are an integral but subordinate part. For example, in describing child day care services, a State could describe (itemize) medical examinations, dental screening, and immunizations as integral but subordinate parts of the child day care service.

(c) [Reserved]

(d) FFP is not available for medical or remedial care or health-related homemaker services purchased from a private provider for any period during which the provider fails to comply with § 1396.72 that requires disclosure about ownership, control interests, and certain information about past business transactions.

### § 1396.41 Room or board.

(a) FFP is not available for room or board under a services plan, except when provided in emergency shelter under § 1396.46, or as an integral but subordinate part of another service and then only for a period of not more than six consecutive months for any one placement.

(b) Room or board is deemed to be as an integral but subordinate component of a service if:

(1) It is necessary to achieve the objective of that service and not merely to provide food and shelter; and

(2) Room or board are included in the State's services plan along with the description of the service of which it is an integral but subordinate part, and is provided in accordance with all applicable requirements under this Part.

(c) Room or board under this Part shall not be considered an integral but subordinate part of a service when provided to an individual in a foster family home or other facility such as a foster care institution or other facility whose primary purpose is to provide board, room and care or supervision.

(d) As used in this section, the term *placement* means an uninterrupted period of time during which an individual takes up, or is placed in, residence in a facility other than his usual place of residence, for the purpose of undergoing a specific regimen of services or treatment according to a prescribed plan.

### § 1396.42 Child care standards.

(a) FFP is available for child care services provided under a services plan only where the following standards are met:

(1) *In-home care.* (i) When homemaker service is utilized for this purpose, it meets standards established by the State or by an Indian tribal council, in accordance with § 1396.13, which are reasonably in accord with recommended standards of national standard setting organizations concerned with this type of home care for children.

(ii) When other caretakers are utilized for this purpose, such care meets standards established by the State or by an Indian tribal council, in accordance with § 1396.13, which, as a minimum, cover the caretaker's age, health, capacity and available time to properly care for children; minimum and maximum hours to be allowed per 24 hour day for such care; maximum number of children that may be cared for in the home at any one time; and proper feeding and health care of the children.

(2) *Out-of-home care.* (i) Facilities used to provide day care outside a child's own home are licensed by the State, an Indian tribal council, in accordance with § 1396.13, or approved as meeting the standards for such licensing.

(ii) Such facilities and care meet the 1968 Federal Interagency Day Care Requirements, except that:

(A) Subdivision III of such requirements with respect to educational services is recommended but not required.

(B) Required staffing standards for children under age 3 in day care centers and group day care homes are: 1 adult for each child under 6 weeks of age; 1 adult to 4 children, ages 6 weeks through 36 months. (States may, at their option, require fewer children per adult.)

(C) Required staffing standards for school age children in day care centers are: at least 1 adult to 15 children, ages 6–10; and at least 1 adult to 20 children, ages 10–14.

(b) The requirements in paragraph (a)(2)(ii) of this section are in lieu of otherwise applicable requirements under section 522(d) of the Economic Opportunity Act of 1964 with respect to child day care services under title XX.

(c) Notwithstanding the Federal staffing requirements for out-of-home child care services set forth in paragraph (a)(2)(ii)(B) of this section:

(1) FFP is available after October 1, 1975 for title XX child day care services so long as day care centers and group day care homes providing day care services to children 6 weeks of age to 6 years of age apply staffing standards which:

(i) Are the State staffing standards which are in effect at the time the child day care services are provided;

(ii) Are no lower than the corresponding staffing standards which were imposed or required by applicable State law on September 15, 1975; and

(iii) Are no lower, in the case of a particular day care center or group day care home, than the corresponding standards actually being met in such center or home on September 15, 1975.

(2)(i) After September 7, 1976 when States find that it is not feasible to furnish day care (partly or totally funded under title XX) for children of any age in a day care center or group day care home that complies with Federal staffing standards, they may furnish day care services in a center or group day care home which does not meet such Federal standards if the following two requirements are met:

(A) The day care center or group day care home complies with applicable State staffing standards; and

(B) The day care center or group day care home serves few title XX children. (For a group day care home, few title XX children means not more than 20 percent of the total number of children served at any given time in that group day care home. For a day care center, few title XX children means either five children or not more than 20 percent of the total number of children served at any given time in the center.)

(ii) States shall establish criteria against which to assess the non-feasibility of their use of a day care center or group day care home which complies with Federal staffing standards. The critieria shall be based

on the geographic location of the facility or its accessibility to the recipient of day care services. The criteria shall not be based on cost factors. States shall maintain a record of the waiver for each facility in terms of these criteria.

(d) After October 1, 1975, in applying Federal staffing standards, States shall be required to count the children of the operator of a family day care home only if they are under 6 years of age.

(e) Beginning October 1, 1980, FFP is available in the costs of out of home child day care services provided under a services plan only if all the requirements prescribed in 45 CFR Part 71 are met. These requirements supersede those in paragraphs (a)(2)(ii), (b), (c), and (d) of this section.

**§1396.43 Educational services.**

FFP is not available for any educational service made generally available through any State or local education agency to residents of the State without cost and without regard to their income. To the extent a fee is imposed on any resident, FFP is available only for such fee.

**§1396.44 Services to individuals living in hospitals, skilled nursing facilities, intermediate care facilities (including hospitals or facilities for mental diseases or for the mentally retarded), or prisons.**

(a) FFP is available for services to individuals living in hospitals, skilled nursing facilities, intermediate care facilities (including any such hospitals or facilities for mental diseases or for the mentally retarded), or prisons only under the following conditions:

(1) The services provided are separately identifiable in the services plan (generalized description such as "services to nursing home patients" or "services to increase socialization skills" are unacceptable under this provision).

(2) Such services are provided by other than the facility in which the individual is living. This requirement is not met if the services are provided by:

(i) Staff or contractors who are under the professional direction or direct supervision of the facility; the facility exercises control of the employment, tenure or compensation of such staff or contractors or makes assignments or alters the service regimen provided by them; or

(ii) Staff of like facilities under reciprocal arrangement.

(3) Such services are also provided to individuals who:

(i) Are not living in a hospital, skilled nursing facility, intermediate care facility (including any such hospitals or facilities for mentally retarded), or prison; and

(ii) Are residents of any part of a geographic area that is within the catchment area of such facility.

(b) FFP is not available for:

(1) Inherent responsibilities of a facility such as food, clothing, shelter, general maintenance and administration (including the detention function), general supervision and personal care; or

(2) Activities that are intrinsic to the purpose of such facility, as determined by facility charter, State law or standards, relevant licensing or certification requirements, or Federal or State court decisions.

(c) For purposes of this section:

(1) *"Prison"* means any State or local correctional institution or facility for the confinement of individuals charged with or convicted of criminal offenses. The term does not include separate juvenile correctional facilities nor community-based residential service facilities, such as half-way houses.

(2) *Separate juvenile correctional facility* means one that is located in a separate building or buildings; is served by separate day-to-day operational staff; and provides a separate and distinct program of services.

(3) *Skilled nursing facility (SNF)* means an institution primarily engaged in providing to inpatient skilled nursing care and related services for patients requiring medical or mursing care, or rehabilitation services for the rehabilitation of injured, disabled or sick persons.

(4) *Intermediate care facility (ICF)* means an institution which provides on a regular basis, health related care and services to individuals who do not require the degree of care which a hospital or SNF is designed to provide, but who because of their mental or physical condition require health related care and services above the level of room or board which can be made available to them only through institutional facilities.

(5) *Hospital* means an institution which is primarily engaged in providing, by or under the supervision of physicians, to inpatients diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or rehabilitation services for the rehabilitation of injured, disabled, or sick persons.

(d) Services in separate juvenile correctional facilities may be provided by staff of the facility. However, FFP is not available for inherent responsibilities of the facility (e.g., food, clothing, shelter, and managing and carrying out the detention function).

**§ 1396.45 Special services provided by foster family homes.**

(a) A foster family home is a home licensed or approved by appropriate State or local authority or an Indian tribal council on Indian reservations, in accordance with § 1396.12, to provide board and care including parenting for children and oversight for adults.

(b) *Special services provided by foster family home.* FFP is not available for activities described under paragraph (a) of this section, but is available for special services provided by a foster family home to an individual living in that home, only upon documentation, by an appropriately qualified professional person who is other than the placement worker, that:

(1) The individual requires an identified special service because of a health (physical or mental) condition, an emotional or behavioral problem; and

(2) The caregivers are capable by virtue of special training of providing the needed service.

(c) Nothing in this section precludes the provision of any other service in the services plan to eligible individuals living in foster family homes when provided by other than the foster family.

**§ 1396.46 Emergency shelter.**

(a) FFP is available for emergency shelter as a protective service to any child, including runaways, only under the following conditions:

(1) The child is in danger of abuse, neglect or exploitation:

(2) The need for emergency shelter is documented by personnel authorized by State law to place children; or by an Indian tribal council; and

(3) Emergency shelter is provided for not in excess of 30 days in any 6 month period, which may be consecutive or may accumulate over more than one stay.

(b) Emergency shelter may be provided in facilities such as foster family homes, institutions, and group homes.

**§ 1396.47 Payments to recipient for services.**

FFP is available in cash payments made to a recipient for a service already rendered to him, upon presentation of a bill for, or presentation of a receipt of payment for, such service if he was eligible under the services plan for the service at the time it was provided and if the purchased service:

(a) Is identified in the services plan;

(b) Was authorized by the State agency prior to its purchase and meets applicable standards, if any; and

(c) Was secured by the individual within a period of time and at a cost which were approved by the State agency.

**§ 1396.48 Confidentiality regarding services to drug and alcohol abusers.**

States providing services to drug and alcohol abusers shall safeguard information about such services and recipients by applying the provisions of section 333 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (as amended by section 122(a) of Pub. L. 93–282), as implemented by regulations at 42 CFR Part 2.

## Subpart E—Limitations: Financial

**§ 1396.50 Services and individuals covered in the services plan.**

(a) FFP is available with respect to any expenditures for the provision of any service for any individual only when:

(1) The State's services plan meets the requirements of Subpart C, and

(2) The final services plan (including any amendments published in final) in effect when the service is provided to the individual includes the provision of that service to a category of individuals which includes that individual.

(3) The State plan is approved as meeting the requirements of Subpart B of this Part.

**§ 1396.51 Matching rates.**

(a) *Seventy-five percent FFP.* FFP is available at the 75 percent rate for service costs and for personnel training and retraining directly related to the provision of services under the services plan.

(b) *Ninety percent FFP.* Notwithstanding paragraph (a) of this section, FFP is available at the 90 percent rate for costs of family planning services provided under the services plan.

(c) *One hundred percent FFP.* Notwithstanding paragraph (a) of this section, FFP is available at the 100 percent rate up to the State's share of the additional allotments described in § 1396.52(b)(3) for:

(1) Day care services provided to children in day care centers, group day care homes, and family day care homes, which are licensed by the State for child day care services and otherwise meet the requirements of § 1396.42(a)(2) as modified by the provisions of § 1396.42 (c) and (d);

(2) Day care services provided to children in their own homes in accordance with § 1396.42(a)(1); and

(3) Staff activities in direct support of the child day care services such as: licensing homes or facilities used by title XX children, monitoring title XX child care services delivery, and training staff in accordance with Subpart H of this Part.

**§ 1396.52 Allotments to States.**

(a) *Basic Limitation.* The amount of Federal funds payable to the 50 States and the District of Columbia under this Part for any fiscal year with respect to expenditures for services under the services plan (other than expenditures for personnel training or retraining directly related to the provision of services) may not exceed the allotment set forth in this section.

(b) *Allotments for fiscal years beginning after June 30, 1976.* (1) The allotment of each State for each fiscal year beginning after June 30, 1976 shall be an amount which bears the same ratio to $2,500 million as the population of such State bears to the population of all the States.

(2) The allotment for each State will be promulgated for each fiscal year by the Secretary prior to the first day of the third month of the preceding fiscal year, on the basis of the population of each State and of all the States as determined on the basis of the most recent satisfactory data available from the Department of Commerce.

(3)(i) The basic allotment described in paragraph (b)(1) of this section shall be increased by an amount which bears the same ratio to $40 million for the transition quarter (July 1, 1976 through September 30, 1976) and to $200 million in FY 1977, 1978 and 1979 as the population for such State bears to the population of all States. The amount of these additional allotments payable to each State shall be the lesser of:

(A) The amount of each additional allotment; or

(B) The amount of actual expenditures incurred for the provision of child day care services and for grants by States to child day care providers for the employment of welfare recipients.

(4) *Exception:* The basic allotment specified in paragraph (b)(1) of each State for FY 1979 shall be an amount which bears the same ratio to $2.7 billion as the population of each State bears to the population of all the States.

(c) *Certification of allotment need.* (1) Each fiscal year, each State shall certify to the Secretary, within 30 days after the beginning of the fiscal year, whether the amount of its allotment is greater or less than the amount needed by the State for such fiscal year and, if so, the amount by which the amount of such allotment is greater than such need.

(2) If any State certifies in accordance with paragraph (c)(1) of this section, that the amount of its allotment for any fiscal year is in excess of its need for such year, the amount of the limitation of such State for such year shall be adjusted downward by the amount of such excess.

(3) Of the amounts made available pursuant to paragraph (c)(2) of this section, the Secretary shall allot to the jurisdiction of Puerto Rico $15,000,000, to the jurisdiction of Guam $500,000, and to the jurisdiction of the Virgin Islands $500,000, which shall be available to each such jurisdiction in addition to amounts available under Section 1108 of the Act for the purpose of matching the expenditures of such jurisdictions for services pursuant to sections 3(a) (4) and (5), 403(a)(3), 1003(a) (3) and (4), 1403(a) (3) and (4), and 1603(a) (4) and (5) of the Act, except that if the amounts made available pursuant to paragraph (d)(2) of this section are less than $16,000,000, such amounts as are available shall be allotted to each of the three jurisdictions in proportion to their respective populations.

(d) *Date of Expenditure.* For purposes of this section, expenditures for services are ordinarily considered to be incurred on the date on which the State or local agency makes payment or the date to which the expenditure was allocated pursuant to the cost principles of Subpart Q of 45 CFR Part 74 and the cost allocation procedures of 45 CFR 1395.2. In the case of local administration, the date of expenditures by the local agency governs. In the case of purchase of services from another public agency, the date of expenditure by such other public agency governs. Different rules may be applied with respect to a State, either generally or for particular classes of expenditures, only upon justification by the State to the Administrator and approval by him. In reviewing State requests for approval, the Administrator will consider generally applicable State law, consistency of State practice, particularly in relation to periods prior to October 1, 1975, and other factors relevant to the purposes of this section.

(e) *Procedures for making grants to States.* See 45 CFR Part 201.

**§ 1396.53 Restrictions on State's share in claiming FFP.**

(a) Subpart G of 45 CFR Part 74 shall be followed in meeting the State's share in claiming FFP for the services program, including training and other adminstrative functions except:

(1) Goods or services provided in-kind from private sources may not be used as the State's share. Services of volunteers are private in-kind contributions.

(2) Donated funds from private sources must:

(i) be transferred to the State agency and under its adminstrative control;

(ii) be donated to the State agency, without restrictions as to use, except that the donor may specify either or both of the following—

(A) the services, administration, or training for which the funds are to be used, if the donor is not a sponsor or operator of a program to provide such services, adiministration, or training.

(B) the geographic area in which the serivces are to be provided

(iii) not be used to purchase services from the donor unless the donor is a nonprofit organization and it is an independent decision of the State agency to purchase services from the donor.

(b) For purposes of this Part, a voluntary federated fund-raising organization is not considered to be a sponsor or operator of a service facility, and member agencies are considered separate autonomous entities so long as control by interlocking board membership or other means does not exist.

(c) In-kind contributions from public agencies, which do not meet the definition of third-party public agency in § 1396.53(d), must be valued in accordance with the cost principles specified in Subpart Q of 45 CFR Part 74.

(d) Under this Part a third-party public agency means any public entity (including Indian tribes) except—

(1) Units of the State government; and

(2) Units adminstering local governments in a State whose title XX program is State supervised and locally administered.

(e) The effective date of paragraph (c) of this section is October 1, 1980.

**§ 1396.54 [Reserved]**

**§ 1396.55 [Reserved]**

**§ 1396.56 Fifty Percent Rule.**

(a) If one-half of the Federal funds to which the State is otherwise entitled is greater than the amount of the aggregate expenditures (combined State and Federal) made under the program for individuals identified in this paragraph, such Federal funds will be adjusted so the total Federal reimbursement does not exceed twice the amount of the total expenditures in behalf of those individuals:

(1) Who are receiving aid and under the plan of the State approved under part A of title IV or who are eligible to receive such aid; or

(2) Whose needs are taken into account in determining the needs of an individual who is receiving aid under the plan of the State approved under part A of title IV, or who are eligible to have their needs taken into account in determining the needs of an individual who is receiving or is eligible to receive such aid; or

(3) With respect to whom supplementary security income benefits under title XVI or State supplementary payments, are being paid, or who are eligible to have such benefits or payments paid with respect to them; or

(4) Whose income and resources are taken into account in determining the amount of supplemental security income benefits or State supplementary payments being paid with respect to an individual, or whose income and resources would be taken into account in determining the amount of such benefits or payments to be paid with respect to an individual who is eligible to have such benefits or payments paid with respect to him; or

(5) Who are eligible for medical assistance under the plan of the State approved under title XIX.

(b) In accounting for costs for services to meet the requirements of paragraph (a) of this section:

(1) In lieu of accounting for the status of each person receiving a service on the basis of group determination of eligibility, States may use generally accepted statistical sampling procedures.

(2) Regarding services to persons who receive services without regard to income (family planning services, services to prevent or remedy abuse, neglect or exploitation of children and adults, and information and referral services). States may use any appropriate method, including generally accepted sampling procedures or allocation of costs to the services provided these persons in the same ratio as the known cost of all other services distributed for the 50 percent rule.

## Subpart F—Limitations: Individuals Served, Eligibility and Fees

**§ 1396.60 Persons eligible and access to services.**

(a) *Conditions for FFP.* FFP is available in expenditures for services to individuals provided that:

(1) The service is included in the State's services plan;

(2) The individual who receives the service is a member of one of the categories covered by the State's services plan; and

(3) Such individual was eligible under the provisions of this section and those of § 1396.61 at the time of receipt of the service.

(b) *Categories of individuals who may receive services—*

(1) *Income maintenance status.* The following individuals are eligible on the basis of income maintenance status:

(i) Recipients of AFDC;

(ii) Those persons whose needs were taken into account in determining the needs of AFDC recipients; and

(iii) Recipients of SSI benefits or State supplementary payments.

(2) *Income status.* Individuals other than those described in paragraph (b)(1) of this section, are eligible if the family's monthly gross income is less than 115 percent (or, at State option, a lower percentage) of the median income of a family of four in the State adjusted for size of family, subject to the limitations set forth in § 1396.62. Income status individuals include those whose eligibility is determined on a group basis.

(3) *Without regard to income.* Individuals may be provided family planning services under § 1396.63, information or referral services under § 1396.64, or services to prevent or remedy neglect, abuse, or exploitation of children or adults under § 1396.65, without regard to income at State option if the State so provides in its services plan.

(c) *Median income.* (1) On or before December 1 of each year, beginning with calendar year 1975, the Secretary will promulgate the median income for a family of four for each State and for the 50 States and the District of Columbia. This promulgation shall be used for purposes of determining eligibility and establishing fees in the following Federal or State fiscal year.

(d) *Income levels as baselines for fee imposition.*

(1) Except for individuals whose eligibility is determined on a group basis, individuals whose eligibility is based on income status shall be subject to imposition of a fee for service (in accordance with § 1396.62) if their family's monthly gross income exceeds 80 percent of the median income of a family of four in the State or the median income of a family of four in all States, whichever is less, and does not exceed 115 percent of the median income of a family of four in the State, adjusted for family size.

(2) The median incomes (at 80 percent and 115 percent) as calculated in paragraph (d)(1) of this section for a family of four, shall be adjusted for family size according to the following percentages:

(i) One person—52 percent.

(ii) Two person family—68 percent.

(iii) Three person family—84 percent.

(iv) Four person family—100 percent.

(v) Five person family—116 percent.
(vi) Six person family—132 percent.
(vii) For each additional family member above six persons, the State shall add 3 percentage points to the percentage for a family of six.

(3) For discretionary fees applicable to persons who are at or below the lower level median income described in paragraph (d)(1) of this section, or are eligible on the basis of income maintenance status, or who may receive services without regard to income, see § 1396.62(b).

(e) *Income levels for services.* So long as the State observes the baselines for income levels for imposition of fees established pursuant to paragraph (d)(1) of this section, it may establish income levels for services:

(1) At any level lower than 115 percent of the median income of the State;

(2) At different levels for different services under the services plan;

(3) At different levels for different categories of individuals;

(4) At different levels in different geographic areas; or

(5) At different levels for different sizes of families within the limits for eligibility and fees set forth in paragraph (d)(2) of this section.

(f) *Opportunity to apply.* The State shall assure that each individual wishing to do so has an opportunity to apply for services without delay. The State shall use the following intake process for individuals seeking service:

(1) *Determination of eligibility.*

(i) When eligibility must be determined on an individual basis, the State shall require a written signed application containing the necessary information.

(A) The application shall be in a form prescribed by the State and the applicant shall certify that the information submitted is correct.

(B) The application may be filed by the applicant himself or by his authorized representative; or where the applicant is incompetent or incapacitated or in an emergency, by someone acting responsibly for him, including agency staff.

(ii) No written application is necessary for services available without regard to income.

(iii) No written application is necessary for individuals whose eligibility is determined on a group basis.

(2) *Request for services.* Except as described in paragraph (f)(2)(iv)(B) of this section, the State shall document each request for service for purposes of FFP as well as for fair hearings and as evidence of the voluntary nature of the request for service. Documentation may be accomplished through submission of a written request by an individual needing service or his representative, or by the recording of information elicited by the agency, except that a request for family planning services (whether or not it is a "universal" service) must be in writing in order to verify that it was requested voluntarily. With respect to the following:

(i) When an individual has had eligibility determined on an individual basis, the written application for eligibility determination may be deemed a request for services (unless the State has a separate process for requesting services), and may serve as initial documentation. Subsequent requests for services from such an eligible individual shall be documented as described in paragraph (f)(2) of this section.

(ii) For protective services, an acceptable alternative to a request for services is a dated agency record that documents the circumstances of actual or potential abuse, neglect, or exploitation of a child or adult.

(iii) For requests for information and referral services, the State shall establish a procedure for documenting the number and nature of the requests.

(iv) When eligibility is determined on a group basis in accordance with § 1396.61, requests for services shall be handled in one of two different ways:

(A) If the state has established specific conditions (other than income) or characteristics as a condition precedent to the receipt of a service on the basis of group eligibility, the State shall, in the intake process, elicit information necessary to determine whether an individual meets the specified conditions or has the characteristics for membershp in the group (e.g.—if eligibility for homemaker services to teenage parents maintaining their own homes in public housing is determined on a group basis, the intake process shall elicit a statement regarding age, parenthood, address, and maintenance of one's own home).

(B) If the State has concluded solely on the basis of the nature of a service and/or the location where it will be provided (e.g.—recreation services in specified senior centers or day care services for migrant children), that substantially all of the individuals who would apply for the service are members of families with gross monthly incomes of 90 percent or less of the State's median income, adjusted for family size, no information need be elicited at intake or documentation made except as to the numbers served. The presence of the individual at the service site or participation in the service is deemed a request for services.

(g) *Prompt action on eligibility applications and requests for service.* (1) A decision shall be made on all applications within time standards established by the State agency pursuant to § 1396.5, but not to exceed 30 calendar days from the date of application.

(2) The agency shall notify applicants about their eligibility within 15 calendar days after it makes a decision. The date of each notification shall be entered in the case record. Applicants found to be eligible shall be notified orally or in writing; those found to be ineligible shall be notified in writing unless the requested service is provided by that agency to them through another funding source.

(3) Unless a service is denied, the State shall provide the service requested with reasonable promptness. "Provide the service" means actual provision of the service or arrangement for its provision at an appropriate later date. "Reasonable promptness" is accomplished when the State provides the service:

(i) Within 15 calendar days after notification of eligibility; or

(ii) Within 30 calendar days after acceptance of a request for service.

If the service is denied, the State shall notify the applicant in writing of the denial within these same time limits.

(h) *Notification of right to a fair hearing.* At the time of application or request for services, each individual shall be given information about the right to request and obtain a fair hearing, in accordance with § 1396.14.

**§ 1396.61 Determination and redetermination of eligibility.**

(a) *Methods of determining (or redetermining) eligibility.* (1) Standards and methods for determination of eligibility will be consistent with the objectives of the program, and will respect the rights of individuals under the United States Constitution, the Social Security Act, title VI of the Civil Rights Act of 1964, and all other relevant provisions of Federal and State laws.

(2) States may establish any method or methods, including a declaration method, for determining individual eligibility in accorance with §§ 1396.60 and 1396.66.

(i) A determination of individual eligibility means a decision reflected in the State's records, based on a dated and signed application and sufficient information which would lead a reasonable person to conclude that the criteria set forth in § 1396.60 have been met and the individual is eligible to

receive services on the basis of income or income maintenance status.

(A) *Documentation method* means that the State has sought and obtained verification regarding the source and amount of the gross family monthly income of the individual applying, or has verified his income maintenance status.

(B) *Declaration method* means acceptance of an individual's statements regarding the source and amount of his family's gross monthly income, and the income maintenance status (as described in § 1396.60(b)(1) of any member of the family.

(ii) (For group determination of eligiblity, see subparagraph (3) of this paragraph and § 1396.60(f)(2)(iv).)

(3)(i) States may determine eligibility on a group basis if, upon consideration of one or more of the following factors, with respect to a particular service to be provided on a group eligibility basis, they can reasonably conclude without individual determination that substantially all members of the group who receive the particular service are members of families with monthly gross incomes of not more than 90 percent of the State's median income, adjusted for family size:

(A) The geographic area in which a particular service is provided;

(B) The characteristics of the community in which the service is provided;

(C) The nature of the service provided;

(D) The conditions, other than income, of eligibility to receive the service; or

(E) Other factors surrounding provision of the service.

(ii) "Substantially all" means that no less than 75 percent of the persons provided a service on the basis of group eligibility determination shall be members of families whose gross monthly incomes are no more than 90 percent of the State's median income, adjusted for family size.

(iii) There are no mandatory fees, as defined in § 1396.62(a), for persons whose eligibility is determined on a group basis.

(iv) Group determination of eligibility may be used for any service except, that for child day care, it is limited to the children of migratory workers.

(4) States may use one method for determining eligibility for all services, categories of individuals and geographic areas, or they may use different methods for different services, different categories of individuals and different geographic areas.

(5) States shall have available for Federal review a written description of the method(s) they have established for determining and redetermining eligibility.

(b) *Conditions for FFP.* (1) Regardless of the method chosen for determination or redetermination of eligibility:

(i) FFP is available in the cost of services provided prior to the actual date of an initial determination of eligibility only if such determination is made within 30 days of the date of application and the individual is properly determined to have been eligible when the services were initiated.

(ii) When a recipient of services was improperly determined to be eligible, FFP is not available in the cost of services provided during the period of improperly determined eligibility.

(2) When an individual properly determined to be eligible on the basis of information available to the agency at the time of determination of eligibility is subsequently found ineligible, FFP is available until the end of the month in which he is determined ineligible or through the period of time services are required to be provided under 45 CFR 205.10 regarding fair hearings. A proper determination of eligibility is a determination which is based on a correct assessment on the information available to the agency at the time of such determination, provided that all information necessary to make a determination is available; a proper redetermination is one which meets those criteria and, in addition, is made within the time limits established by paragraph (c) of this section.

(c) *When redetermination shall be made.* (1) Redetermination of eligiblity shall be made for persons whose eligibility is determined on an individual basis:

(i) When required on the basis of information the agency has obtained about anticipated changes in the individual's situation;

(ii) Promptly, not to exceed 30 days, after information is obtained about changes which have occurred in the individual's circumstances that may make him ineligible; and

(iii) Periodically, but not less frequently than every 6 months except that for individuals whose family gross monthly income at the time of determination is derived exclusively from pensions, or social security benefits, or SSI, or a combination thereof, redetermination may be made at 12-month intervals.

(2) If the State has established specific conditions or characteristics as a condition precedent to the receipt of a service on the basis of group eligibility (and, in accordance with § 1396.60(f)(2)(iv)(A), has elicited information at intake that individuals applying for the service meet the conditions or have the characteristics for membership in the group), it shall, unless the characteristic is irreversible (such as being above a certain age), redetermine the eligibility of these individuals as follows:

(i) When the conditions or characteristics established by the state are apt to change in regard to an individual (such as place of residence, marital status, children living in the home), the State shall ascertain not less frequently than every 6 months whether persons receiving the service on a group eligibility basis still meet the conditions or have the characteristics which made them members of the group; or

(ii) When the conditions or characteristics established by the State are not apt to change substantially in regard to an individual (such as a physical disability), the State shall ascertain not lees frequenlty than once a year whether persons receiving the service on a group eligiblity basis still meet the conditions or have the characteristics which made them members of the group.

(iii) When an individual no longer meets the conditions or has the characteristics required for group membership, the State shall discointinue providing the service to the individual on the basis of group eligibility determination by the end of the month in which such a finding is made or at the end of the period of time services are required to be provided to the individual under 45 CFR 205.10 regarding fair hearings.

(d) *Validation of "substantically all" basis for establishing a group.* (1) Each group of persons receiving a service on the basis of group determination of eligibility shall be subject to a validation check or whether at least 75 percent of those receiving the service are members of families with gross monthly incomes of no more than 90 percent of the State's median income, adjusted for family size.

(2) States shall conduct their initial validation check not later than 6 months after they have started providing a service to individuals on the basis of group eligibility. (If a State claims expenditures for services on a group determination of eligibility basis retroactively, as permitted to October 1, 1975, the validation shall be made by no later than June 30, 1977.)

(3) After the initial validation, States shall thereafter conduct such validations for the same group no less frequently than once a year.

(4) The validations may be conducted on a sample basis. States shall maintain a record of how the test was conducted, and document the process used and the findings.

(5) In order to determine whether at least 75 percent of the persons who receive a particular service on the basis of group eligibility are in families with the specified income level. States shall take into account the findings made on members of the group, as described in the services plan.

(6) If a State finds that *less* than 75 percent of the persons receiving a particular service on the basis of group eligibility meet the specified income standard, the State shall, within 75 days following such a finding:

(i) Discontinue by the end of the month in which the 75th day occurs, claiming FFP for expenditures incurred for the service provided to persons in that particular group whose eligibility has been determined on a group basis;

(ii) Amend the State's services plan to either delete the service, or to provide a new basis for determination of eligibility to continue the service;

(iii) If the State decides to continue the service, FFP is available, in accordance with the amended services plan, for providing the service:

(A) On the basis of eligibility, individual; or

(B) On the basis of group eligibility if the State changes the conditions or characteristics relative to the group and has a reasonable basis on which to conclude that with such modification, at least 75 percent of the individuals served would then be members of families with the specified monthly gross income.

(e) *Who makes the determination.* Determinations of eligibility shall be made by the State agency, or, pursuant to written contract in accordance with Subpart G, by a provider of services.

(f) *Outside contacts.* (1) When the provider agency determines eligibility, it shall inform the applicant or recipient that, if it is necessary to contact outside sources (including employers) and the applicant or recipient wishes to keep the service confidential, he is entitled to request that such contacts be made by the State agency; and

(2) The State agency, upon notification of the individual's request, shall make the outside contacts and relay the information to the provider.

(g) *State monitoring of eligibility process.* Whether the determination of eligibility is made by the State or the provider, the State shall establish and implement a continuing monitoring procedure to test the ability of its method(s) for determining eligibility to correctly make those determinations and shall, where erronious determinations are disclosed, take action designed to eliminate such errors. A monitoring procedure under this paragraph may include the use of statistically valid samples. Periodic reports on the State agency's monitoring procedures, findings, and actions under this paragraph will be required pursuant to § 1396.17(b).

**§ 1396.62 Fees for services.**

(a) *Mandatory fees.* FFP is available for a service provided to an individual whose eligibility is based on income status if his family's monthly gross income is between 80 percent of the median income of a family of four in the State or the median income of a family of four in all States, whichever is less, and does not exceed 115 percent of the median income of a family of four in the State, adjusted as to family size, only if a fee or other charge, based on a fee schedule in accordance with paragraph (c) of this section, is imposed.

(b) *Discretionary fees.* (1) A State may impose a fee or other charge for any service to any individual who is eligible for services based on income maintenance status or is eligible based on income status and whose family's monthly gross income is less than 80 percent of the median income of a family of four in the State, adjusted for family size, or the median income for a family of four in all States, adjusted for famiy size, whichever is less, but only if the fee or other charge is based on a fee schedule in accordance with paragraph (c) of this section.

(2) A State may impose a fee on individuals who are provided services without regard to income (family planning services, information or referral services, or services to prevent or remedy abuse, neglect or exploitation of children and adults). The fee shall be based on a fee schedule in accordance with paragraph (c) of this section and be described in the State's services plan in accordance with § 1396.24(c).

(c) *Criteria for fees.* (1) Fees established by the State agency:

(i) May be different for different services;

(ii) May be different for different geographic areas;

(iii) Shall be reasonably related to the individual's income; and

(iv) Shall not exceed the cost of the service to the title XX agency.

(2) Where several services are provided concurrently to an individual, the total fees imposed shall not exceed the amount reasonably related to his income.

(d) *Methods of collection.* The State agency shall:

(1) Establish methods for the collection of any fee or other charge imposed; and

(2) Maintain evidence of a reasonable effort to collect such fee or charge.

(e) *Disposition of fees collected.* Fees collected from service recipients may not be used as the non-Federal matching share. However, at State option, fees may:

(1) If provided for in the purchase of service agreement, be retained by the provider and used to expand the title XX service to eligible individuals under that contract; or

(2) Be used to reimburse the provider if the contract so specifies, for costs above the negotiated rate when it is lower than the going rate in the community for the service. Any amount remaining after such reimbursement to the provider for these costs shall be deducted from the amount of expenditures for which FFP is claimed;

(3) Be deducted from service expenditures before FFP is claimed; or

(4) If collected by the State in direct delivery of a service, be retained by the State and used only to expand the service to eligible individuals.

(f) Under this provision, FFP is not available in the costs of any service when a provider imposes a fee or charge other than that set by the State agency, pursuant to the purchase of service agreement under § 1396.70(a)(7), described in the State's services plan pursuant to § 1396.24(c) and (d), and formulated in accordance with paragraph (c) of this section.

**§ 1396.63 Family planning services.**

(a) FFP is available in the cost of family planning services provided without regard to income.

(b) For purposes of this part, family planning services means counseling, educational and medical services (including diagnosis, treatment and continuing supervision, necessary laboratory examinations and tests, drugs, supplies, devices and related counseling furnished, prescribed by, or under the supervision of, a physician) to enable individuals (including minors) voluntarily to limit their family size, to space their children, or to correct infertility.

(c) If a state authorizes sterilization as a family planning service, it must comply with the provisions of 42 CFR Part 441, Subpart F, except that the State plan requirement under 42 CFR 441.252 does not apply to the title XX program.

(Sec. 101, Pub. L. 95–205, 91 Stat. 1461, December 9, 1977; Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).)

**§ 1396.64 Information and referral services.**

FFP is available only for information about services provided under title XX

and related service programs, brief assessment (but not diagnosis and evaluation) to facilitate appropriate referral, and referral to and follow-up with those community resources which provide or make available such services; and (b) only when provided by an agency that has information and referral as a specific recognized function and that has a staff with identifiable tasks relating to information and referral.

**§ 1396.65 Services directed at the goal of preventing or remedying neglect, abuse, or exploitation of children or adults unable to protect their own interests.**

(a) FFP is available without regard to income for services directed at the goal of preventing or remedying neglect, abuse or exploitation of children and adults unable to protect their own interests, only as follows:

(1) With respect to children, only when provided with respect to an individual under the age of 18 harmed or threatened with harm through non-accidental physical or mental injury, sexual abuse (as defined by State law); or negligent treatment or maltreatment, including the failure to provide adequate food, clothing, or shelter. For purposes of this section, runaways are presumed to be harmed or threatened with harm.

(2) With respect to adults, only when provided with respect to individuals 18 years of age or older unable to protect their own interests, harmed or threatened with harm through action or inaction by another individual or through their own actions due to ignorance, incompetence or poor health; resulting in physical or mental injury, neglect or maltreatment, failure to receive adequate food, shelter, or clothing, deprivation of entitlements due them, or wasting of their resources.

(3) In each case, the State agency shall document the circumstances which lead it to believe that the individual is subject to, or at risk of, abuse, neglect or exploitation.

(4) No later than six months after the case has been opened, the State agency shall redocument and evaluate the circumstances then existing with respect to abuse, neglect or exploitation for the purpose of ascertaining if the individual still meets the conditions for services without regard to income. Such redocumentation and evaluation of the circumstances shall take place thereafter no less frequently than at six-month intervals if the case remains open.

(b) Except in the case of runaways, no individual shall be deemed to meet the conditions specified in paragraph (a) (1) or (2) of this section merely because he belongs to a particular class (e.g., mentally retarded, aged, juvenile delinquents); each person shall be individually determined to meet the specified criteria.

(c) States may include in their services plan, subject to the limitations of Subpart D, any appropriate service which they plan to provide to prevent or remedy abuse, neglect or exploitation of children or adults as set forth in this section.

**§ 1396.66 Monthly gross income.**

(a) Monthly gross inccome means the monthly sum of income received by an individual from the following sources that are identified by the U.S. Census Bureau in computing the median income:

(1) *Money wages or salary*—i.e., total money earnings received for work performed as an employee, including wages, salary, Armed Forces pay, commissions, tips, piece-rate payments, and cash bonuses earned, before deductions are made for taxes, bonds, pensions, union dues, and similar purposes.

(2) *Net income from nonfarm self-employment*—i.e., gross receipts minus expenses from one's own business, professional enterprise, or partnership. Gross receipts include the value of all goods sold and services rendered. Expenses include costs of goods purchased, rent, heat, light, power, depreciation charges, wages and salaries paid, business taxes (not personal income taxes), and similar costs. The value of salable merchandise consumed by the proprietors of retail stores is not included as part of net income.

(3) *Net income from farm self-employment*—i.e., gross receipts minus operating expenses from the operation of a farm by a person on his own account, as an owner, renter, or sharecropper. Gross receipts include the value of all products sold, government crop loans, money received from the rental of farm equipment to others, and incidental receipts from the sale of wood, sand, gravel, and similar items. Operating expenses include cost of feed, fertilizer, seed, and other farming supplies, cash wages paid to farmhands, depreciation charges, cash rent, interest on farm mortgages, farm building repairs, farm taxes (not State and Federal income taxes), and similar expenses. The value of fuel, food, or other farm products used for family living is not included as part of net income.

(4) *Social Security* includes Social Security pensions and survivors' benefits, and permanent disability insurance payments made by the Social Security Administration prior to deductions for medical insurance and railroad retirement insurance checks from the U.S. Government.

(5) *Dividends, interest (on savings or bonds), income from estates or trusts, net rental income or royalties* include dividends from stockholdings or membership in associations, interests on savings or bonds, periodic; receipts from estates or trust funds, net income from rental of a house, store, or other property to other, receipts from boarders or lodgers, and net royalties.

(6) *Public assistance or welfare payments* include public assistance payment such as AFDC, SSI, State Supplemental Payments, and general assistance.

(7) *Pensions and annuities* include pensions or retirement benefits paid to a retired person or his survivors by a former employer or by a union, either directly or through an insurance company; periodic receipts from annuities or insurance.

(8) *Unemployment compensation* means compensation received from government unemployment insurance agencies or private companies during periods of unemploymernt and any strike benefits received from union funds.

(9) *Worker's compensation* means compensation received periodically from private or public insurance companies for injuries incurred at work. The cost of this insurance must have been paid by the employer and not by the person.

(10) Alimony.

(11) Child support.

(12) *Veterans' pensions* means money paid periodically by the Veterans' Administration to disabled members of the Armed Forces or to survivors of deceased veterans, subsistence allowances paid to veterans for education and on-the-job training, as well as so-called "refunds" paid to ex-servicemen as GI insurance premiums.

(b) *Exclusions from monthly gross income.* Excluded from computation of monthly gross income are the following:

(1) per capita payments to or funds held in trust for any individual in satisfaction of a judgment of the Indian Claims Commission or the Court of Claims;

(2) Payments made pursuant to the Alaska Native Claims Settlement Act to the extent such payments are exempt from taxation under section 21(a) of the Act;

(3) Money received from sale of property, such as stocks, bonds, a house, or a car (unless the person was engaged in the business of selling such property in which case the net proceeds would be

counted as income from self-employment);

(4) Withdrawals of bank deposits;

(5) Money borrowed;

(6) Tax refunds;

(7) Gifts;

(8) Lump sum inheritances or insurance payments;

(9) Capital gains;

(10) The value of the coupon allotment under the Food Stamp Act of 1964, as amended, in excess of the amount paid for the coupons;

(11) The value of USDA donated foods;

(12) The value of supplemental food assistance under the Child Nutrition Act of 1966 and the special food service program for children under the National School Lunch Act, as amended;

(13) Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(14) Earnings of a child under 14 years of age (no inquiry shall be made);

(15) Loans and grants, such as scholarships, obtained and used under conditions that preclude their use for current living costs;

(16) Any grant or loan to any undergraduate student for educational purposes made or insured under any program administered by the Commissioner of Education under the Higher Education Act; and

(17) Home produce utilized for household consumption.

## Subpart G—Purchase of Service

### § 1396.70 Procurement standards.

FFP is available in the costs of purchased services only if they are secured in accordance with the provisions of Subpart P of 45 CFR Part 74 where applicable, and the requirements of this Subpart. (Subpart P of 45 CFR Part 74 is not applicable when property or services of one unit of government or governmental agency are acquired from another government or another agency of the same government.) Purchase-of-service contracts or agreements made with public or private agencies or individuals in accordance with 45 CFR 1391, Subpart D, shall be deemed to conform to the requirements in this section through December 31, 1976.

(a) *Written contracts.* The State agency executes a written contract in accordance with requirements under this part with the agency, individual, or organization from which services are purchased. In addition to the applicable requirements of 45 CFR Part 74, the contract shall:

(1) Include all terms of the contract in one instrument, be dated, and be executed by authorized reresentatives of all parties to the contract prior to the date of implementation;

(2) Have a definite effective and termination date for the provision of services;

(3) Contain a detailed description of the services to be provided and of the methods, including subcontracting, to be used by the provider in carrying out its obligations under the contract;

(4) If eligibility determinations are to be made by the provider, contain criteria in accordance with Subpart F which shall be used by the provider for such determinations and specify that the provider will inform individuals of their right to fair hearings in accordance with § 1396.14;

(5) Provide for a stated number of units of services and costs in such a way that the unit rate of cost of service and the total cost of the contract may be determined;

(6) Specify the method and source of payment to the provider, including collection and disposition of fees, if applicable;

(7) Specify that no fees shall be imposed by the provider other than those set by the State in accordance with § 1396.62 and described in the services plan;

(8) Include a statement that the provider meets applicable State or Federal standards as specified in this part;

(9) Specify the locations of facilities to be used in providing services;

(10) Provide that the provider will comply with the requirements of the Civil Rights Act of 1964, and for safeguarding information in accordance with § 1396.10;

(11) Provide that any subcontracts permitted by the contract shall be subject to the requirements of this Part; and that the provider is responsible for the performance of any subcontractor;

(12) Specify requirements for fiscal and program responsibility billing, records, controls, reports, and monitoring procedures; and

(13) Provide for making available information to support the State's claim for FFP, including verification of eligibility, and of the services provided.

(14) In the case of a private provider of medical or remedial care or health-related homemaker services, include a provision that the provider will comply with the requirements of § 1396.72 regarding submission of certain information about ownership or control, past business transactions, and certain other disclosing entities.

(b) The requirements of this section may be satisfied by a simple printed contract form so long as all items described in paragraph (a) of this section are contained therein.

(c) The provisions of this section do not apply when services are obtained directly by the recipient and payment is made to him. (See § 1396.47.)

(d) A written contract is not required for purchase of services from an individual provider who has no direct service employees or subcontractors provided:

(1) The State's statute of frauds does not preclude the agency from enforcing its unwritten contract with the provider; and

(2) The State agency maintains documentation of the terms of the unwritten contract negotiated with the individual provider, including all applicable items specified in paragraph (a) of this section.

### § 1396.71 Rates of payment.

(a) FFP is available for expenditures for services only where the rates of payment for services do not exceed the amounts reasonable and necessary to assure the quality of service.

(b) Rates of payment for services purchased from private agencies and third-party public agencies (see § 1396.53(d)) may be established on the basis of competitive bidding or negotiation, utilizing any reasonable methods for establishing competitive rates, including the Principles for Determining Costs under Subpart Q of 45 CFR Part 74.

(c) Rates of payment for services purchased from public agencies which are not third-party public agencies shall not exceed the cost of those services determined in accordance with the cost principles prescribed by Subpart Q of 45 CFR Part 74.

(d) The State agency shall maintain records which describe and support the rates of payment and the methods used to establish and maintain such rates.

(e) Public Health Service grant funds from program specified in 42 CFR Part 50 of the Health Services Funding regulation (as well as any matching funds required to earn those grant funds) which have been made available under a grant to a health service project, if not required to be used to finance cost of services to individuals eligible for services under title XX, shall not be deemed by the State agency to be available to reduce the costs otherwise subject to reimbursement under title XX.

**§ 1396.72 Disclosure of information about ownership and business transactions.**

(a) *Definitions.* For purposes of this section, § 1396.73, and § 1396.9, the following definitions apply:

(1) *Agent* means any person (including a corporation, where applicable) to whom a provider delegates the authority to obligate or act.

(2) *Convicted* means that a Federal, State or local court has entered a judgment of conviction, regardless of whether an appeal from that judgment is pending.

(3) *Group of practitioners* means two or more providers of medical or remedial care who practice their profession at a common location (whether or not they share common facilities, common supporting staff, or common equipment).

(4) *Health-related homemaker services* means homemaker services provided for persons who need personal care and other appropriate services in the home because they have medical problems.

(5) *Indirect ownership interest* means any ownership interest in an entity that has ownership interest in the provider. The term includes an ownership interest in any entity that has an indirect ownership interest in the provider.

(6) *Managing employee* means a general manager, business manager, administrator, director or other individual who exercises operational or managerial control over the hospital, nursing facility, or other institution, organization, or agency, or who, directly or indirectly, conducts the day-to-day operations of the institution.

(7) *Other disclosing entity* means any other title XX disclosing entity and any entity that does not participate in title XX, but is required to disclose certain information of ownership or control because of participation in any of the programs established under titles V, XVIII, or XIX of the Social Security Act. This includes:

(i) A provider, an independent clinical laboratory, a renal disease facility, a rural health clinic, or a health maintenance organization (as defined in section 1301(a) of the Public Health Service Act) furnishing services under the Medicare program;

(ii) An entity (other than an individual practitioner or group of practitioners) that furnishes, or arranges for the furnishing of, items or services for which payment may be claimed by the entity under any plan or program established under title V of the Act or under a State Medicaid plan; or

(iii) A carrier or other agency or organization that is acting as a fiscal intermediary or agent for one or more providers of services for purposes of Part A or Part B of Medicare of the Act, or both, or for purposes of a State Medicaid plan.

(8) *Ownership interests* means the possession of equity in the capital, the stock, or the profits of the provider.

(9) *Person with an ownership or control interest* means a person (including, where appropriate, a corporation) who:

(i) Has an ownership interest of 5 percent or more in the provider;

(ii) Has an indirect ownership interest equal to 5 percent or more in the provider;

(iii) Has a combination of direct and indirect ownership interests equal to 5 percent or more in the provider;

(iv) Is the owner of an interest of 5 percent or more in any obligation secured by the provider, if the interest equals at least 5 percent of the value of the property or assets of the provider;

(v) Is an officer or director of a provider which is organized as a corporation or association; or

(vi) Is a partner in a provider which is organized as a partnership.

(10) *Provider* means a private nonprofit or for-profit nongovernmental party (other than an individual practitioner or group of practitioners) which is under contract with the State or local agency to deliver services funded under title XX.

(11) *Significant business transaction* means any business transaction or series of transactions which, during any one fiscal year, exceeds the lesser of either $25,000 or 5 percent of the total operating expenses of the provider.

(12) *Subcontractor* means an individual, agency, or organization which by contract:

(i) Assumes major management functions of a provider (including determination of eligibility); or

(ii) Agrees to deliver specific services which a provider has agreed to deliver under contract with the State or local agency.

(13) *Supplier* means an entity from which a provider purchases goods and services used in fulfilling a contract with the State or local agency.

(14) *Wholly owned supplier* means a supplier wholly owned by the provider or wholly owned by a person or persons holding ownership or control interests in the provider.

(b) *Disclosure about ownership and control interests.* (1) Prior to the approval of a contract for the purchase of medical or remedial care or health-related homemaker services, a private provider must furnish to the State or local agency:

(i) The name and address of each person with an ownership or control interest in the provider or in any subcontractor in which the provider has direct or indirect ownership of 5 percent or more; and

(ii) The name and address of any other private provider or any other disclosing entity in which a person with an ownership or control interest in the provider also has an ownership or control interest. The provider shall request this information in writing from any person with an ownership or control interest in the provider. The provider shall also keep copies of all these requests and the responses to them, make them available to the Secretary or the State agency upon request, and advise the State agency when there is no response to a request.

(2) If a provider reports more than one name of persons described in paragraph (b)(1) of this section, and any of the persons named are related to each other as spouse, parent, child, or sibling, it shall report this fact.

(c)(1) A State or local agency shall not approve or renew a contract or shall terminate an existing contract with a private provider of medical or remedial care or of health-related homemaker services, if the provider fails to disclose ownership or control information required under this section.

(2) Federal financial participation is not available for payments made to a private provider who fails to disclose ownership or control information as required by this section.

(d) *Disclosure about certain business transactions.* (1) A private provider of medical or remedial care or of health-related homemaker services shall provide, in response to a specific written request by the Secretary or State agency, complete information about:

(i) The ownership of any subcontractor with whom the provider has had business transactions totaling more than $25,000 during the 12-month period ending on the date of the request: and

(ii) Any significant business transactions between the provider and any wholly owned supplier, or between the provider and any subcontractor, during the 5-year period ending on the date of the request.

(2) The provider shall furnish such information within 35 days of a request of the Secretary, and shall respond to a request by a State agency within the period specified in regulations of the State agency.

(3) FFP is not available in expenditures for medical or remedial care or health-related homemaker services furnished by a provider who

fails to comply with subparagraphs (1) and (2) of this paragraph.

**§1396.73 Disclosure of information about individuals convicted of crimes.**

(a) *Disclosure.* (1) Any hospital, nursing facility, or other institution, organization, or agency for which funding is, or will be claimed under title XX for the purchase of any social service, medical or remedial care, or health-related homemaker services shall disclose to the State title XX agency, the name of any person:

(i) Who has an ownership or control interest in, or is an agent or managing employee of, the hospital, nursing facility, institution, organization, or agency; and

(ii) Who has been convicted of a criminal offense related to the person's involvement in any programs under titles XVIII, XIX, or XX of the Social Security Act since the inception of these programs.

(2) This requirement applies to purchases made under a purchase of services contract or those made under an administrative support contract. It also applies whether the services are provided directly or under a subcontract.

(3) This information shall be provided to the State agency prior to the approval or renewal of a contract for purchase of social services, medical or remedial care, or health-related homemaker services.

(b) *Reports to the Inspector General.* The State agency shall notify the Inspector General of the Department of Health and Human Services within 20 working days of the receipt of any application or request for participation which discloses the name of a person described in paragraph (a), and shall provide the name to the Inspector General. The State agency shall also notify the Inspector General of any action it takes on the application or request.

(c) *State agency denial or termination of provider participation.* (1) The State agency may refuse to enter into or renew a purchase of services contract, or otherwise refuse to approve a provider for participation under title XX, if any person who has an ownership or control interest in the provider, or who is an agent or managing employee of the provider, has been convicted of a criminal offense related to that person's involvement in any program established under titles XVIII, XIX, or the title XX social services program.

(2) The State agency may refuse to enter into or may terminate a contract if it determines that the provider did not fully and accurately make any disclosure required under paragraph (a) of this section.

## Subpart H—Training and Retraining

**§1396.80 Conditions for FFP.**

FFP is available in expenditures for personnel training and retraining that is directly related to the services program if the State meets all requirements of this Subpart. The training may include in-service training, and short- and long-term training at educational institutions. FFP in such training expenditures may be claimed inside or outside the State's allotment for services and is available at the 75 percent rate. FFP shall be available for training expenditures no earlier than the date on which FFP is available for the provision of services under the final services plan in accordance with §1396.20.

**§1396.81 Who may be trained.**

FFP is available for training only the following individuals:

(a) State agency staff employed in all classes of positions which directly relate to the operation of the Title XX program;

(b) Volunteers attached to the State agency and supervised by it in relation to duties directly related to the program;

(c) Service delivery personnel employed by providers (and in instances where the provider agency also determines eligibility for service, eligibility determination personnel employed by providers) only when:

(1) A purchase of service contract or a purchase of service and eligibility determination contract is in effect in accordance with Subpart G; and

(2) The training provided is directly related to the provision of services or the determination of eligibility under the contract; and

(3) The provider personnel, during or immediately following the training period, participate in the provision of services or determination of eligibility under the contract for a period of time at least equal to the period of time for which training was provided; and

(d) Persons preparing for employment in the State agency in all classes of positions which directly relate to operation of the title XX program.

(e) Individual providers who are currently under contract pursuant to Subpart G including, not limited to:

(1) Foster family caregivers who need training to enable them to provide special services (as specified in § 1396.45) to eligible individuals living in the home, or to prepare them to receive eligible individuals who need such services if the home is used within the period covered by the contract, or

(2) Family or in-home day caregivers to enable them to provide services to eligible individuals already in their care or to prepare them to receive eligible individuals who need such services, if the home is used within the period covered by the contract;

(f) Individuals who provide services paid for by the recipient, as provided in § 1396.47, if training is directly related to such service, and

(g) Foster family caregivers whose homes provide a resource to the title XX agency in carrying out its directly operated foster care services program for eligible children and adults.

**§ 1396.82 Grants to educational institutions.**

(a) FFP is available in payments for training furnished under grants to educational institutions, if all conditions specified in this section are met:

(1) Grants are made: (i) For the purpose of developing, expanding, or improving training for employees of the State agency and of providers, or persons preparing for employment with the State agency; (ii) For an educational program (curriculum development, classroom instruction, and related field instruction) that is directly related to the title XX program and provision of services; and (iii) For not more than three years, renewable subject to the provisons of paragraph (b) of this section;

(2) Grants are available only to post secondary, undergraduate and graduate educational institutions and programs that have been accredited by the appropriate institutional accrediting body recognized by the U.S. Commissioner of Education. A specialized program for which there is a specialized accrediting body shall be accredited by, have pre-accreditation status from, or have applied for, accreditation by such body. (45 CFR Part 149 specifics the criteria and procedures for obtaining recognition as an accrediting agency or association. Lists of currently recognized accrediting bodies are published in the Federal Register periodically. See also "Nationally Recognized Accrediting Agencies and Associations" dated June 1975 and published by the Department of Education).

(3) The State agency has written policies establishing conditions and procedures for such grants; and

(4) Each grant specifies objectives in terms of how the educational program is related to the title XX services program and how it is designed to meet the State agency's manpower needs.

(b) An evaluation of the educational program funded by each grant is made

no later than the close of the second year of the grant. The evaluation shall be conducted by a panel consisting of representatives from the educational institution, the State agency, and the HDS Regional Office to determine whether the conditions and objectives specified in the grant are being met.

(c) If a majority of the panel members finds that the educational programs are failing to meet such conditions and objectives, payment shall be terminated no later than the close of the second year of the grant.

**§ 1396.83 Financial assistance to trainees.**

(a) FFP is available for expenditures in the costs of training persons specified in § 1396.81, if the following conditions are met, and within the specified limitations:

(1) State agency employees and service delivery personnel and eligibility workers of provider agencies who are in attendance full-time at training programs for 8 consecutive workweeks or longer have a legally binding commitment to continue to work in the State or provider agency for a period of time at least equal to the period for which financial assistance is granted.

(2) Persons preparing for employment in the State agency are:

(i) Selected by the State agency and accepted by the school;

(ii) Pursuing educational programs approved by the agency; and

(iii) Legally committed to work for the State agency for a period of time at least equal to the period for which financial assistance is granted if employment is offered within 6 months after training is completed. If not employed by the State agency, such persons shall keep the agency informed of their employment status for one year.

(b) *State agency responsibilities.* The State agency shall:

(1) Offer employment to the individual preparing for employment in the State agency during the 6 months following completion of the training, unless precluded by Merit System requirements, legislative cuts, position freezes, or other circumstances beyond the agency's control; and

(2) Evaluate the training programs.

(c) Any recoupment of funds by the State from trainees failing to fulfill their commitment under this section shall be treated as a refund and deducted from total training costs for the purpose of determing net costs for FFP.

**§ 1396.84 Activities and costs matchable as training expenditures.**

Costs matchable as training expenditures include:

(a) *State agency employees.* (1) For State agency employees in full-time training programs of eight consecutive work weeks or longer (with no assigned agency duties): salaries (including fringe benefits), or stipends, dependency allowances, travel, and education costs (that is, tuition, books, and supplies);

(2) For State agency employees in full-time training programs of less than eight consecutive work weeks: per diem, travel and educational costs:

(3) For State agency employees in part-time training programs (part of work week, evenings, mornings): Education costs.

(b) *State agency staff development personnel.* For State agency staff development personnel (including support staff), assigned full time to training functions with respect to State agency or provider agency staff: salaries, fringe benefits, travel and per diem. (Costs of staff spending less than full time on training for the title XX program, including costs of other State agency staff under the supervision of the State agency Director of Staff Development, must be allocated according to the time actually spent on such training.)

(c) *State agency training activities.* (1) For experts outside the State agency engaged to develop or conduct special programs: salary, fringe benefits, travel and per diem;

(2) For State agency training activities directly related to the title XX program: cost of use of space, postage, teaching supplies, and purchaser or development of teaching materials and equipment—for example, books and audio visual aids.

(d) *Persons preparing for employment.* For persons preparing for employment with the State agency: stipends, travel, and education costs.

(e) *Provider agency personnel.* FFP is available in the following costs of training provider agency personnel as training costs, provided there is a contract with the State agency which includes such training; such costs are not included in the cost of services purchased from the provider agency; and such costs are reasonably assignable to title XX training:

(1) For provider agency employees in full-time training programs of 8 consecutive work weeks or longer (with no assigned provider agency duties): travel and education costs;

(2) For provider agency employees in full-time training programs of less than 8 consecutive work weeks: per diem, travel, and education costs;

(3) For provider agency employees on part-time educational leave: education costs;

(f) *Provider agency staff development personnel.* For provider agency staff development personnel (including support staff) engaged in providing training to State title XX agency staff or provider agency staff eligible for training under § 1396.81 salaries and fringe benefits, travel and per diem.

(g) *Provider agency training activities.* (1) For experts outside the provider agency engaged to develop or conduct special programs: salary, fringe benefits, travel and per diem.

(2) For provider agency training activities directly related to the title XX program: cost of teaching supplies and purchase or development of teaching materials and equipment—for example books and audio-visual aids.

(h) *Individual providers.* For individual providers and foster parents in part-time training: travel and education costs.

(1) *Payments to educational institutions.* Under conditions specified in § 1396.82, for curriculum development, classroom and field instruction: salaries, fringe benefits and travel of instructors; clerical assistance; teaching materials and equipment—for example, books and audio-visual aids.

**§ 1396.85 Activities and costs not matchable as training expenditures.**

FFP is not available for the following as expenditures outside the State's allotment for social services. Such expenditures are matchable as administrative costs (not training expenses) under the State's allotment for services.

(a) Salaries of newly-employed workers in the State agency or a provider agency while are in orientation;

(b) Salaries of State agency employees who attend training programs less than full-time for a period of less than eight consecutive work weeks;

(c) Salaries of supervisors (day-to-day supervision of staff is not a training activity);

(d) Attendance at meetings or conferences of professional organizations; and

(e) Employment of students on a temporary basis, such as in the summertime.

**§ 1396.86 Training of title XX child day caregivers.**

Notwithstanding § 1396.81, effective April 1, 1981, the State agency shall establish and implement a training plan for child day caregivers that meets the requirements of 45 CFR Part 71.

## Subpart I—General Provisions

### § 1396.90 Expenditures for which Federal financial participation is available.

General:

(a) Federal financial participation is available only for expenditures which are made in accordance with grant administration requirements set forth in 45 CFR Part 74, and, where appropriate, allocated in accordance with the cost allocation provisions of 45 CFR 1395.2.

(b) Under this Part, expenditures for the following are also considered appropriate in addition to those allowable costs listed in 45 CFR Part 74;

(1) Costs of transportation (such as tokens or tickets); and medical examinations, when necessary for the development of a services plan or when precedent to obtaining a service for an individual, provided such medical examination is not available to the individual under title XVIII or title XIX of the Act. Contracts for medical examinations or other health-related services under an administrative support agreement are subject to the disclosure provisions of § 1396.72 and § 1396.73.

(2) Costs of State advisory committees on services, including expenses of members in attending meetings, supportive staff, and other technical assistance;

(3) Costs of agency staff attendance at meetings pertinent to the development or implementation of Federal and State service policies and programs;

(4) Cost to the agency for the use of volunteers in the program; and

(5) Costs of technical assistance, data collection, surveys and studies performed by other public agencies, private organizations or individuals to assist the State agency in developing, planning, monitoring, and evaluating the services program.

### § 1396.91 Expenditures for which Federal financial participation is not available.

Federal financial participation is not available under this part in expenditures for—

(a) Carrying out any maintenance assistance payments functions or any other functions or activities which are not related to services under this Part;

(b) The purchase, construction, or major modification of any land, building or other facility, or fixed equipment, except to the extent of depreciation or use allowances in accordance with the cost principles prescribed by Subpart Q of 45 CFR Part 74; and

(c) Housing costs for families and individuals including rent, deposits, purchase, construction, major renovation or repair.

### § 1396.92 Federal financial participation in State Claims for Abortions.

Federal financial participation in State claims for abortions is governed by 42 CFR 441.200 through 441.203 and 441.205 through 441.208.

### § 1396.93 Nonexpendable personal property: Conditions for FFP.

(a) *Basis and Purpose.* This section prescribes rules on availability of FFP for acquisition and depreciation of nonexpendable personal property and on accounting for and managing the property.

(b) *Definitions.* As used in this section, unless the context indicates otherwise:

*"Book value"* of property traded in means acquisition cost minus the amount depreciated through the date of trade-in. (If the State claimed FFP in the acquisition cost when it acquired the property, the book value is zero.)

*"Depreciation expense"* means the portion of the acquisition cost assignable to a particular time period of the estimated useful service life of the property.

*"Nonexpendable personal property"* means tangible property of any kind, except real property, that has a useful life of more than one year and an acquisition cost of $300 or more per unit.

(c) *Availability of FFP.* Except as provided in paragraph (d) of this section, FFP is available in expenditures for nonexpendable personal property only in the depreciation expense, or an annual use allowance of 6⅔ percent of acquisition cost, applicable to the period for which the property is used in the social services program.

(d) *Exceptions based on acquisition cost and use of property.* (1) Except as specified in paragraphs (d)(2), (d)(3), and (d)(4), the State agency may claim FFP in full in expenditures for acquiring nonexpendable personal property costing less than $5,000. In the case of property acquired with a trade-in, this $5,000 limitation is applied to the amount paid for the new property plus the book value of the property traded.

(2) Subject to the rules governing reasonable and necessary rates in § 1396.71(a), a State agency may claim FFP in full during the year of purchase, without regard to the $5,000 limitation in paragraph (d)(1), for motor vehicles to which it has title and that are used for:

(i) Social services delivery program by the State or local agency or by a provider of services under a contract with either of them; or

(ii) Administration of the social services program by the State or local agency.

(3) FFP is available only on the basis of paragraph (c) of this section if the property is acquired by a provider under a cost reimbursement contract with the State agency, unless the State agency has title to the property and the contract provides for the return of the property or its residual value at the completion of the contract.

(4) In the case of property acquired by the State agency for use by organizational units of that agency, or of a parent agency, that are treated as indirect cost centers or pools in a HDS cost allocation plan, FFP is available only in accordance with paragraph (c) of this section or on the basis of indirect costs negotiated by HHS.

(e) *Distribution of costs.*—(1) *Costs of property used in a single activity.* The State agency may charge costs directly to a single activity that has a separate rate of FFP, if the property is being used exclusively for that activity at the time of expenditures for the property.

(2) *Costs of property used in more than one activity.* The State agency must distribute costs by one of the following methods:

(i) Using cost centers or pools and allocation bases that will distribute the costs consistent with use of the property at the time of expenditures. The agency must distribute any credits for property sold or retained for use in non-Federal programs in a manner consistent with the method used to distribute expenditures when the property was acquired (see 45 CFR 74.139 for HHS policies on disposition).

(ii) Using a common distribution factor for all property or for classifications of property (e.g., costs of desks may be distributed by number of staff employed in each activity). For property sold or retained for use in non-Federal programs, the agency must distribute credits to programs or activities by using the same distribution factors that are applied to expenditures for property acquired in the quarter in which credits occurred.

G. 45 CFR Part 229, now located in Chapter II, is transferred to Chapter XIII, Subchapter K, and redesignated as a new Part 1397 as follows:

## PART 1397—STANDARD SETTING REQUIREMENTS FOR MEDICAL AND NONMEDICAL FACILITIES WHERE SSI RECIPIENTS RESIDE

Sec.

1397.0 Scope.
1397.1 Definitions.
1397.10 Responsibilities of States in identifying facilities and designating standard-setting authorities, effective October 1, 1977.

Sec.

1397.20 Responsibilities of designated standard-setting authorities.
1397.30 State certification to the Department of Health and Human Services.

**Authority:** Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).

**§ 1397.0 Scope.**

This part requires States, effective October 1, 1977, to create or designate one or more State or local authorities to establish, maintain, and ensure the enforcement of standards for any category of institutions, foster homes, or group living arrangements in which, as determined by the State, a significant number of recipients of Supplemental Security Income (SSI) benefits resides or is likely to reside. SSI residents who live in relevant facilities which violate any of the standards will be subject to a reduction in their SSI payments by the Social Security Administration. The reduction will be in an amount equal to any State supplementary benefit or other payment made by the State for any medical or remedial care provided them by the facility.

**§ 1397.1 Definitions.**

For purposes of this part:

(a) *Any category of institutions, foster homes, and group living arrangements* means residential facilities which provide both room and board *and* continuous protective oversight to the residents and are:

(1) Non-medical or medical facilities of any size (other than those certified for participation in the Medicaid or Medicare programs) which are publicly or privately operated on a nonprofit for-profit basis.

(b) *Medical or remedial care* means care directed toward the correction or amelioration of a medical condition which has been diagnosed as such by a licensed medical practitioner operating within the scope of medical practice as defined by State law, and the care is provided by or under the direct supervision of a medical practitioner or other health professional licensed by the State or credentialed by the appropriate professional organization.

**§ 1397.10 Responsibilities of States in identifying facilities and designating standard-setting authorities, effective October 1, 1977.**

(a) Each State shall determine the kinds of residential facilities (as defined under § 1397.1) in which a significant number of SSI recipients resides or is likely to reside.

(b) Each State shall create or designate one or more State or local authorities to establish, maintain, and ensure the enforcement of any standards for the residential facilities identified in accordance with paragraph (a) of this section.

**§ 1397.20 Responsibilities of designated standard-setting authorities.**

Each standard-setting authority shall, effective October 1, 1977:

(a) *Establish standards.* (1) The standards shall be appropriate to the needs of the SSI recipients residing in the facilities and to the character of the facilities involved. In addition, they shall govern such matters as:

(i) Admission policies (including a continuous needs assessment and referral to appropriate resources);

(ii) Safety;

(iii) Sanitation (cleanliness and hygienic procedures); and

(iv) Protection of civil rights (under the United States Constitution, the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and all other relevant provisions of Federal and State laws).

If a standard-setting authority has standards already in place, including those listed in subparagraphs (i) through (iv) of paragraph (a)(1) of this section, the standards meet the requirement.

(2) Under this requirement, the authority may provide for waivers of a standard under specified criteria.

(3) The authority shall notify the public and providers about the need for affected facilities to meet its standards.

(4) The authority shall provide the State's title XX agency, annually (as arranged with that agency), with a summary of each standard for each kind of facility, for publication in the title XX services plans.

(b) *Established procedures for enforcing the standards.* The enforcement procedures shall include:

(1) Periodic inspection of facilities;

(2) Provision of technical assistance; and

(3) Use of a warning system which provides for an opportunity for a deficient facility to comply and for the residents to move out if the facility fails to do so. The standard-setting authority shall establish specific time periods:

(i) For a deficient facility to carry out a plan approved by the standard-setting authority to correct any violation of a standard which cannot be waived; and

(ii) For the standard-setting authority, if the facility fails to comply, to arrange for informing in writing all residents of the facility (including, where appropriate, the families, guardians, or representative payees of SSI residents) of the standard which the facility does not meet, and of the time period during which residents may relocate if they wish before the authority reports the deficient facility to the Social Security Administration. The standard-setting authority shall also provide all residents with a list of approved facilities and agencies which will help them move if they wish. The purpose is to let the residents know they do not have the protection of the standard, and to give them time and assistance to move if the absence of the standard endangers them or penalizes their SSI benefit.

(c) *Report deficient facilities to the Social Security Administration.* (1) At the conclusion of the relevant time period(s) given a deficient facility to correct violation of a standard or for residents to move out of a facility, as described in paragraph (b)(3) of this section, each designated standard-setting authority shall report to the appropriate Regional Office of the Social Security Administration the name and address of any facility which no longer meets the standards and the effective date of the violation. The purpose is to enable the Social Security Administration to reduce SSI benefits to SSI residents living in a facility in violation of standards, in accordance with the requirements of Section 505 of Pub. L. 94–566. "The Unemployment Compensation Amendments of 1976."

(2) If and when a deficient facility again meets the standards, the standard-setting authority shall notify the Social Security Administration of the effective date of its approval of the facility.

(d) *Maintain and make records available.* (1) *Maintenance of records.* Each authority shall:

(i) Keep a record of the details of each violation of a standard by a facility; and

(ii) If a standard is waived, maintain a record including the name and address of each facility granted a waiver, the standard waived, and the justification for waiving it.

(2) *Availability of records to the public.* Each authority shall make available without charge to interested individuals a single copy of:

(i) A complete set of standards for each type of facility;

(ii) The procedures used in the State to insure the enforcement of standards;

(iii) The list of facilities (name and address) that have been granted waivers of each standard, including the justification for the waiver; and

(iv) The list of facilities (name and address) found in violation of a standard, including the details of each violation.

**§1397.30 State certification to the Department of Health and Human Services.**

(a) Each State shall cerify annually to the HHS, official in the Regional Office who receives title XX plans, that:

(1) It has created or designated an authority or authorities to establish, maintain, and insure the enforcement of standards, in accordance with §1397.10;

(2) It has made available, without charge, information about full standards, enforcement proceedings, and, where applicable, waivers of standards, and violations of standards by specific facilities, as required under §1397.20(d)(2);

(3) It has published in the State's title XX proposed and final annual services plans:

(i) A summary of the content of each standard established for each type of facility, in accordance with § 1397.20(a); and

(ii) The name and address of each designated standard-setting authority from which interested individuals may obtain, without charge, the information about full standards, enforcement procedures, waivers of standards, and violations, in accordance with § 1397.20(d); and

(4) Each standard-setting authority has reported to the relevant Social Security Administration Regional Office the names and addresses of facilities which are in violation of standards, in accordance with § 1397.20(c):

(b) The certification shall be in the form of a factual statement signed by the Chief Executive of the State or his designee and submitted within the first quarter following the beginning of a State's title XX program year.

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Part VI

# Department of Energy

## Economic Regulatory Administration

## Crude Oil Supplier/Purchaser Rule

**DEPARTMENT OF ENERGY**

**Enconomic Regulatory Administration**

**10 CFR Part 212**

**[Docket No. ERA-R-80-02]**

## Crude Oil Supplier/Purchaser Rule

**AGENCY:** Economic Regulatory Administration, Department of Energy.

**ACTION:** Final rule.

**SUMMARY:** The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is amending the crude oil supplier/purchaser rule (the "rule") set forth at section 211.63 of the Mandatory Petroleum Allocation Regulations (10 CFR Part 211). The amendments provide for the removal from the scope of the rule of any domestic crude oil the first sale of which is exempt from the Mandatory Petroleum Price Regulations (10 CFR Part 212). The amendments also release suppliers from any requirement under the rule to supply crude oil to major refiners.

**EFFECTIVE DATE:** October 1, 1980.

**FOR FURTHER INFORMATION CONTACT:**

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**SUPPLEMENTARY INFORMATION:**

I. Background
II. Descriptions of Proposals and Summaries of Responsive Comments
III. Response to Comments and Amendments Adopted
IV. Procedural Matters.

### I. Background

On April 28, 1980, we issued a notice of proposed rulemaking to give notice of and obtain public comment on proposed amendments to the crude oil supplier/purchaser rule (44 FR 29770, May 5, 1980). The proposed amendments and proposed alternatives thereto were designed to reduce to varying degrees the rule's application to crude oil sales transactions. We announced in that notice our intention to adopt that proposal, or a modified version thereof, which we determined would permit greatest relaxation of the rule, consistent with the purposes of the Emergency Petroleum Allocation Act of 1973 (EPAA).

Each of the proposals set forth in the May 1980 notice is described below and is followed by a summary of the public comments addressing that proposal.

### II. Descriptions of Proposals and Summaries of Responsive Comments

*A. Proposal to Restrict Applicability of Supplier/Purchaser Rule to Small Refiners*

*Description of Proposal.* Based on our preliminary finding that only small refiners require the supply protection afforded by the supplier/purchaser rule to assure continued competitive viability, we proposed to amend the rule to provide for the allocation of crude oil supplies only to small refiners. In order to prevent small refiners from developing any increased dependence on the rule, however, the proposal only provided for the allocation to each small refiner of crude oil volumes up to but not to exceed those volumes received by that small refiner in January 1980 pursuant to the supplier/purchaser rule.

In order to insure a continuous distribution chain from producer to small refiner, we proposed a sixty-day supplier-notification period during which a small refiner would upwardly certify to each January 1980 supplier the volumes of crude oil supplied by that supplier to the small refiner in January 1980 pursuant to a supplier/purchaser relationship. Each supplier receiving such a certification from a small refiner would upwardly certify these volumes to its January 1980 suppliers. Those suppliers would in turn upwardly certify to those firms from which they received crude oil in January 1980 pursuant to the rule. This process would be continued until the small refiner's certifications reached the producer level.

Following the supplier/notification period, each supplier in a small refiner's distribution chain (as determined by the supplier-notification process) would be entitled in any month to receive from its suppliers crude oil volumes equal to those certified by that supplier on behalf of the small refiner.

Under the primary proposal, the supplier/purchaser rule would allocate separately for each regulatory tier of crude oil. Because price-controlled crude oil is declining in volumes each month, the proposal included alternative methods by which suppliers would prorate the declining volumes of price-controlled oil.

*Comments Received.* As of July 2, 1980, the announced closing date for submitting public comments on the May 1980 proposals, we had received eighty written comments. Thirty-nine of these commenters also made oral presentations at the public hearing held in Washington, D.C. on May 29-30, 1980.

Those submitting comments included thirty-six small refiners; four large independent refiners; the fifteen major integrated oil companies; six resellers; six associations representing refiners; six crude oil producers; two assocations representing crude oil producers; the State of New Mexico; the State of Alaska; and the U.S. Department of Justice.

Thirteen of the thirty-six small refiners commenting supported the primary proposal to restrict applicability of the supplier/purchaser rule so as to provide for the continued allocation of both price-controlled and price-decontrolled crude oil only to small refiners. These thirteen small refiners argued that a modification of the rule to release suppliers from further obligations to major and large independent refiners would permit small refiners to claim a more equitable share of domestic crude oil production. Some of these commenters also emphasized that by taking such action now the ERA would increase the potential viability of small refiners following total deregulation.

Several small refiners indicated conditional support for the primary proposal. Some of these firms asserted that a more appropriate means of mitigating the difficulties of small refiners would be to amend the crude oil entitlements program to effectively equalize all refiners' crude oil acquisition costs. Such action, they reasoned, would permit small refiners to relax their efforts to secure price-controlled crude oil. However, if the suggested revisions to the entitlements program were not forthcoming, restriction of the supplier/purchaser rule's benefits to small refiners would be favored. There was some very limited sentiment expressed by small refiners that this group would fare as well or better if the supplier/purchaser rule were eliminated entirely. However, such expressions appeared generally to come from small refiners that started their

refining operations after the supplier/purchaser rule was adopted and which, therefore, have not received as much benefit from the rule as other small refiners.

The four large independent refiners commenting on the May 1980 proposals were unanimously opposed to the primary proposal. All of these firms recommended complete elimination of the rule, as opposed to a rule that would benefit only small refiners. However, they argued that the ERA is incorrect in its conclusion (as indicated in the preamble to the May 1980 proposals) that the ability of large independent refiners to secure both domestic and foreign supplies is significantly greater than that of small refiners. Therefore, they argued that large independent refiners should be treated the same as small refiners in the event the ERA decided that the rule should be continued in a limited form. Some large independent refiners also indicated that continued allocation of price-controlled crude oil to all refiners would be acceptable. These commenters argued that such action would not tend to foster the special interest of any particular segment of the refining industry and would be a means of preventing abuses that might occur if price-controlled crude oil is suddenly made available to the free market.

The major integrated oil companies generally questioned the efficacy of a regulatory policy that would provide a competitive advantage to small refiners only until the expiration of the EPAA. These firms also advised that adoption of the primary proposal would create havoc in the crude oil distribution system as producers, marketers, and refiners struggled to work through the ERA's proposed upstream certification process. These firms argued that, in view of the administrative burdens that the primary proposal would entail, adoption of the proposal would be inconsistent with the stated purpose of the ERA's proposals and would be unjustified in view of the short time the ERA's allocation authority will remain in effect. In this regard, most commenters opposing the primary proposal, in addition to some small refiners that supported the proposal, indicated that the proposed supplier-notification period would create substantial practical and administrative difficulties. The majors generally agreed that small refiners should begin now to reduce their dependence upon regulations that further their special interests in order to reduce the possibility of an extension of the EPAA.

At least eight of the major refiners supported our proposal to completely eliminate the supplier/purchaser rule. However, several of the major refiners would leave the rule essentially as it is. Since these latter firms believe that the higher bona fide offer provisions afford little supply protection with respect to price-decontrolled crude oil, they believe that a gradual, efficient process of decontrol would be accomplished by means of the conversion (as the result of phased deregulation) of price-controlled crude oil to price-decontrolled status.

Commenting resellers, most of which were firms with substantial investments in crude oil transportation facilities, uniformly opposed the primary proposal. These firms (as well as some other commenters) thought the proposal was infeasible, since in many instances it would necessitate splitting the stream of production from a property. They stressed that tremendous administrative problems as well as inefficient utilization of gathering systems would result if the rule were amended so as to necessitate the splitting of production streams. Therefore, resellers would prefer that the supplier/purchaser rule remain in essentially unchanged form until October 1981, if the alternative is an excessive increase in administrative burden. However, resellers uniformly were in favor of complete elimination of the rule and generally did not view the rule as a necessary adjunct to the price regulations. Resellers expressed concern over the increasing number of firms in the market that do not own transportation facilities, but buy and sell crude oil. Since the proposal would remove from the rule's scope supplies that have heretofore gone to large refiners, these resellers believe the proposal could increase the opportunities of non-transporting marketers.

The six refiners' associations were evenly divided in their responses to the primary proposal, depending on the character of the firms they represent. Generally, those associations whose constituencies are comprised entirely of small refiners in business prior to the supplier/purchaser rule's implementation, supported the primary proposal. An association representing small refiners which generally began operations after the rule's adoption would prefer complete elimination of the rule in order to put all refiners on an equal footing. An association representing independent refiners declined to support the primary proposal if not modified to provide for continued allocation to large independent refiners.

The three independent producers which specifically addressed the primary proposal were opposed to its implementation. The two associations representing independent producers also opposed the proposal. Generally, the comments of these firms indicated strong support for complete elimination of the rule in order to allow producers greater flexibility in determining with whom they will conduct business and on what terms. However, the producing segment also discussed the impracticality of any rule that would necessitate the splitting of crude oil production streams and indicated that continuation of the rule in its present form would be preferable to the complexities presented by the primary proposal.

While the State of New Mexico would support any relaxation of the supplier/purchaser rule, it would most favor the rule's complete elimination in order to have the greatest degree of flexibility in directing New Mexico's state royalty oil in accordance with the State administration's policy. The U.S. Department of Justice submitted comments in support of the Department's view that the DOE's subsidies for small refiners have generally been unjustified. The Justice Department recommended elimination of the supplier/purchaser rule in its entirety. The State of Alaska would support the continued operation of the rule if amended to remove any restrictions on advance termination clauses and to remove price-decontrolled crude oil from its scope in order to give the State sufficient flexibility in directing state royalty oil.

*B. First Alternative Proposal*

*Description of Proposal.* Since we believed that the allocation of price-decontrolled crude oil to small refiners might not be a factor significantly affecting the competitive viability of these firms, we proposed alternatively to amend the supplier/purchaser rule to provide only for the allocation of lower tier crude oil and upper tier crude oil to small refiners. This proposal would be accomplished by means of essentially the same certification process as that proposed under the primary proposal. We also were of the opinion that this first alternative proposal would promote our objective of easing the transition to a totally deregulated marketplace, since the volume of price-controlled crude oil will decrease each month as phased deregulation progresses and the operation of the supplier/purchaser rule would thereby diminish as well.

*Comments Received.* Fourteen small refiners specifically commented on the

proposed first alternative amendment. Ten of these firms opposed the first alternative proposal either on the same grounds as those small refiners that opposed the primary proposal or because they felt the first alternative proposal would not insure adequate supply protection. In regard to this latter position, several small refiners indicated strong disagreement with the ERA's suggestion that the allocation of price-decontrolled crude oil is not a factor significantly affecting the competitive viability of small refiners. These firms discussed their problems in obtaining crude oil of qualities appropriate to their refining operations and facilities at any price.

The comments of the large independent and the major refiners, as well as the comments of other respondents which expressed opposition to the primary proposal, generally indicated that they would oppose the first alternative proposal on the same grounds that they opposed the primary proposal.

*C. Second Alternative Proposal*

*Description of Proposal.* While the primary and first alternative proposals reflected our preliminary conclusion that only small refiners were dependent on the supplier/purchaser rule for access to adequate supplies, we recognized that the lack of a regulatory allocation scheme might hinder the equitable distribution of any price-controlled crude oil released from the scope of the rule.

Furthermore, we questioned whether the possible benefits that might be derived from releasing a substantial portion of price-controlled crude oil from the rule's scope would be justified in view of the increased opportunities and incentives to violate the price regulations that such action might create. With these uncertainties in mind, we also proposed for comment a second alternative proposal that would retain the existing supplier/purchaser rule for lower tier and upper tier crude oil but would exempt price-decontrolled oil from the scope of the rule altogether. Implementation of this proposal would make the upstream certification requirements under the primary and first alternative proposals unnecessary.

*Comments.* While a few small refiners appreciated the lesser administrative inconvenience that would arise under the second alternative proposal, the comments of many small refiners indicated that continued allocation of price-controlled crude oil to large independent and, especially, major refiners would remove the opportunity to increase their share of price-controlled crude oil, a factor they deem necessary if they are to be in a competitive stance following total deregulation.

While a few large refiners gave limited approval to the second alternative proposal, these firms generally preferred that the rule remain essentially in its current form or be eliminated entirely. These firms saw little difference between the current rule and the second alternative proposal other than the potential confusion in the marketplace if the proposal were implemented. All six trade associations representing refiners were opposed to the second alternative proposal, generally because they could not see how small refiners would be benefited by such a rule in view of the fact that most of the crude oil that might be freed from allocation controls would nevetheless be controlled by the major integrated oil companies.

Representatives of the producing segment of the industry again indicated their preference for immediate elimination of the rule in its entirety. However, these commenters showed some limited support for the second alternative proposal in the absence of immediate removal of the rule, since producers would thereby gain a greater degree of flexibility than they now enjoy.

*D. Third Alternative Proposal*

*Description of Proposal.* We also requested comments on a proposal to eliminate the supplier/purchaser rule entirely if we determined that small refiners would not be adversely affected by the removal of the rule's protection.

*Comments.* Most small refiners' trade associations were vigorously opposed to the elimination of the rule, since they believe that it is necessary that small refiners secure access to greater volumes of domestic crude oil, especially price-controlled crude oil, in order to be on a competitive footing when they enter a totally deregulated marketplace. However, nine small refiners indicated support for complete elimination of the rule. Some of these firms first refined crude oil after the supplier/purchaser rule was adopted. Consequently, they have derived less benefit from its operations, but, as they point out, they have nevertheless survived. These firms, as well as a few other small refiners, believe they would be in a better position to secure supplies if the rule were eliminated entirely.

Three large independent refiners and eight major refiners would find total elimination of the rule acceptable. However, several of these firms believe it would be advisable simply to wait while phased deregulation gradually eliminates the utility of the supplier/purchaser rule. While resellers to some extent share the view that phased deregulation would effect a smooth transition to total deregulation, they also expressed concern that complete elimination of the supplier/purchaser rule would permit other marketers which do not transport crude oil even greater opportunities to corner supplies by questionable means.

Representatives of the crude oil producing industry were unanimously in favor of complete removal of the rule. This group expressed the view that even after complete recision of the supplier/purchaser rule independent producers would have a vested interest in promoting small refiners as a means of increasing the number of firms that would be in a position to bid competitively for their production following total deregulation.

The State of New Mexico and the U.S. Department of Justice recommended complete elimination of the supplier/purchaser rule.

*E. Sales by Small Refiners*

*Description of Proposal.* Based on our belief that the ability of small refiners to secure replacement supplies of crude oil is more limited than that of larger refiners, we also proposed to adopt an amendment that would provide that the supplier/purchaser rule would no longer require a small refiner to supply crude oil to another firm. We stated that this proposal might be implemented either by amending the current provisions of § 211.63 or in conjunction with any of the other proposals (other than complete elimination of the rule).

*Comments.* Only nineteen commenters responded directly to the proposal to release small refiners from all supply obligations under the rule, including those to other small refiners. Support for the proposal came from the small refining segment of the industry and two resellers. Those voicing opposition to the proposal included two small refiners, three major refiners, a reseller, and one refiners' trade association. Generally, it appeared that those firms which might regain the use of supplies from the proposal's implementation supported such action, while those which might thus lose supplies opposed such action. The view was also expressed that the proposal was unnecessary and another example of favoritism to small refiners.

*F. Proposed Amendments to Termination Provisions*

1. *Bona Fide Offer:*

*Description of Proposal.* We stated that if we determined to reduce the operation of the supplier/purchaser rule we would nevertheless continue to permit a producer to terminate any relationship with respect to any barrels of crude oil which the purchaser fails to meet a permissible higher bona fide offer. We proposed, however, to amend § 211.63(d)(1)(iii) to provide that a producer may not rely upon a higher bona fide offer for termination purposes, unless the higher offer is made for a minimum period of ninety days. Furthermore, the higher offer would not be considered bona fide for termination purposes unless the supplier's current purchaser is provided with both the name of the offeror and the terms of the offer in writing and has been allowed fifteen days to meet the higher offer.

*Comments.* While only thirteen small refiners specifically addressed the proposed changes to the bona fide offer provisions, these firms almost unanimously supported the proposal, as did two refiners' trade associations. They asserted that the vagueness of the current bona fide offer provisions allows too much opportunity for a supplier to divert supplies to another purchaser without any intention to supply that other purchaser on a continuing basis, in order to withdraw from an existing supplier/purchaser relationship. The proposed bona fide offer criteria were also supported by several firms other than small refiners. These firms expressed concern over the current lack of specificity in the bona fide provisions, which they believe allows greater opportunity to speculate in the marketplace. However, a few firms took the position that the ERA should not be taking action to reinforce these provisions in view of the brief time during which the regulations will remain in effect.

2. *Waiver and Advance Termination Clauses:*

*Description of Proposal.* In Interpretation 1979–18, *Arizona Fuels Corporation,* (44 FR 60266, August 19, 1979), the DOE determined that current regulations allow consent to terminate a supplier/purchaser relationship to be given in advance only if a specific termination date is stipulated and the other requirements of § 211.63(d)(1)(iii) are met. The DOE has also determined that in particular, limited circumstances a supplier may validly terminate a supplier/purchaser relationship in reliance on a purchaser's prior written, express and knowing waiver of its rights under § 211.63, if recognition of such waiver will not thwart the legislative policy which the supplier/purchaser rule was designed to effectuate. (Interpretation 1977–7, *State of Alaska,* 42 FR 31143, June 20, 1977). We believe that in some instances purchasers have been able to secure supplies only by complying with the supplier's demand that the purchaser give advance consent to termination or "waive" any rights under § 211.63.

In view of the above considerations, we proposed to amend § 211.63(d) to provide that advance termination and "waiver" clauses in contracts entered into after such time as this proposal might be finalized would be of no effect and therefore provide no basis for termination of a supplier/purchaser relationship by the supplier. On the other hand, in light of our desire to maximize market flexibility and to prepare for future decontrol, we also proposed in the alternative to remove any restrictions concerning the utilization of advance termination and "waiver" clauses.

*Comments.* Those small refiners that commented on this proposal generally gave strong support to the notion of providing that advance termination and waiver clauses entered into prospectively would not provide a basis for a supplier to terminate a supplier/purchaser relationship. A few commenters opposed the abrogation of waiver and advance termination clauses since such practices will soon be permissible in a deregulated market.

Two commenting producers indicated that they believe there should be no restrictions on the use of waiver and advance termination clauses, since such freedom is necessary to give them adequate discretion in choosing those firms with which they will do business. The State of Alaska also favored the absence of any restrictions on these practices, since it would then have greater flexibility in directing the distribution of its state royalty oil.

3. *Higher Bona Fide Offer by Small Refiner:*

*Description of Proposal.* We proposed in the event we determined to adopt the primary proposal or the first alternative proposal, to retain those provisions permitting termination of a supplier/purchaser relationship if the producer receives a higher bona fide offer from another prospective purchaser. However, we also proposed an alternative amendment to those provisions relating to higher bona fide offers, to provide that any supplier which is in a small refiner's distribution chain would be permitted to terminate a supplier/purchaser relationship with respect to any volume of price-controlled crude oil in reliance on a higher bona fide offer only if the higher offer was made by another small refiner and the supplier's present small refiner purchaser failed to meet the higher offer.

*Comments.* Several small refiners and two refiners' trade associations were supportive of the proposal. The comments of those opposing the proposal felt that such a rule would provide too much special consideration for small refiners. Some commenters felt that the proposal would be of little practical significance if the first alternative proposal were adopted, since refiners generally pay the ceiling price in order to retain their supplies. Furthermore, if the primary proposal were adopted, such a restriction would be unnecessary if the regulations were clarified to state explicitly that the payment of a premium for the price-decontrolled portion of a stream or volume of crude oil cannot be construed as a higher bona fide offer for the price-controlled portion of that crude oil.

4. *Elimination of Unnecessary Transactions:*

*Description of Proposal.* We believe that the greatest economic efficiency and benefit to refiners occurs in those instances where the distribution chain includes only those transactions necessary to insure delivery of crude oil to the refiner. Therefore, we proposed that any final rule issued in this proceeding provide that any supplier (producer or reseller) and any purchaser (reseller or refiner) involved in any refiner's crude oil distribution chain may eliminate any intermediate suppliers and purchasers so long as such action would not result in the diversion of crude oil supplies required by the rule to be delivered to the ultimate refiner-purchaser. We further proposed that a refiner be permitted to substitute a new reseller for any reseller currently supplying the refiner, without the consent of the producer or other supplier which supplies the refiner's current reseller, if the new reseller offers to purchase crude oil from the current reseller's supplier on the same terms as the current reseller.

*Comments.* Four small refiners, three major refiners and two refiners' trade associations responded to the ERA's proposal to allow a refiner and any upstream supplier to eliminate any intervening suppliers and purchasers. These firms generally supported the proposal as a means of controlling the burgeoning impact of crude oil "traders" in the marketplace. Several firms also supported the proposal that a refiner be permitted to substitute a new reseller for an existing one without the consent of the producer or existing reseller's supplier. These commenters stated that such an amendment would promote

greater efficiency in the marketplace and provide refiners the same discretion currently enjoyed by producers.

5. *Termination in Anticipation of Sales to Small Refiner:*

*Description of proposal.* Section 211.63(d)(1)(ii) currently provides that a supplier/purchaser relationship may be terminated by a producer with respect to stripper crude oil, provided that after termination such crude oil will be sold to or sold for resale to a small refiner which will process the stripper crude oil. Since some small refiners have indicated that this provision generally is too restrictive to be of significant benefit to small refiners, we requested both comments as to the utility of this provision in its present form and suggestions as to how the provision might be appropriately modified. We specifically requested comments as to whether the provision should be expanded to cover any category of price-decontrolled oil, as well as to whether the requirement that a small refiner process the crude oil should be continued. We stated that we might eliminate this provision entirely or modify the provision to cover all categories of price-decontrolled crude oil and/or permit a small refiner to exchange or sell crude oil received pursuant to this provision.

*Comments.* The seven small refiners and one refiners' trade association which commented on this proposal were in favor of its adoption (especially if the rule continues to allocate crude oil to larger firms), since they believe it would enhance the ability of small refiners to obtain adequate supplies. Major refiners commenting on the proposal voiced the concern that adoption of the proposal could, by increasing the dependence of small refiners on the rule, generate support for an extension of the EPAA.

## III. Response to Comments and Amendments Adopted

### *A. Primary Proposals and Proposed Alternatives to Primary Proposal*

In light of the comments received, we have determined that in order to best further the purposes of the EPAA, including the objectives of phased decontrol, we should adopt essentially a combination of the first and second alternative proposals, as modified in light of the comments.

First, we have determined that continued allocation of price-decontrolled crude oil pursuant to the supplier/purchaser rule is unnecessary to further the objectives of the EPAA. Under the current regulations, the bona fide offer provision to a large degree eliminates supply protection for price-decontrolled crude oil. Therefore, to minimize regulatory interference with market mechanisms we are eliminating entirely from the scope of the supplier/purchaser rule the allocation of price-decontrolled crude oil.

Second, consistent with the first alternative proposal, we have determined that during the transition to a decontrolled domestic market small refiners have a continuing need for the protection of the supplier/purchaser rule with respect to price-controlled crude oil. In light of the comments, however, we have also determined that large independent refiners should likewise continue to receive the protections of the supplier/purchaser rule with respect to price-controlled crude oil. Our tentative determination that major refiners do not need the protections of the rule with respect to price-controlled oil was confirmed in the comments.

Third, in light of the unanimous opposition to the complicated certification provisions in the first alternative proposal, we are not adopting any certification requirements. Rather, to minimize administrative burdens and any problems associated with the implementation of the new rule, we are essentially retaining the present supplier/purchaser rule, but eliminating from its scope sales of price-controlled crude oil to major refiners and all sales of price-decontrolled crude oil. Thus, supplier/purchaser relationships for price-controlled oil between producers and resellers, between producers and refiners (other than major refiners) between resellers, and between resellers and refiners (other than major refiners) will remain in effect. This ensures that supply systems for small and independent refiners will remain intact. It also necessarily means that relationships between producers and resellers, and between resellers, that were intermediate to the ultimate relationship to a major refiner, will remain in effect even though the major refiner will no longer have a protected supplier/purchaser relationship. However, as more fully discussed below, in order to promote market efficiency today's amendments will permit *any* refiner, regardless of whether it is itself protected by the rule, to terminate any relationship between two resellers with respect to crude oil purchased by that refiner.

Our purpose in retaining all of these producer/reseller and reseller/reseller relationships is not to benefit resellers, but rather to protect the small and independent refiners that ultimately receive crude oil through resellers. We recognize that maintenance of all these reseller relationships will protect some resellers whose price-controlled crude oil is not ultimately sold to small and independent refiners, but we believe that by simply retaining these existing relationships the purpose of protecting the supply systems of small and independent refiners will be furthered without a complicated certification process. Moreover, the modified reseller substitution rule, discussed below, will to a large degree allow for elimination of unnecessary resellers from a supplier/purchaser supply system.

Inherent in our amendment to eliminate price-decontrolled crude oil from the scope of the supplier/purchaser rule is the phasing out of the rule as greater volumes of crude oil become exempt from first sale price restrictions. In this way, we believe, those refiners that remain protected under the rule will gradually have their protection diminished, and this gradual process will enable them to prepare for total decontrol. Moreover, by eliminating from the supplier/purchaser rule that crude oil sold to major refiners, we will be allowing small and independent refiners to acquire those volumes that were formerly dedicated to the majors under the rule.

We recognize that in allocating only price-controlled crude oil we are not allocating the entire stream of crude oil from a particular property.* We also recognize that there may be administrative and technical considerations with respect to certain properties that create problems in splitting the stream between different first purchasers. Nothing in the amendment we are adopting requires producers to split streams not already split. In requiring maintenance of a supplier/purchaser relationship with respect to the price-controlled volumes, the rule makes no requirement with respect to the price-decontrolled volumes. Producers are free to sell the price-decontrolled volumes to the same purchaser as the price-controlled volumes or to a different purchaser. This decision will be a business decision taken in light of relevant factors, including any costs or administrative and logistical difficulties involved in

*Under the current rules, the entire production of a property is allocated by means of supplier/purchaser relationships. Large properties with multiple purchasers of the production may already have so-called split-stream supplier/purchaser relationships. Even where the entire production of a property is allocated under the current rule to a single purchaser, the termination provisions of the current rule provide for termination of a relationship with respect to any crude oil subject to the relationship. Thus, the relationship could be terminated with respect to a portion of the entire production, resulting in a split stream.

splitting the stream. If some resellers are able to devise methods for economically and practically splitting streams, this ability may make them attractive candidates to producers under the reseller substitution rule.

In discussing our second alternative proposal, we noted our concern that elimination of the supplier/purchaser rule with respect to price-controlled crude oil would create an incentive for pricing violations as new purchasers attempted to obtain those volumes. In adopting our amendments, we have mitigated this concern by limiting the price-controlled crude oil exempt from the rule to that crude oil heretofore sold to majors. Nevertheless, we wish to note that § 210.62(c), the normal business practices rule, forbids any practice which constitutes a means to obtain a price higher than is permitted by the regulations. Offering a higher than market price for the price-decontrolled portion of a stream of oil formerly sold to a major refiner, for example, in order to obtain the price-controlled portion that is no longer subject to the supplier/purchaser rule would be such a prohibited practice.

Specifically, in light of all of the considerations discussed above, we are amending the "scope" section of the rule, § 211.63(a), to eliminate from the scope of the supplier/purchaser rule (1) price-decontrolled crude oil and (2) crude oil not sold to a reseller, small refiner, or independent refiner. No change is made to § 211.63(b), the "general rule." Section § 211.63(c) is amended to conform with the change in the scope of the rule to include only price-controlled oil. Also, we have added a new paragraph (4) to this section, which is intended to clarify resellers' responsibilties as volumes of price-controlled oil diminish.

*B. Other Proposals*

1. *Wavier and Advance Termination Clauses:*

As noted in Part II above, we proposed in the alternative either to prohibit such clauses absolutely or to allow them without restriction.

The purpose of the amendments adopted today is generally to decrease regulatory restrictions with regard to supplier/purchaser relationships, so long as the diminishing volumes of price-controlled crude oil currently being supplied to small and independent refiners are protected. In light of this general purpose of the amendment and in view of the comments on this issue, we have determined to loosen restrictions on these clauses, but in light of small refiners' concerns we are not eliminating all restrictions.

Specifically, we are amending § 211.63(d)(1)(i) to create two separate, allowable forms of termination clauses. The first, which applies to all supplier/purchaser relationships, retains the current rule regarding termination clauses, slightly reworded. This section would not change the requirement for a specified termination date (*see especially* Interpretation 1979–18, *Arizona Fuels Corporation, supra*). The requirement in the current rule to obtain the consent of subsequent purchasers is modified to make clear that only the consent of those subsequent purchasers protected by the supplier/purchaser rule is required. The second form of termination clause applies only to new supplier/purchaser relationships created after the effective date of this amendment. With respect to these relationships, if a contract entered into after the effective date of this amendment expressly so provides, either the supplier or purchaser may terminate the relationship without obtaining the permission of subsequent purchasers. Moreover, the requirement for a specified termination date is not applicable.

The primary reason for the substantial change with respect to future relationships is to enable the former sellers to major refiners to sell price-controlled oil to small and independent refiners with an assurance that by so doing they will not, by reason of § 211.63(b)(2), be creating a new supplier/purchaser relationship into which they would be frozen. Under the amended supplier/purchaser rule we are adopting, while new contracts with respect to price-controlled oil would in the absence of a termination or waiver clause create a new supplier/purchaser relationship (unless the purchaser is a major refiner), the seller can assure by including such a clause that the contract will be terminable according to its terms without regard to the supplier/purchaser rule.

One exception to this new broad termination and waiver provision is the situation where a producer or refiner substitutes a reseller pursuant to the reseller substitution provision described below. If these substitutions could create new supplier/purchaser relationships for purposes of this provision, the possibility that a supplier might insist on a waiver or termination clause could create a severe disincentive to a refiner to substitute a new upstream reseller or itself in place of the existing reseller. Similarly, a producer might be inclined to replace his current reseller solely to create a new relationship where he could insist on a waiver or termination clause. Accordingly, to maintain neutrality with respect to substitutions, new relationships arising from substitutions under the reseller substitution provision will not be considered a new supplier/purchaser relationship for purposes of the waiver or termination clause provision.

2. *Elimination of Unnecessary Transactions (Reseller Substitution):*

As indicated in Part II of this preamble, we proposed that suppliers and purchasers be able to substitute or eliminate intermediate suppliers or purchasers so long as the change did not divert crude oil from the protected refiners. This proposal was made in recognition of the fact that the supplier/purchaser rule is not aimed at protecting resellers and in light of our desire to enable the market to achieve the most efficient distribution system between producers and refiners. The comments generally supported this proposal. Moreover, as indicated above, to avoid burdensome certification requirements we have left in place reseller relationships not strictly required to assure supplies to small and independent refiners; these relationships heretofore involved in moving supplies to major refiners should also be subject to modification where such action would promote maximum efficiencies.

Accordingly, we are generally adopting this proposal as modified in light of the general amendment adopted. Moreover, we are retaining the current regulatory provision allowing producers to substitute new resellers, but have modified it to make such substitution more easily accomplished. These changes are made in order to minimize regulatory interference with market mechanisms and to promote economic efficiency. In restoring a greater amount of flexibility with respect to the reseller market, we are furthering competition in the distribution and marketing of crude oil.

Specifically, we are creating a new § 211.63(d)(3) that would delineate the circumstances under which a producer or a refiner may substitute or eliminate a reseller with respect to price-controlled crude oil. This provision would not apply to price-decontrolled oil because it would no longer be subject to the supplier/purchaser rule. Paragraph (i) of the new § 211.63(d)(3) allows a producer to substitute a new reseller for his current reseller without the approval of subsequent purchasers, so long as the producer assures that the subsequent purchasers having supplier/purchaser relationships under the rule will receive the same volumes on the same terms as they would have from the

previous reseller. We believe that this provision will enable resellers to compete effectively for new business on the basis of the services they can sell to the producer, and will enable producers to pick resellers on the basis of services.

Paragraph (ii) of this new section allows a refiner to terminate *any* supplier/purchaser relationship protected by the rule involving a reseller in the series of relationships involving a given crude oil between the refiner and the producer. That is, the refiner may terminate a relationship even to which it is not a party, as well as a relationship to which it is a party, with respect to crude oil it purchases. The refiner then can purchase directly from the producer or remaining reseller or substitute a new reseller of its own choosing. However, the refiner cannot terminate the relationship between the producer and the first purchaser without the agreement of the producer. The services performed by some resellers on behalf of producers can be extremely important to the producer, and only with the producer's permission should another reseller take that place. This provision could be used, for example, in the following series: Producer—Reseller A—Reseller B—Reseller C—Refiner. The refiner could substitute itself for Resellers B and C. It could substitute Reseller C for Reseller B. Or it could substitute Reseller D for Resellers B and C. Or, with the producer's agreement, the refiner could purchase directly from the producer or could substitute another reseller for Resellers A, B, and C. In each case the series of transactions would be shortened to the probable benefit of the refiner. We believe this provision will enable resellers to compete for new business with refiners by offering possible lower prices to refiners by reduced numbers of transactions between the producer and the refiner. It should be noted that even a refiner that itself is not a party to any protected supplier/purchaser relationship (e.g., a major refiner) may under this substitution provision terminate a protected relationship between resellers with respect to crude oil supplied to the refiner. Similarly, for example, a small refiner that purchases crude oil from a reseller under a contract waiving the supplier/purchaser rule can also make use of the substitution rule with respect to that reseller and other resellers in the distribution system for that oil.

As explained above, new relationships created as a result of a reseller substitution are not deemed new relationships for purposes of the waiver or termination clause provision. This is to ensure that substitutions are made for legitimate business reasons and not merely to enable a firm to insist upon a waiver or termination clause. As a corollary to this exception to the new waiver and termination provision, we are adopting a new paragraph (iii) to prevent substitutions merely to create a protected supplier/purchaser relationship where one did not exist prior to the substitution. For example, as noted above, a small refiner that purchases price-controlled crude oil from a reseller under a contract that waives the supplier/purchaser rule can make use of the reseller substitution rule to terminate upstream supplier/purchaser relationships, thus shortening the series of transactions between the refiner and the producer. In so doing, however, the refiner should not be able to create a protected relationship under the supplier/purchaser rule, when it did not have such a protected relationship before the substitution. Otherwise, the substitution might be made only to achieve protection under the supplier/purchaser rule and not for legitimate business reasons. Accordingly, we have included this paragraph (iii) to assure that, where the series of transactions between the producer and the refiner are not all protected supplier/purchaser relationships under this rule, while terminations and substitutions can be made for those relationships that are protected, those substitutions will not by reason of the general supplier/purchaser rule create any new protected relationships.

3. *Other Proposals:*

We are not adopting the proposals that (1) would exempt small refiners from supply obligations, (2) would amend the bona fide offer provision (which has only been conformed in light of the change to the scope of the rule), or (3) would have expanded § 211.63(d)(1)(ii) to other types of decontrolled oil besides stripper crude oil (in light of the changed scope of the rule, this provision has been totally deleted). After consideration of the comments, and in light of the changed scope to the rule, we determined that the problems or questions which led us to make these proposals were either eliminated or substantially alleviated by the changes we did adopt.

## V. Procedural Matters

### A. *Section 404 of the DOE Act*

Pursuant to the requirements of Section 404(a) of the Department of Energy Act (DOE Act, 42 U.S.C., section 7101 *et seq.*, Pub. L. 95–91, as amended) we have referred this rule to the Federal Energy Regulatory Commission (FERC) for a determination whether the proposed rule would significantly affect any matter within the Commission's jurisdiction. On June 30, 1980, following an opportunity to review the proposal pursuant to which this rule is being adopted, the FERC informed the ERA that it declined to determine that it may significantly affect any of its function.

### B. *National Environmental Policy Act*

It has been determined that these amendments do not constitute a "major Federal action significantly affecting the quality of the human environment" within the meaning of the National Environmental Policy Act (NEPA, 42 U.S.C., *et seq.*), and therefore an environmental assessment or an environmental impact statement is not required by NEPA and applicable DOE regulations for compliance with NEPA.

### C. *Executive Order 12044*

Executive Order 12044 (43 FR 12661, March 23, 1978) requires that a regulatory analysis be prepared for all significant regulations which are likely to have a major impact. The ERA prepared a draft regulatory analysis in conjunction with the formulation of the May 1978 proposals issued in this proceeding. A summary of that analysis was provided in the May 1978 notice of proposed rulemaking. A final regulatory analysis has been prepared after reviewing the comments received in this proceeding. Copies of this analysis are available for inspection in the DOE Freedom of Information Office, Room 5B–180, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. A summary of the ERA's final regulatory analysis supporting today's amendments follows.

*Summary of the Final Regulatory Analysis of Amendments to Supplier/Purchaser Rule*

The Final Regulatory Analysis is generally consistent with the assumption in the Draft Regulatory Analysis and Notice of Proposed Rulemaking that any relaxation of the supplier/purchaser rule which does not jeopardize the continuation of supplies to small refiners will have the effect of freeing up volumes of crude oil for potential purchase by small refiners.

The Draft Regulatory Analysis had used data for the month of April 1979 in describing the volumes and percentages of various tiers of crude oil purchased by the various classes of refiners. The Final Regulatory Analysis generally overcomes the limitations of using one month's data by displaying data for the

full calendar year 1979. Furthermore, inasmuch as major objections were received in public comments that large independent refiners did not have the purchasing knowledge and economic power to protect themselves from limitations of crude oil supply as do major refiners, the Final Regulatory Analysis separates large independent refiners from large integrated (major) refiners in the data tables.

The Analysis shows that, for first purchases subject to the supplier/purchaser rule, large independent refiners' circumstances are much more similar to those of small refiners than to those of major refiners. When purchases of price-controlled oil by refiners are considered for 1979, the major refiners are shown to have purchased 83.5 percent of all lower tier oil and 65.8 percent of all upper tier oil purchased by refiners, while the large independent refiners and small refiners shared the remainder. Examining first purchases data in another way, major refiners are shown to have obtained 82.6 percent of all of their first purchases as price-controlled oil, while small refiners obtained only 62.3 percent of their first purchases as price-controlled oil. The large independent refiners obtained 89.2 percent of their first purchases as price-controlled oil, but this figure is substantially inflated by the influence of Sohio's access to Alaskan North Slope (upper tier) crude oil. This is revealed by the fact that, for the large independent refiners, 9.3 percent of their first purchases were lower tier oil, while 79.9 percent was upper tier oil.

Eliminating first purchases of crude oil by large integrated refiners from the protection of the supplier/purchaser rule will make substantial additional volumes potentially available to small refiners, as documented by analyzing the source of first purchases for major refiners for the month of December 1979. During this month, major refiners made 87 percent of their first purchases of lower tier oil either from affiliated companies or from other major refiners. For upper tier oil, the portion purchased from affiliates and other major refiners was 85 percent. These volumes will most likely continue to be bought and sold between these firms notwithstanding the removal of the supplier/purchaser rule. However, the volumes of lower tier and upper tier oil purchased from sources other than affiliates or other majors (small refiners and independent producers) will become potentially available for purchase by small refiners. These volumes are substantial—5.6 million barrels of lower tier and 7.6 million barrels of upper tier oil in December of 1979. This represents about 50 percent of the amount of price-controlled oil purchased by small refiners from all sources in an average month in 1979. Thus, even if only 15 or 20 percent of the volumes purchased by major refiners and removed from the supplier/purchaser rule is available to small refiners, the incremental amounts available to small refiners will be substantial.

The Final Regulatory Analysis also displays volumes and percentages of first purchases for non-price-controlled oil and describes generally the effect of removing this category of oil from the application of the supplier/purchaser rule. Inasmuch as the effect of the rule on sales of this oil had been limited only by the requirements of the bona fide offer provisions of the rule, it is not expected that the recision of these requirements will have any major impact on the acquisition of decontrolled oil by any particular group of refiners.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. § 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. § 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, Pub. L. 95–70, Pub. L. 95–619, and Pub. L. 96–30; Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*, Pub. L. 95–91, Pub. L. 95–509, Pub. L. 95–619, Pub. L. 95–620, and Pub. L. 95–621; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Part 211 of Chapter II, Title 10 of the Code of Federal Regulations, is amended as set forth below.

Issued in Washington, D.C., August 18, 1980.

**Hazel R. Rollins,**

*Administrator, Economic Regulatory Administration.*

1. 10 CFR 211.63 is revised to read as follows:

**§ 211.63 Domestic crude oil supplier/purchaser relationships.**

(a) *Scope.* This section provides for the allocation of crude oil produced in the United States the first sale of which is subject to the ceiling price limitations of Part 212 of this chapter, other than crude oil which is the subject of (1) purchases and sales made to comply with § 211.65 of this subpart; (2) sales of crude oil made pursuant to Parts 225 and 225a, Chapter II of Title 30 of the Code of Federal Regulations; (3) a sale to other than a reseller, small refiner or independent refiner; and (4) the first sale of any domestic crude oil produced and sold from a property from which domestic crude oil was not produced and sold prior to January 1, 1976.

(b) *General rule.* (1) All supplier/purchaser relationships with respect to crude oil within the scope of paragraph (a) of this section which were in effect under contracts for sales, purchases and exchanges of domestic crude oil on January 1, 1976 shall remain in effect for the duration of this program; *provided, however,* that any such supplier/purchaser relationship to which this section is applicable may be terminated as provided in paragraph (d) of this section.

(2) Once any first sale, purchase of exhange or domestic crude oil is made which is exempt from this rule pursuant to paragraph (a)(4) of this section, or once the sale, purchase or exchange of any domestic crude oil that has at anytime been the subject of a supplier/purchaser relationship under paragraph (b)(1) of this section is made in accordance with this section to a firm that was not the purchaser thereof on January 1, 1976, or has not continued to purchase that crude oil without interruption since December 31, 1975, a supplier/purchaser relationship between the seller and purchaser shall be established thereafter under this section as though it had been in effect on January 1, 1976.

(3) The provisions of this paragraph (b) shall not (i) operate to validate any supplier/purchaser relationship in effect on January 1, 1976 where the purchaser of the domestic crude oil involved was not the lawful purchaser thereof under the provisions of this section as in effect at any time prior to February 12, 1976, or (ii) impair any purchaser's right to continue to receive the volumes of domestic crude oil flowing to it on December 1, 1973 or such later date at which its supplier/purchaser relationship was established under this section as in effect prior to February 12, 1976.

(c) *Supply obligations and purchase rights.* (1) Obligations and rights incident to supplier/purchaser relationships under this section applicable to crude oil production from a property (as defined in Part 212) in a given month shall not exceed the actual production for the month from that property of crude oil the first sale of which is subject to the ceiling price limitations of Part 212 of this chapter.

(2) Where the volume of such crude oil produced by a property in a given month is below December 1975 levels, the supply obligations under this section for that production shall be reduced for that

month as to each January 1, 1976 purchaser of that production on a prorata basis, based on the respective volumes purchased by each such purchaser in December 1975.

(3) Increased production of such crude oil from a property over December 1975 production levels shall be sold proportionately to the same purchaser or purchasers that are entitled to purchase the December 1975 levels of such crude oil production of that property under this section.

(4) A purchaser of crude oil subject to this section that receives a prorata reduction or increase of such crude oil pursuant to paragraphs (c) (2) or (3) of this section or this paragraph shall likewise prorate any supply obligations with respect to such oil that such purchaser may have under this section.

(5) In the event that a property which produces crude oil subject to this section is transferred to a new owner, the obligation to supply the January 1, 1976 purchasers of that property's crude oil production shall attach to the new owner and new supplier/purchaser relationships subject to this section shall be established on that basis.

(6) In the event that a refinery to which crude oil subject to this section is supplied is transferred to a new owner, the right to purchase such crude oil shall for purposes of this section be transferred to the new owner of the refinery and a new supplier/purchaser relationship subject to this section shall be established on that basis.

(d) *Termination of supplier/purchaser relationships.* Any supplier/purchaser relationship established under paragraph (b) of this section may be terminated as follows:

(1) *Mutual Consent.* (i) A purchaser and supplier may mutually agree to terminate their relationship, as evidenced by their written consent thereto, together with notice of the termination date, if all subsequent purchasers of the crude oil involved that have a supplier/purchaser relationship with respect to such crude oil have consented to such termination in writing;

(ii) With respect to any new supplier/purchaser relationship created after September 30, 1980, other than a relationship created pursuant to paragraph (d)(3) of this section, a purchaser and supplier may mutually agree to terminate their relationship, as evidenced in a contract entered into on or after October 1, 1980, expressly waiving the requirements of paragraphs (b) and (c) of this section or providing for the termination of a supplier/purchaser relationship.

(2) *Bona Fide Offer.* A producer (as defined in Part 212 of this chapter) may terminate its supplier/purchaser relationship with its present purchaser with respect to any crude oil as to which that purchaser refuses, within a fifteen day period after receipt of written notice of any bona fide written offer made by another purchaser to purchase such crude oil at a lawful price above the price paid by the present purchaser, to meet that offer.

(3) *Substitution of Resellers.* (i) A producer (as defined in Part 212 of this chapter) may terminate its supplier/purchaser relationship under this section with a reseller purchasing crude oil from that producer, if the producer directly or by means of a substitute reseller supplies to the purchasers of the terminated reseller those volumes of the producer's crude oil that they were entitled to receive from the terminated reseller pursuant to this section, on the same terms as the terminated reseller supplied those volumes.

(ii) A refiner may terminate any reseller's supplier/purchaser relationship under this section involving crude oil purchased by that refiner, whether or not the refiner is a party to that relationship, if the refiner substitutes itself or a reseller of its choosing in place of the terminated reseller, except that where the first purchaser of crude oil from the producer is to be replaced by the refiner or substitute reseller, the producer must agree to the replacement.

(iii) Notwithstanding paragraph (b)(2) of this section, no new supplier/purchaser relationship is created for purposes of this section if prior to a substitution under this paragraph (3) there did not exist a series of supplier/purchaser relationships under this section between the producer and refiner with respect to particular crude oil.

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Part VII

# Department of Transportation

## Urban Mass Transportation Administration

## Section 5 Operating Assistance Regulations

**DEPARTMENT OF TRANSPORTATION**

**Urban Mass Transportation Administration**

**49 CFR 650**

**[Docket No. 80-M]**

## Section 5 Operating Assistance Regulations

**AGENCY:** Urban Mass Transportation Administration, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Urban Mass Transportation Administration (UMTA) is proposing regulations setting forth requirements governing applications for uses of funds for operating assistance authorized by Section 5 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq. hereafter referred to as the UMT Act.) The proposed regulation would streamline and codify existing requirements and guidelines relating to the Section 5 program and propose guidance and requirements in key areas where none currently exists.

**DATE:** Comments must be received by December 1, 1980.

**ADDRESS:** Comments must be submitted to UMTA Docket No. 80-M, 400-7th Street, S.W., Washington, D.C. 20590. All comments and suggestions received will be available for examiniation in room 9320 at the above address between 8:30 a.m. and 5:00 p.m., Monday through Friday. Receipt of comments will be acknowledged by UMTA if a self-addressed, stamped postcard is included with each comment.

**FOR FURTHER INFORMATION CONTACT:** James McQueen, Office of the Administrator, (202) 426-4050.

**SUPPLEMENTARY INFORMATION:** All comments recieved before the expiration of the comment period will be considered before final action is taken on this proposal. Comments received after the expiration of the comment period will be considered to the extent feasible.

The Administrator has determined that this is a non-significant regulation under the criteria in the DOT Order for Improving Government Regulations (44 FR 11042, February 26, 1979). Under the DOT Order, a full evaluation is not warranted because the expected economic impact of the proposed regulations is minimal. The proposed regulation sets out application reguirements and requirements concerning use of funds for an operating assistance program.

The provisions of OMB Circular A-95 apply to this Notice of Proposed Rulemaking. It covers the following program as listed in the Catalog of Federal Domestic Assistance (CFDA): 200507 Urban Mass Transportation Capital and Operating Assistance Formula Grants.

### Discussion of Proposed Regulation

Section 5 of the UMT Act authorizes funds for capital or operating expenditures for mass transportation system in urban areas. This proposed regulation describes requirements governing applications for and uses of these funds for operating assistance. When final, the regulation will supersede existing guidance in UMTA Circular 9050.1, "Application instructions for Section 5 Operating Assistance Projects" (hereafter referred to as the "Section 5 Circular").

The intent of the proposed regulations is to streamline and codify existing requirements and guidance relating to the Section 5 program and to set out guidance and requirements in key areas where none currently exists.

Existing procedures are being modified in a way that will increase the efficiency of the Section 5 program, reduce paperwork burdens on grantees and speed the approval of operating assistance grants. These modifications are consistent with President's Carter's efforts to reduce the paperwork burden throughout the Federal government and reflect the commitment of the Administrator to reduce burdens on grantees consistent with an effective, useful Federal role.

*Overview of Operating Assistance Program*

Funds authorized by Section 5 of the UMT Act are apportioned among urbanized areas using formulas based on demographic and transportation factors. (The formulas are described in Sections 5(a)(1), (2) and (3) of the UMT Act). These funds are apportioned directly to urbanized areas of 200,000 or more population and to States for allocation by the Governor to urbanized areas with less than 200,000 population.

Designated recipients play a key role in the Section 5 program. Pursuant to the UMT Act, designated recipients apply for, receive and dispense the apportioned funds. To encourage coordinated mass transportation operations within urbanized areas, UMTA will accept applications for operating assistance only from designated recipients. A public agency which is not a designated recipient may receive operating assistance, but only with the concurrence of the appropriate designated recipient and only if the designated recipient submits an application and executes a grant agreement on its behalf.

For urbanized areas of 200,000 population or more, designated recipients are selected by the Governor, principal elected officials of the area and operators of publicly owned mass transportation services within the area. In such areas, State and regional public mass transportation agencies must be included as designated recipients. In areas of less than 200,000 population, the Governor or the Governor's designee is the designated recipient; the Governor may and sometimes does designate recipients within these urbanized areas.

The distribution of funds authorized by Section 5(a) (1), (2) and (3) within an urbanized area between operating and capital uses and among recipients is a local decision to be made by the Metropolitan Planning Organization (MPO) representing the principal elected officials of the area. The MPO makes these decisions in cooperation with public mass transportation operators and designated recipients of the area. Once a decision on the distribution of Section 5 funds is made, an operating assistance project has been included in the program of projects in the annual element of the area's transportation improvement program (TIP) and the annual element approved by UMTA, an application for the operating assistance project may be approved. Operating assistance funds may only be used for projects to maintain or improve mass transportation services to or within urbanized areas. This may be accomplished by operation, lease, contract with private or public transportation companies, or other means. Operating assistance funds may not be used for intercity service or non-transit purposes.

*Proposed Changes*

The proposed regulation implements three important changes to current procedures governing the application and use of operating assistance as described in the Section 5 Circular (9050.1).

One change modifies the current requirement in the Section 5 Circular that a public hearing be held on all operating assistance grant applications. Section 650.60 of the proposed regulation requires a public hearing on applications for an operating assistance grant only if a written request for a hearing is submitted.

A second change is the incorporation of procedures to permit operating assistance grants meeting certain conditions to be funded under an

expedited process. This process, described in Section 650.69, permits a grantee to renew an existing operating assistance grant provided that: the amount of Section 5 funds available to the urbanized area is not exceeded, the renewal is in an approved annual element, and the renewal is covered by a certification by the Secretary of Labor that employees of the transit system will not be adversely affected by the project.

UMTA will permit the programming of multiyear operating assistance projects to assure that the succeeding year's operating assistance is included in a approved annual element at an early stage. This procedure will eliminate delays in approving operating assistance grants due to unintended delays in approving the annual element.

Multiyear employee protection agreements for operating assistance projects are encouraged to enable continuing certification that employees of the transit system are not adversely affected by such projects. The Department of Labor has agreed that such certifications are possible if mutually agreed to by the mass transportation operator and affected labor organizations. Such agreements, which are already in force in some areas, will reduce unintended delays in approving these routine grants.

A third change in § 650.94 permits applicants to reference data reported pursuant to Section 15 of the UMT Act (i.e., Section 15 data) instead of submitting the maintenance of effort documentation for operating assistance applications currently required by the Circular provided that the Section 15 data are comparable to the data used in the application.

Another difference between the proposed regulation and the current Section 5 Circular is the treatment of requirements which are covered in detail by other regulations such as Maintenace of Effort (MOE), Non-discrimination, and Charter and School Bus Operations. The proposed regulation refers the reader to the appropriate regulation for detailed coverage of the requirements. Currently, the Circular includes summary material and key requirements of each of the regulations.

The proposed regulation continues the reduction of paperwork begun in the current Section 5 Circular by eliminating:

Required descriptions of local procedures for assuring half-fares during non-peak hours for elderly and handicapped persons. The proposed regulation provides a comprehensive statement of UMTA requirements; and by the signed assurances, the grantee certifies that the requirements are met;

Exhibit C (Transit System and Urbanized Area Description). The information is included in short range transit plans prepared by the operator; and

Exhibit D (Public Hearing and Standard Certification). The proposed regulation does not require the submission of the notice of hearing. The certification currently required by the Section 5 Cicular is continued.

*Contents of Regulation*

This proposed regulation focuses on application procedures and related aspects of the Section 5 operating assistance program. Similar requirements for capital projects will appear in a future regulation. Program execution and related project management requirements currently covered in Circular 9050.1, will be covered in UMTA Circular 5010.1, "UMTA Project Management Guidelines for Grantees" which will be issued in the near future.

Contents of the proposed regulation are divided into six subparts and an appendix. Subpart A introduces the regulation and defines terms used in the regulation. Subpart B describes categories of funds for operating assistance, eligible uses, availability of funds and eligible recipients. Subpart C describes requirements recipients must satisfy to be eligible to receive operating assistance funds. Subpart D describes requirements which proposed operating assistance projects must satisfy before they may be funded. Subpart E defines revenue, cost and budget information used in operating assistance grant applications. Subpart F describes the contents of an application for operating assistance. The Appendix provides additional explanatory information to assist the completion of applications.

Accordingly, it is proposed that a new Part 650 be added to Title 49 of the Code of Federal Regulations to read as follows:

## PART 650—SECTION 5 OPERATING ASSISTANCE REQUIREMENTS

### Subpart A—General

Sec.

650.2 Purpose of Regulation.
650.4 Applicability.
650.5 Definitions.
650.7 Waiver.

### Subpart B—Operating Assistance Funds: Uses and Availability

650.10 Purpose of Subpart.
650.12 Uses of Funds.
650.14 Apportionment of Funds.
650.16 Availability of Funds.
650.18 Recipients.
650.20 Grantees.

### Subpart C—Requirements of Grantees

650.30 Purpose of Subpart.
650.32 Legal, Financial and Technical Capacity.
650.34 Opinion of Counsel.
650.36 Authorizing Resolution.
650.40 Section 15 Reporting System.
650.42 Maintenance of Effort.
650.44 School Bus Operations.
650.46 Charter Bus Operations.
650.48 Non-discrimination.

### Subpart D—Project Requirements

650.50 Purpose of Subpart.
650.52 Planning.
650.54 Environmental, Social and Economic Impacts.
650.56 Private Mass Transportation Companies.
650.58 Employee Protection.
650.59 Half-fare for Elderly and Handicapped Persons.

#### Public Hearings

650.60 Hearing Requirements.
650.62 Content of Notices.
650.64 Transcript of Hearing.
650.66 Multiple Project Hearing.
650.67 Adequacy of Notice and Hearing.
650.70 Fare Changes and Substantial Changes in Service.

### Subpart E—Project Financing

650.80 Purpose.
650.82 Net Project Cost.
650.84 Revenue: Federal Share/Local Match.
650.85 Disbursement of Operating Assistance Funds.
650.86 Operating Expenses.

### Subpart F—Application Procedures

650.90 Purpose.
650.92 Definitions.
650.94 Applications for Base Year Operating Assistance Grants.
650.96 Renewing Operating Assistance Grants.
650.98 Grant Agreements.
650.100 Project Management.

#### Appendices

**Authority:** 49 U.S.C. 1604; 49 CFR 1.51.

## PART 650—OPERATING ASSISTANCE FORMULA GRANT REGULATIONS

### Subpart A—General

#### § 650.2 Purpose of Regulation.

This part describes requirements governing application procedures and uses of operating assistance funds authorized by Section 5 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq., hereafter referred to as the UMT Act).

#### § 650.4 Applicability.

This part applies to all operating assistance projects and to all recipients of operating assistance, such as State and local public bodies. The provisions

of this part govern the award and administration of all financial assistance under the Section 5 operating assistance program, except as otherwise provided by statute or regulation.

**§ 650.5 Definitions.**

As used in this part:

(a) "Administrator" means the administrator of the Urban Mass Transportation (UMTA).

(b) "Annual Element" means a list of transportation improvements projects proposed for implementation during the first program year, and may include multiyear operating assistance projects.

(c) "Department" means the U.S. Department of Transportation (DOT).

(d) "Governor" means any Governor of the fifty States and Puerto Rico, and the Mayor of the District of Columbia.

(e) "Level of Effort" (LOE) means the amount contributed from State and local government funds and non-farebox transit revenues, and expended on the operation of mass transportation service in an urbanized area for a given local fiscal year. Pursuant to the UMT Act, LOE includes advertising concessions and property leases for transit purposes and excludes reimbursement payments for the transportation of school children.

(f) "Maintenance of Effort (MOE)" means the average of the LOE for the two local fiscal years preceding the project year.

(g) "Mass Transportation" means transportation by bus, rail, or other conveyance, either publicly or privately owned, which provides service to the general public or special service (but not including school buses or charter or sightseeing service) on a regular and continuing basis.

(h) "Public transportation" means mass transportation.

(i) "Urbanized area" means an area so designated by the Bureau of the Census, within the boundaries which shall be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary, and which at a minimum, encompasses the entire urbanized area within a State as designated by the Bureau of the Census.

(j) "Transportation Improvement Program" means a staged multiyear program of transportation improvements, including an annual element.

(k) "UMT Act" means the Urban Mass Transportation Act of 1964, as amended, (49 U.S.C. 1601 et seq.).

**§ 650.7 Waiver.**

The Administrator may grant a waiver concerning any requirement in this Part, on a case by case basis, if he determines that it is in the public interest to grant the waiver.

## Subpart B—Operating Assistance Funds: Uses and Availability

**§ 650.10 Purposes of subpart.**

This subpart describes categories of operating assistance authorized by Section 5 of the UMT Act, including uses and limitations of each category, period of availability of the funds, and eligible recipients.

**§ 650.12 Uses of funds.**

(a) Two categories of operating assistance are authorized by Section 5 of the UMT Act: (1) Sections 5(a)(1) and 5(a)(2) authorize funds for operating assistance or capital grants to mass transportation systems.

(2) Section 5(a)(3) authorizes funds for operating assistance to commuter rail operations only for funds appropriated during fiscal year 1979, and thereafter for capital or operating assistance to any fixed guideway system, including commuter rail and rapid rail and other exclusive guideway systems such as busways and light rail lines that are on separate rights-of-way.

(b) Operating assistance funds may only be used to maintain or improve mass transportation services to or within urbanized areas through operation, lease, contract or other means.

(c) Funds authorized in Section 5(a) of the UMT Act are apportioned according to formulas in that section. UMTA publishes a list of actual apportionments in the Federal Register each year shortly after enactment of legislation appropriating such funds.

**§ 650.14 Apportionment of funds.**

(a) Funds authorized by Sections 5(a)(1), (2) and (3) of the UMT Act are apportioned—(1) Directly to urbanized areas of 200,000 persons or more population; and

(2) To States for urbanized areas of less than 200,000 population.

(b) The Governor of each State is responsible for the allocation of funds apportioned to the State in paragraph (a)(2) above to urbanized areas of less than 200,000 population as follows:

(1) The Governor is required to develop procedures to assure that the funds are allocated among the urbanized areas in a fair and equitable manner. Such procedures must consider the following:

(i) The allocation if funds were apportioned to urbanized areas directly.

(ii) The financial needs of each urbanized area for planned mass transportation projects.

(iii) The period remaining in the current funding authorization.

(2) The Governor shall submit annually to the appropriate UMTA regional office a report describing—(i) Procedures used to allocate funds among urbanized areas, and the name and address of the person to contact for additional information about the allocation and related procedures;

(ii) Funds from the current funding authorization already allocated to each urbanized area; and

(iii) Any allocation of funds among urbanized areas from the most recent apportionment which differs from what it would have been if funds had been apportioned directly.

(3) The Governor's allocation may not exceed the total of the most recent apportionment to the State plus carryover funds available from previous apportionments to the State.

(c) The Governor shall inform the appropriate UMTA regional office in writing of his or her intent to change the allocation in the report and provide a justification for such an action.

(d) The Administrator will not approve a grant to an urbanized area which would result in a larger cumulative allocation to the urbanized area than the area would have received under a direct apportionment until receiving the Governor's report required in paragraph (b)(2) above.

**§ 650.16 Availability of funds.**

(a) Funds authorized by Sections 5(a)(1), (2), and (3) of the UMT Act are available for obligation for a period of three years following the close of the fiscal year for which they are apportioned. The balance of any apportionments to States or designated recipients which remains unobligated at the end of the period of availability will be added to UMTA funds available in the succeeding year in the same category as the funds were originally apportioned.

(b) Funds allocated by the Governor of a State to urbanized areas of less than 200,000 population will be available for the year in which they are allocated. The balance of any allocations to such urbanized areas which remain unobligated at the end of that year will be returned to the Governor for reallocation in the same category as the funds were originally apportioned.

(c) The Governor shall—(1) Reallocate unobligated funds according to the financial needs of the urbanized areas for planned mass transportation projects, giving priority to the financial needs of the urbanized areas yielding the unobligated funds; and

(2) Comply with reporting provisions of § 650.14(c).

**§ 650.18 Recipients.**

(a) *Designated Recipients.* (1) The Governor, responsible local officials and publicly-owned operators of mass transportation services shall jointly designate a recipient or recipients to apply for, receive and dispense funds for urbanized areas of 200,000 or more population, pursuant to Section 5(b)(1) of the UMT Act as follows:

(i) To the extent possible, a single recipient shall be designated for each urbanized area or for contiguous urbanized areas.

(ii) Any statewide or regional agency or instrumentality responsible under State laws for financing, construction, or operating directly, by lease, contract or otherwise of public transportation services shall be named a designated recipient by the Governor, responsible local officials and publicly-owned operators of mass transportation services.

(2) The Governor or the Governor's designee is the designated recipient for urbanized areas under 200,000 persons in population.

(3) Designations remain in effect until amended or rescinded.

(b) *Other Recipients.* (1) Public agencies may receive and dispense funds with the concurrence of the designated recipient. In such cases, the designated recipient applies for funds on behalf of the public agency, and the public agency receives and dispenses the UMTA funds pursuant to a supplemental agreement executed by the designated recipient and the public agency.

(2) The supplemental agreement should—(i) Confer on the public agency the right to receive and dispense grant funds;

(ii) Transfer to the public agency all rights, obligations and responsibilities under the grant agreement; and

(iii) Release the designated recipient from any liability under the grant agreement.

**§ 650.20 Grantees.**

(a) A grantee is the eligible recipient of operating assistance funds which has the legal responsibility for carrying out the operating assistance project, directly, by lease or contract, or otherwise.

(b) A grantee may be either a designated recipient or public agency with a supplemental agreement with a designated recipient.

(c) All grantees must have the legal capacity to—(1) Apply for, receive and dispense Federal funds for transit purposes;

(2) Submit project applications to UMTA; and

(3) Enter into formal project agreements with UMTA.

## Subpart C—Requirements of Grantees

**§ 650.30 Purpose of subpart.**

This subpart sets out the requirements with which grantees must comply under the Section 5 program.

**§ 650.32 Legal, financial and technical capacity.**

Each grantee shall submit information to assist the Administrator in determining that the grantee has the legal, financial and technical capacity to carry out the project. Such information must include—(a) An opinion of counsel establishing the legal eligibility of the grantee;

(b) A formal authorizing resolution from the governing body of the grantee; and

(c) A total and summary of the sources of non-Federal revenues to be applied to the project as required by § 650.84 of Subpart D.

**§ 650.34 Opinion of counsel.**

Each application must contain—(a) An opinion of counsel establishing the legal eligibility of the grantee to apply for and receive a Federal grant, and to execute the project; and

(b) A certification by the attorney of the grantee that there is no pending or threatening litigation which might adversely affect the execution of the proposed project and that there is no legal impediment to the responsible official or grantee making applications for operating assistance.

**§ 650.36 Authorizing resolution.**

(a) Each application must contain a resolution from the governing body of the grantee formally authorizing the grantee to—(1) Execute and file an application on its own behalf with UMTA (through the designated recipient if the grantee is not the designated recipient) to aid in the financing of public transportation projects;

(2) Execute and file any assurances or other documents required by the Department;

(3) Furnish such additional information as the Department may require in connection with the application or the project;

(4) Set forth and execute affirmative minority business policies in connection with project procurement needs; and

(5) Execute other such functions as are necessary to carry out the operating assistance project.

(b) A single resolution may be used to authorize the filing of more than one application. This resolution must indicate the specific applications for which filing is being authorized.

(c) Only individuals designated by the authorizing resolution may sign the application form and other documents relating to the application and its resulting grant agreement.

(d) The resolution may also authorize individuals to execute grant agreements with UMTA. If this authorization is not in the original resolution, a second resolution authorizing the grantee to execute the grant agreement must be submitted to UMTA prior to execution of the grant agreement.

**§ 650.40 Section 15 reporting system.**

The Administrator shall not approve any application for Section 5 operating assistance unless the grantee and the user of the funds, if different from the grantee—(a) Can report according to the uniform system of accounts and records prescribed in 49 CFR Part 630, "Uniform System of Accounts and Reporting System"; and

(b) Has submitted the reports required in 49 CFR Part 630.

**§ 650.42 Maintenance of effort.**

Each applicant and grantee, if they are different, shall demonstrate compliance with the Maintenance of Effort Regulation, 49 CFR Part 635 Subpart B. This regulation requires that the total of State and local funds and certain non-fare box mass transit revenues applied to eligible operating expenses in the year for which operating assistance is sought not be less than the average contribution from such sources in the two preceding local fiscal years. Failure to meet this average level of contributions, except under specific circumstances, will result in commensurate reduction in formula apportioned funds.

**§ 650.44 School bus operations.**

Mass Transportation operators who engage in school bus operations are subject to the regulations governing school bus operations by recipients of UMTA funds in 49 CFR Part 605, "School Bus Operations."

**§ 650.46 Charter bus operations.**

Mass Transportation operators who engage in charter bus operations are subject to the regulations governing charter bus operations by recipients of UMTA funds in 49 CFR Part 604, "Charter Bus Operations."

**§ 650.48 Nondiscrimination.**

Each applicant and grantee, if they are different, is subject to the following

concerning non-discrimination: (a) UMTA Circular 1155.1—UMTA Equal Employment Opportunity Policy and Requirements for Grant Recipients.

(b) UMTA Circular 1160.1—Interim Guidelines for Title VI—Information Specific to UMTA Programs.

(c) 49 CFR Part 27—Non-discrimination on Basis of Handicapped in Federally-Assisted Programs and Activities Receiving or Benefiting from Federal Financial Assistance.

## Subpart D—Project Requirements

### § 650.50 Purpose of subpart.

This subpart sets out requirements which must be met by a project proposed for operating assistance.

### § 650.52 Planning.

Pursuant to Section 5(g) of the UMT Act and 23 CFR 450 Subpart C, "Planning Assistance Standards," the Administrator shall not approve a grant for an operating assistance project unless the project is part of the program of projects in an approved annual element of the Transportation Improvement Program (TIP).

### § 650.54 Environmental, social, and economic impacts.

The procedures that a grantee must follow in meeting environmental requirements and the other requirements of Section 5(i)(1) of the Act are set out in 23 CFR Part 771.

### § 650.56 Private mass transportation companies.

If the operating assistance project will be used to provide, by contract or otherwise, for the operation of mass transportation facilities or equipment in competition with, or supplementary to, the service provided by an existing private mass transportation company, the application must contain sufficient information to permit the Administrator to find that the assistance is essential to the program of projects in the annual element of the TIP and that such program, to the maximum extent feasible, provides for the participation of private mass transportation companies. This information must include—(a) A description of the nature and extent of the competitive or supplemental public and private mass transportation services;

(b) An explanation of why the operation assistance is essential to the program of projects in the annual element of the TIP; and

(c) A description of the extent to which private mass transportation companies in the urbanized area participate in the program of projects in the annual element.

### § 650.58 Employee protection.

(a) A grantee shall make fair and equitable arrangements to protect the interests of employees affected by an UMTA grant, as required by Section 13(c) of the UMT Act.

(b) Section 13(c) of the UMT Act is administered by the Department of Labor in accordance with guidelines published in 29 CFR Part 215.6. Section 215.6 of the guidelines sets out the information that must be included in a grant application. Section 215.6 of the guidelines sets out procedures for recurring operating assistance grants.

(c) Each application must contain information to assist the Secretary of Labor in certifying that fair and equitable arrangements have been made to protect affected employees. Such information must include the names and addresses of labor unions representing employees of the transit systems to be assisted and of other transportation systems which will be affected.

(d) The grant agreement will specify the terms and conditions of the arrangements, as certified by the Secretary of Labor.

### § 650.59 Half fare for elderly and handicapped persons

(a) Each grantee shall submit an assurance certifying that during non-peak hours mass transportation services assisted by the project will charge elderly and handicapped persons no more than one-half the normal peak hour fare.

(b) Eligibility for half fare during non-peak hours may be determined by the transit operator, but must include—(1) All persons 65 years of age or older; and

(2) All handicapped persons as defined in 12(c)(4) of the UMT Act.

(c) Operators may exclude some conditions which appear to meet the functional definition of "handicapped", including, but not limited to, pregnancy, obesity, drug or alcohol addiction, and certain conditions otherwise recognized as handicapped which do not fall within the statutory definition (e.g., loss of a finger, some chronic heart or lung conditions, and controlled epilepsy).

(d) The eligibility of individuals who would be included under the requirements of paragraph (b) of this section may not be restricted solely on the basis of—(1) Residence;

(2) Income;

(3) Employment Status;

(4) Ability to operate an automobile; or

(5) Other criteria which exclude groups of individuals who otherwise meet the statutory definition.

(e) Persons with temporary incapacities or disabilities shall be considered handicapped by a transit operator if the temporary condition lasts more than 90 days.

(f) Operators may require an individual to prove eligibility for half fare. If an operator does require proof of eligibility, the operator shall publish procedures to establish proof. The procedures may include the following:

(1) Designating agencies authorized to certify eligible persons.

(2) Requiring certification of handicap by a physician.

(3) Charging a reasonable fee for issuing a special identification card.

(4) Recognizing those identifications which may be used as establishing eligibility (e.g., Medicare cards).

(g) An operator shall establish collection procedures for charging eligible individuals no more than one-half the peak hour fare during non-peak hours.

(h) Each operator shall notify the public of—(1) The non-peak half-fare provisions; and

(2) Any public hearing on requirements for participation.

## Public Hearings

### § 650.60 Hearing requirements.

(a) Each grantee shall—(1) hold a public hearing on each proposed operating assistance project; or

(2) provide the opportunity for a public hearing on each proposed operating assistance project by publishing a notice that a hearing will be held if a written request for a hearing is received.

(b) If a written request for a hearing is received by a grantee after publication of the notice required by paragraph (a)(2) of this section, the grantee shall hold a hearing.

(c) Each grantee shall submit a certification that the opportunity for a public hearing was provided and that a hearing was held if a written request for a hearing was received.

(d) Notices required by paragraph (a) of this section 650.62(b) must be published in a newspaper of general circulation in the grantee's urbanized area and, where possible, in newspapers oriented to minority communities in the urbanized areas.

### § 650.62 Contents of notices.

(a) Each notice required by § 650.60 of this subpart must describe the proposed project in detail sufficient to inform the public of the following: (1) The project period.

(2) The name of the grantee.

(3) The nature and location or service areas of the project.

(4) The name(s) of the mass transportation operator(s) to be assisted.

(5) The estimated cost of the project, including the Federal and local shares, and an indication of the anticipated sources of the local share.

(6) A statement that any person interested in a public hearing must request, in writing, that the hearing be held.

(7) A statement that if a written request is received, a hearing will be held.

(8) The name of the person and the address to which the written request must be sent.

(9) The deadline for submission of requests (at least 30 days after publication of the notice).

(10) The information required by 49 CFR 604.15(b), if the mass transportation operator to be assisted by funds from the project engages in charter bus operations.

(11) The information required by 49 CFR 604.15(b), if the mass transportation operator to be assisted by funds from the project engages in school bus operations exclusively for the transportation of students or school personnel.

(12) A statement that interested persons or agencies will be afforded the opportunity to be heard at the hearing with respect to the social, environmental, and economic aspects of the project, and that these views may be presented orally or in writing.

(13) A statement that a copy of the application is available for public inspection along with its location.

(b) If a written request for a hearing is received, the grantee shall publish a notice of intent to hold a public hearing. The notice must be published at least 30 days before the hearing. If a local or State law concerning public hearings provides different requirements, these requirements may be followed. The notice must state that an operating assistance project will be the subject of the hearing and include the date, time, and location of the hearing.

**§ 650.64 Transpcript of hearing.**

If a public hearing is held, the grantee shall—

(a) Make a verbatim transcript of the hearing;

(b) Maintain the transcript on file until the project is closed out; and

(c) Make the transcript available for public inspection.

**§ 650.66 Multiple project hearing.**

If an applicant submits more than one application to UMTA at one time, a single notice of intent to hold a public hearing may be published for all of the proposed projects.

**§ 650.67 Adequacy of notice and hearing.**

If UMTA determines that the notice of intent to hold a public hearing, the notice of public hearing or the public hearing itself (if held) was inadequate to give parties with significant social, economic, or environmental interests an adequate opportunity to present their views with regard to the proposed project, UMTA may require the applicant to publish an additional notice or to conduct an additional hearing.

**§ 650.70 Fare changes and substantial changes in service.**

(a) The regulations implementing Section 5(i)(3) of the Umt Act require that a public hearing be held prior to any fare change and prior to any substantial change in service.

(b) The regulations are set out in 49 CFR Part 635 Subpart A.

## SUBPART E PROJECT FINANCING

**§ 650.80 Purpose.**

This subpart defines revenues, costs and budget information used in operating assistance grant applications.

**§ 650.82 Net project cost.**

Net project cost is the difference between eligible operating expenses described in § 650.86(b) and farebox and other revenues which are not eligible for inclusion in the local match—the amount of eligible expenses to be covered by local revenue and Federal operating assistance.

**§ 650.84 Revenue: Federal share/local match.**

(a) The amount contributed to meeting net project cost from non-Federal sources constitutes the local match. All local and State revenues generally are eligible for inclusion in the local match with the exception of farebox revenues. In a limited number of situations, Federal funds may be eligible for inclusion in the local match. Eligibility of such Federal funds for inclusion in the local match must be documented by the grantor Federal agency.

(b) The Federal share of any operating assistance project shall not exceed the local match, the currently available apportionment to the urbanized area plus any carryover funds available from past years or 50 percent of the net project cost incurred on an accrual basis in the provision of public transportation services during the project period.

(c) Profit from non-transit operations may be included in the local match to the extent that such revenues are actually applied to cover eligible operating expenses.

(d) Federal and local matching funds may only be applied to eligible operating expenses (described in § 650.86(b)) incurred on an accrual basis in providing mass transportation services during the project period.

**§ 650.85 Disbursement of operating assistance funds.**

(a) If the mass transportation operator is also the grantee, UMTA funds provided under the grant will flow directly to the operator.

(b) If the mass transportation operator is a public entity but different from the grantee, the grantee may direct that UMTA funds provided under the grant—

(1) flow directly to the operator; or

(2) be made jointly payable to the grantee and the operator.

(c) If the mass transportation operator is a private entity, funds will flow directly to the grantee.

(d) If the operating assistance project provides funds to more than one mass transportation operator, payments will be made directly to the grantee.

(e) In all cases of joint payments, both parties must jointly submit requests for payment.

**§ 650.86 Operating expenses.**

(a) *Ineligible Expenses.* Actual or estimated expenses during the project year for activities not related to the provision of mass transportation to or within the grantee's urbanized area are ineligible for operating assistance and may not be included in the computation of net project cost, pursuant to Federal Management Circular 74–4 and 5(d)(1) of the UMT Act. Such activities include, but are not limited to the following:

(1) Charter bus operations.

(2) School bus operations (i.e., operations for the exclusive transportation of school students not the carrying of students in regularly scheduled mass transportation services).

(3) Sightseeing services.

(4) Freight haulage.

(5) Maintenance of non-transit vehicles.

(6) Intercity transportation.

(7) Mass transportation services wholly outside of the Urbanized area.

(8) Capitalized costs or expenses recognized as part of and reimbursable under another UMTA project. This includes both the value of cash contributions and in-kind services provided as the local share of projects such as the following:

(i) UMTA capital grants (e.,g., administrative expenses reimbursed under the capital grant).

(ii) UMTA technical studies projects.

(iii) UMTA research, development, and demonstration projects.

(iv) Demonstration projects funded fully or in part by non-Federal public or

private entities. However, under certain circumstances demonstration project expenses (other than UMTA-funded) may be eligible, and the non-Federal payments to cover such expenses may be used as local share to match Section 5 operating assistance. At an applicant's request, UMTA will consider the eligibility of demonstration project expenses on a case-by-case basis.

(9) Contra-expenses, revenue items which directly offset transit expenses, including the following:

(i) Interest income earned on working capital.

(ii) Proceeds from the sale of equipment in excess of the depreciated value (Private Operators only).

(iii) Cash discounts and refunds which directly offset accrued expenses.

(iv) Insurance claims and reimbursements which directly offset accrued liabilities.

(v) State fuel tax rebates to public operators.

(b) *Eligible expenses.* Eligible operating expenses are limited to direct labor, material and overhead expenses incurred on an actual basis by an operator to provide mass transportation services in the urbanized area during one local fiscal year. Expenses for contractual services directly incident to the management and operation of transportation services and which are not otherwise reimbursed are included. Operating expenses eligible for operating assistance include, but are not limited to, the following:

(1) Fuel, wages and other expenses incurred in the operation of mass transportation services to or within the urbanized areas.

(2) Pension benefits and contributions to a pension plan, only if actually paid and only up to a maximum of the current year accrual.

(3) The value of contributed services.

(4) Purchase of service contracts for mass transportation services within or to the urbanized area.

(5) Interest and other financial costs associated with borrowing to provide capital for the payment of current operating expenses.

(6) Expenses associated with special mass transportation services for the elderly and handicapped.

(7) Amortization of leasehold improvements.

(8) For private operators, a reasonable return on investment ("profit") is an eligible expense. Grantees shall submit information to assist the Administrator in determining the reasonableness of the return on investment for private operators, including the return authorized the operator by the appropriate regulatory agency and the including interest and related financing costs.

## Subpart F—Application Procedures

### § 650.90 Purpose.

This subpart describes application procedures for operating assistance.

### § 650.92 Definitions.

As used in this subpart:

(a) "Base year" means the first 12 month period of a grant awarded after the effective date of these regulations.

(b) "Grant renewal" means the extension of an operating assistance grant for a period of 12 months in accordance with procedures in § 650.96.

(c) "Project year" means the 12 month period for which operating assistance is requested.

(d) "Multiyear project" means a project for two or more years of operating assistance funds.

### § 650.94 Applications for base year operating assistance grants.

(a) An application for the base year of an operating assistance grant must be submitted by a designated recipient.

(b) A designated recipient may submit an application for an operating assistance grant on behalf of a public agency with which it has executed a supplementary agreement, pursuant to § 650.18(b) of Subpart B.

(c) An application for the base year of an operating assistance grant shall include the following:

(1) A supplemental agreement signed by the designated recipient if the grantee will not be the designated recipient.

(2) Signed assurances certifying compliance with requirements of this part.

(3) Opinion of counsel and certification of no pending litigation which might threaten the ability of the grantee to carry out the project.

(4) Authorizing resolution from the applicant's governing body.

(5) Employee protection submission.

(6) Submission for any charter or school bus service operated.

(7) Justification of assistance for service in competition with private companies.

(8) Report describing consideration given to environmental, social, economic and other effects of the project.

(9) The following forms:

(i) Standard Form 424, Application for Federal Assistance, signed by the applicant.

(ii) Form OMB 80-RO-186, Part III—Budget Information.

(iii) UMTA Project Budget Form, signed by the applicant's chief financial officer.

(iv) Level of Effort Schedules for the project year, project year minus one, project year minus two and the MOE computation as required by 49 CFR Part 635 Subpart B.

(d) Grantees may certify that the MOE requirement is met and reference Section 15 reports covering the same 12 month period as the MOE schedules in the application under provisions of the Maintenance of Effort Regulation, 49 CFR Part 635 Subpart B. Conditions allowing the use of this procedure are described in the regulation.

### § 650.96 Renewing operating assistance grants.

(a) An operating assistance grant may be renewed if the requirements of Subpart D are met, the grantee has an employee protection agreement which will continue in effect during the 12 month period of the renewal grant and the renewal grant is in an approved annual element. A project is in an approved annual element if it is included in—

(1) The approved annual element of the project year TIP (the current procedure); or

(2) The approved annual element of the TIP of a previous year as a multiyear operating assistance project.

(b) Operating assistance grants are ineligible for renewal if—(1) The grantee has an employee protection agreement which will not be in effect for at least the 12 month period covered in the renewal application; or

(2) Transit operations will undergo a change in scope during the period for which assistance is sought requiring renegotiation of the employee protection agreement.

(c) Renewal of an operating assistance grant will constitute agreement by the grantee to terms and conditions in the base year grant agreement.

(d) An application for renewal of an operating assistance grant beyond the base period shall include the following:

(1) Certification of no pending litigation which might threaten the ability of the grantee to carryout the project.

(2) Certification that all previous submissions except the forms listed below remain valid.

(3) The following forms: (i) Standard Form 424, Application for Federal Assistance, signed by the applicant.

(ii) Form OMB 80 RO-186, Part III—Budget Information.

(iii) UMTA Project Budget Form, signed by the applicant's chief financial officer.

(iv) LOE schedules for the project year and project years minus one and minus

two, and the MOE computation as required by 49 CFR Part 635 Subpart B. Grantees may certify that LOE is covering the same 12 month period as the application under provisions in 49 CFR Part 635 Subpart B.

**§ 650.98 Grant agreements.**

(a) Grant agreement documents shall be signed by the grantee and the grantee's attorney for the base year grant within 60 days of grant approval.

(b) Provisions of the base year grant agreement become binding on the grantee for each renewal of the base year grant once the renewal application is approved.

**§ 650.100 Project management.**

(a) Base year grants and renewals must be executed in conformance with procedures in UMTA Circular 5010, "UMTA Project Management Guidelines for Grantees."

(b) Close out of base year grants and renewals shall be executed in conformance with UMTA Circular 5010.

**Appendix**

This appendix lists the contents of applications for operating assistance and provides instructions for filling out the application and budget forms. Contents of base year applications are listed below. Only submissions marked by an asterisk are required when renewing a grant.

1. *Documentation of Eligibility:*

—Supplementary agreement (if grantee not designated recipient) § 650.18(b)

—Opinion of counsel and certification of no pending threatening litigation—§ 650.34*

—Authorizing resolution—§ 650.36

2. *Assurances and Certifications of Compliance Required by this Regulation:*

—Half fares for elderly and handicapped persons—§ 650.54

—Public hearing—§ 650.60

*Required by Other Regulations*

—"Title VI"—UMTA Circular 1160.1—Interim Guidelines for;

Title VI—Information Specific to UMTA Programs

"504—49 CFR Part 27—Non-discrimination on the Basis of Handicap in Federally-Assisted Programs and Activites Receiving or Benefiting from Federal Financial Assistance.

3. *Documentation of Compliance:*

*Required by This Regulation*

—Justification of operating assistance for any service that competes with private mass transportation companies—§ 650.56

Employee protection information—§ 650.56

*Required by Other Regulations*

Maintenance of effort submission (see Application and Budget Forms)

—Submission for any Charter Bus Operations as required by 49 CFR Part 604

—Submission for any School Bus Operations as required by 49 CFR Part 605

4. *Application and Budget Forms*:*

—Form SF 424: Application for Federal Assistance

—Form OMB 80–RO–186 Part III: Budget Information

—UMTA Project Budget Form

—Maintenance of Effort Summary and Level of Effort Schedules as required by 49 CFR Part 635

**Instructions for Completing Application and Budget Forms**

1. Form SF 424—Application for Federal Assistance

2. Form OMB 80–RO–186 Part III: Budget Information

3. UMTA Project Budget Form

BILLING CODE 4910-57-M

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OMB Approval No. 29–R0218

# FEDERAL ASSISTANCE

2. APPLICANT'S APPLICATION — a. NUMBER; b. DATE Year month day 19

3. STATE APPLICATION IDENTIFIER — a. NUMBER; b. DATE ASSIGNED Year month day 19

1. TYPE OF ACTION (Mark appropriate box)
- ☐ PREAPPLICATION
- ☐ APPLICATION
- ☐ NOTIFICATION OF INTENT (Opt.)
- ☐ REPORT OF FEDERAL ACTION

Leave Blank

## SECTION I—APPLICANT/RECIPIENT DATA

4. LEGAL APPLICANT/RECIPIENT
- a. Applicant Name :
- b. Organization Unit :
- c. Street/P.O. Box :
- d. City : e. County :
- f. State : g. ZIP Code:
- h. Contact Person (Name & telephone No.) :

5. FEDERAL EMPLOYER IDENTIFICATION NO.

6. PROGRAM (From Federal Catalog) — a. NUMBER | | | • | | | | b. TITLE

7. TITLE AND DESCRIPTION OF APPLICANT'S PROJECT

8. TYPE OF APPLICANT/RECIPIENT
A–State; B–Interstate; C–Substate District; D–County; E–City; F–School District; G–Special Purpose District; H–Community Action Agency; I–Higher Educational Institution; J–Indian Tribe; K–Other (Specify): ____
Enter appropriate letter ☐

9. TYPE OF ASSISTANCE
A–Basic Grant; B–Supplemental Grant; C–Loan; D–Insurance; E–Other
Enter appropriate letter(s) ☐☐

10. AREA OF PROJECT IMPACT (Names of cities, counties, States, etc.)

11. ESTIMATED NUMBER OF PERSONS BENEFITING

12. TYPE OF APPLICATION
A–New; B–Renewal; C–Revision; D–Continuation; E–Augmentation
Enter appropriate letter ☐

13. PROPOSED FUNDING

| | | |
|---|---|---|
| a. FEDERAL | $ | .00 |
| b. APPLICANT | | .00 |
| c. STATE | | .00 |
| d. LOCAL | | .00 |
| e. OTHER | | .00 |
| f. TOTAL | $ | .00 |

14. CONGRESSIONAL DISTRICTS OF: a. APPLICANT; b. PROJECT

16. PROJECT START DATE Year month day 19

17. PROJECT DURATION Months

18. ESTIMATED DATE TO BE SUBMITTED TO FEDERAL AGENCY ▶ Year month day 19

15. TYPE OF CHANGE (For 15c or 15e)
A–Increase Dollars; B–Decrease Dollars; C–Increase Duration; D–Decrease Duration; E–Cancellation; F–Other (Specify): ____
Enter appropriate letter(s) ☐☐☐

19. EXISTING FEDERAL IDENTIFICATION NUMBER

20. FEDERAL AGENCY TO RECEIVE REQUEST (Name, City, State, ZIP code)

21. REMARKS ADDED ☐ Yes ☐ No

## SECTION II—CERTIFICATION

22. THE APPLICANT CERTIFIES THAT ▶

a. To the best of my knowledge and belief, data in this preapplication/application are true and correct, the document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is approved.

b. If required by OMB Circular A–95 this application was submitted pursuant to instructions therein, to appropriate clearinghouses and all responses are attached.

| | No response | Response attached |
|---|---|---|
| (1) | ☐ | ☐ |
| (2) | ☐ | ☐ |
| (3) | ☐ | ☐ |

23. CERTIFYING REPRESENTATIVE — a. TYPED NAME AND TITLE; b. SIGNATURE; c. DATE SIGNED Year month day 19

## SECTION III—FEDERAL AGENCY ACTION

24. AGENCY NAME

25. APPLICATION RECEIVED Year month day 19

26. ORGANIZATIONAL UNIT

27. ADMINISTRATIVE OFFICE

28. FEDERAL APPLICATION IDENTIFICATION

29. ADDRESS

30. FEDERAL GRANT IDENTIFICATION

31. ACTION TAKEN
- ☐ a. AWARDED
- ☐ b. REJECTED
- ☐ c. RETURNED FOR AMENDMENT
- ☐ d. DEFERRED
- ☐ e. WITHDRAWN

32. FUNDING

| | | |
|---|---|---|
| a. FEDERAL | $ | .00 |
| b. APPLICANT | | .00 |
| c. STATE | | .00 |
| d. LOCAL | | .00 |
| e. OTHER | | .00 |
| f. TOTAL | $ | .00 |

33. ACTION DATE ▶ Year month day 19

34. STARTING DATE Year month day 19

35. CONTACT FOR ADDITIONAL INFORMATION (Name and telephone number)

36. ENDING DATE Year month day 19

37. REMARKS ADDED ☐ Yes ☐ No

38. FEDERAL AGENCY A–95 ACTION

a. In taking above action, any comments received from clearinghouses were considered. If agency response is due under provisions of Part I, OMB Circular A–95, it has been or is being made.

b. FEDERAL AGENCY A–95 OFFICIAL (Name and telephone no.)

424–101

STANDARD FORM 424 PAGE 1 (10–75)
Prescribed by GSA, Federal Management Circular 74–7

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SECTION IV–REMARKS *(Please reference the proper item number from Sections I, II or III, if applicable)*

*Standard Form 424: Application for Federal Assistance*

Standard Form 424 is now required with each application for Federal assistance in accordance with Federal Management Circular 74–7. As such, Standard Form 424 now replaces Part I of Form OMB 80–RO–186 as the basic application for Federal assistance. Part III of Form OMB 80–RO–186 is still required with each application.

The following are instructions for completing Form 424. Most are self explanatory. However, additional guidance for completing certain items on this form for Section 5 operating assistance applications is provided below:

Item

1. The box labeled "application" should always be checked. Section 5 does not utilize a preapplication procedure.

2. (a) The project application number will usually be assigned by UMTA upon receipt of the application. Therefore, this box may be left blank. If a project number has been assigned by UMTA at the time of program TIP Annual Element approval, enter this number.

(b) Enter the date on which the application is submitted to UMTA.

3. Requirements for State A–95 Clearinghouse review do not apply to Section 5 operating assistance projects. Leave this item blank.

4. The "legal applicant" should always be the recipient.

5. Self-explanatory.

6. (a) The "program number" for all Section 5 projects is 20.507.

6. (b) The "program title" for all Section 5 projects is "Formula Grants."

7. The project desciption should identify the specific transit operator(s) to be assisted and the project period. For example: "Operating assistance for the Transit Authority for the period July 1, 1976, through June 30, 1977".

8. Self-explanatory.

9. Applications for base year Section 5 operating assistance should be represented as "Basic Grants." Renewals and amendments to approved grants should be represented as "Supplemental Grants."

10. Name the urbanized area(s) from whose Section 5 apportionments the project will be funded.

11. Enter the urbanized area's population.

12. Self-explanatory.

13. (a) Enter the amount of Section 5 operating assistance requested.

(b) Enter the portion of the local share which is contributed by the applicant.

(c) Enter the portion of the local share which is contributed by State government agencies.

(d) Enter the portion of the local share which is contributed by government agencies, other than the applicant.

(e) Enter amount of the other revenues applied against eligible operating expenses (e.g., farebox revenues).

(f) The total of the above items should equal the amount of eligible operating expenses for the project year.

14. Self-explanatory.

15. Self-explanatory (Use only if requesting an amendment to an approved project).

16. The "project start date" should be the first day of the local; fiscal year for which assistance is sought.

17. The "project duration" should usually be 12 months.

18. Self-explanatory.

19. Self-explanatory.

20. Enter: UMTA, Washington, DC 20590.

21. Page 2 of Form 424 provides space for additional remarks. Typically additional remarks are not expected. However, where a project is to be funded with Section 5 funds apportioned to more than one urbanized area, use this space to indicate breakdown of UMTA funds requested among the urbanized areas" apportionments.

22. For Section 5 operating assistance projects, leave blank.

23. The individual who signs this item must be the same individual authorized by resolution to execute and file application for Section 5 operating assistance.

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## PART III – BUDGET INFORMATION

Page 1

OMB NO. 80-RO-186

### SECTION A – BUDGET SUMMARY

| Grant Program, Function or Activity (a) | Federal Catalog No. (b) | Estimated Unobligated Funds | | New or Revised Budget | | |
|---|---|---|---|---|---|---|
| | | Federal (c) | Non Federal (d) | Federal (e) | Non Federal (f) | Total (g) |
| 1. | | $ | $ | $ | $ | $ |
| 2. | | | | | | |
| 3. | | | | | | |
| 4. | | | | | | |
| 5. TOTALS | | $ | $ | $ | $ | $ |

### SECTION B – BUDGET CATEGORIES

| 6. Object Class Categories | Grant Program, Function or Activity | | | | Total (5) |
|---|---|---|---|---|---|
| | (1) | (2) | (3) | (4) | |
| a. Personnel | $ | $ | $ | $ | $ |
| b. Fringe Benefits | | | | | |
| c. Travel | | | | | |
| d. Equipment | | | | | |
| e. Supplies | | | | | |
| f. Contractual | | | | | |
| g. Construction | | | | | |
| h. Other | | | | | |
| i. Total Direct Charges | | | | | |
| j. Indirect Charges | | | | | |
| k. TOTALS | $ | $ | $ | $ | $ |
| 7. Program Income | $ | $ | $ | $ | $ |

## PART III – BUDGET INFORMATION

Page 2

OMB NO. 80-R0186

### SECTION C – NON FEDERAL RESOURCES

| (a) GRANT PROGRAM | (b) APPLICANT | (c) STATE | (d) OTHER SOURCES | (e) TOTALS |
|---|---|---|---|---|
| 8. | $ | $ | $ | $ |
| 9. | | | | |
| 10. | | | | |
| 11. | | | | |
| 12. TOTALS | $ | $ | $ | $ |

### SECTION D – FORECASTED CASH NEEDS

| | Total for 1st Year | 1st Quarter | 2nd Quarter | 3rd Quarter | 4th Quarter |
|---|---|---|---|---|---|
| 13. Federal | $ | $ | $ | $ | $ |
| 14. Non Federal | | | | | |
| 15. TOTAL | $ | $ | $ | $ | $ |

### SECTION E – BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

| (a) GRANT PROGRAM | FUTURE FUNDING PERIODS (YEARS) | | | |
|---|---|---|---|---|
| | (b) FIRST | (c) SECOND | (d) THIRD | (e) FOURTH |
| 16. | $ | $ | $ | $ |
| 17. | | | | |
| 18. | | | | |
| 19. | | | | |
| 20. TOTALS | $ | $ | $ | $ |

### SECTION F – OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:

22. Indirect Charges:

23. Remarks:

*Form OMB 80-R0-186 Part III—Budget Information*

This two-page form, including Section A-F, is required in all applications for Section 5 operating assistance. This form must accompany Form 424 in each application.

Instructions for preparing—the Part III—Budget Information form are detailed below:

Section A—*Budget Summary.*

1. This form was originally developed to accommodate applications for Federal assistance under more than one program. For Section 5 operating assistance applications, only lines 1 and 5 will be used.

2. In Column (a), enter "operating assistance."

3. In Column (b), enter 20.507.

4. Leave Column (c) and (d) blank; these do not apply to Section 5 operating assistance projects.

5. In Column (e), enter the amount of Section 5 operating assistance requested.

6. In Column (f), enter the amount of local share.

7. In Column (g), enter the sum of the two preceding entries.

Section B—*Budget Categories.*

1. This form was originally developed to accommodate applications for Federal assistance under more than one program. For Section 5 operating assistance applications, only columns (1) and (5) will be used.

2. Enter the amount of eligible transit operating expenses or the; project period on line (k).

3. To the extent possible, analyze the amount entered on line (k) among the expense categories on lines (a) through (j).

4. Enter the amount of revenue applied against eligible transit operating expenses which is not includable as local share (e.g., farebox revenues) on line (7).

Section C—*Non-Federal Resources.*

1. This form was originally developed to accommodate applications for Federal assistance under more than one program. For Section 5 operating assistance applications, only lines 8 through 12 will be used. On line 8 in column (a), enter Section operating assistance.

2. The purpose of this section is to analyze the source of the local share. Enter the total local share in column (e). This amount should equal the amount entered in Section A, column (f).

3. Analyze the amount entered in column (e) among the source categories in columns (b), (c) and (d). These amounts should conform to the information entered in Item #3 on Form 424.

Section D—*Forecasted Cash Needs.*

1. In the column labeled "total for 1st year" enter the amounts of Section 5 operating assistance requested, the amount of local share, and the total on lines 13, 14 and 15, respectively.

2. In the remaining columns, allocate the amounts shown in the first column to indicate the estimated drawdown of Federal funds during the project period. Quarters refer to Project year quarter.

*Section E—Budget Estimates of Federal Funds Needed for Balance of the Project.*

This section does not apply to Section 5 operating assistance projects. Leave blank.

*Section F—Other Budget Information*

Use this section to provide additional information needed to clarify entries in the preceding sections, if any.

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PROJECT BUDGET

For the Period: _____

Transit Operator(s): _____

Grantee: _____

(1) Total Operating Expenses (Itemize)

| | | |
|---|---|---|
| _____ | $ | |
| _____ | | |
| _____ | | |
| _____ | | |
| _____ | | |
| TOTAL OPERATING EXPENSES: | $ | $_____(1) |

(2) Less Eliminations

(a) Less Ineligible Expenses (Itemize).

| | |
|---|---|
| _____ | $ |
| _____ | |
| _____ | |

(b) Less Non-Mass Transportation Expenses (Itemize)

| | |
|---|---|
| _____ | $ |
| _____ | |
| _____ | |

(c) Less Contra-Expenses (Itemize)

| | |
|---|---|
| _____ | $ |
| _____ | |
| _____ | |

(d) Less Other Exclusions (Itemize)

| | | |
|---|---|---|
| _____ | $ | |
| _____ | | |
| _____ | | |
| TOTAL ELIMINATIONS: | $ | $_____(2) |

(3) ELIGIBLE OPERATING EXPENSES (Line 1 - Line 2) $_____(3)

(4) Less Farebox and Other Revenue Not Includable as Local Share (Itemize)

| | | |
|---|---|---|
| _____ | $ | |
| _____ | | |
| _____ | _____ | |
| TOTAL FAREBOX AND OTHER REVENUE APPLIED AGAINST ELIGIBLE EXPENSES NOT INCLUDABLE AS LOCAL SHARE: | $ | $_____(4) |

(5) NET PROJECT COST (Line 3 - Line 4) $_____(5)

(6) Local Share (Itemize)

| | | |
|---|---|---|
| _____ | $ | |
| _____ | | |
| _____ | | |
| _____ | | |
| _____ | | |
| _____ | _____ | |
| LOCAL SHARE: | $ | $_____(6) |

(7) NET EXPENSES BEFORE APPLYING UMTA FUNDS (Line 5 - Line 6) $_____(7)

(8) UMTA FUNDS REQUESTED $_____(8)

Prepared By: _____

Title: _____

Date: _____

*Project Budget Form*

A sample project budget format is provided. The budget is developed by Section 5 grantees on the basis of revenue and expense statements and is submitted with each application for operating assistance. The budget—

1. Describes an operating assistance project in terms of eligible expenses.

2. Demonstrates the manner in which the eligible expenses are covered by transit operating revenues, State/local government funds, other non-Federal income sources, and UMTA operating assistance. This representation is particularly important because of the statutory requirement that UMTA assistance be used only to cover eligible operating expenses. To ensure that this requirement is met, non Federal funds are first subtracted from total eligible expenses, leaving "new expenses before applying UMTA funds."

3. Demonstrates the required matching of Federal funds by a "local match."

4. Demonstrates the "maintenance of effort." Funds included in the level of effort for given Project Year are automatically included in "local share;" however, because certain other revenues not subject to maintenance of effort are also eligible as local share, the calculation is a separate but essential element of the project budget. The MOE/LOE data required by 49 CFR Part 650 Subpart B must be attached to the project budget described herein or included in Section 15 data referenced in the application.

Base line items contained in a budget are:

1. Operating Expenses—described in 650.86

2. Eliminations—described in 650.86(a)

4. Farebox and Other Revenue Not Includable as Local Share

5. Net Project Cost

6. Local Share—all funds provided to meet the maintenance of effort requirement (49 CFR, Part 635, subpart B) and certain other transit revenues not subject to maintenance of effort which can be matched by UMTA funds.

8. UMTA Funds Requested—This is the amount determined to be the maximum UMTA share, based upon the project budget lines itemized in the preceding page. The UMTA share can be up to 50% of the net project cost. If local share is less than or equal to 50% of net project cost, it can be matched dollar-for-dollar with UMTA operating assistance, subject to the availability of formula funds and the TIP. If the local share is greater than 50% of net project cost, UMTA operating assistance can only cover the net expenses before applying for UMTA funds.

The project budget format is intended to fully and as accurately as possible describe the actual or projected accrual of transit operating expenses, the identification of expenses eligible for UMTA assistance, the application of transit revenues to cover such expenses, the application of State and local government funds and other sources of local share, and the resulting eligibility for UMTA operating assistance.

Where an applicant applies on behalf of two or more individual transit operators under one operating assistance project, the budget should represent aggregated statements of project year revenues and expenses.

Appropriate documentation in support of the project budget may be provided to demonstrate the proper allocation of revenues to non-operating expenses, the availability of local share funds, and such other reconciliations as may be necessary to clarify estimates or projections of financial conditions during the project year.

In preparing Section 5 project budgets, applicants should itemize entries under each revenue and expense category. The number of lines provided in the format should be expanded by applicants whenever necessary to accommodate additional entries. Some lines (e.g., "other exclusions") may not be needed by individual applicants. It is particularly important that the itemization of revenues and expenses be sufficient for UMTA to verify the calculations of eligible operating expense, net project cost, local share and eligible UMTA assistance.

Applicants whose project budget exhibit is based upon estimates should notify UMTA whenever significant deviations from such estimates are experienced—Whether they occur before or after project approval. Deviations which affect the eligibility for operating assistance in the amount requested should be reported promptly to maintain the accuracy of data on file for each project.

(49 U.S.C. 1604; 49 CFR 1.51)

**Theodore C. Lutz,**

*Administrator.*

[FR Doc. 80-25821 Filed 8-22-80; 8:45 am]

BILLING CODE 4910-57-M

federal register

Monday
August 25, 1980

Part VIII

# Department of Defense

## Corps of Engineers, Department of the Army

## Environmental Quality: Policy and Procedures for Implementing the National Environmental Policy Act (NEPA)

**DEPARTMENT OF DEFENSE**

**Corps of Engineers, Department of the Army**

**33 CFR Part 230**

**[ER 200-2-2]**

**Environmental Quality: Policy and Procedures for Implementing the National Environmental Policy Act (NEPA)**

**AGENCY:** U.S. Army Corps of Engineers.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Army Corps of Engineers is hereby issuing final rules to provide procedural guidance for implementing the National Environmental Policy Act of 1969, 42 U.S.C. 4231 et seq., in compliance with the regulations of the Council on Environmental Quality (CEQ) 40 CFR Parts 1500–1508. These procedures as set forth below, together with the CEQ regulations, apply to the Civil Works program of the Corps of Engineers and supersede Engineer Regulation 1105–2–507, Preparation and Coordination of Environmental Statements, 15 April 1974.

**EFFECTIVE DATE:** August 25, 1980.

**FOR FURTHER INFORMATION CONTACT:** Richard L. Makinen, Office of Environmental Policy, Directorate of Civil Works HQDA (DAEN–CWR–P) Washington, D.C. 20314, (202) 272–0120.

**SUPPLEMENTARY INFORMATION:** These final procedures, in the form of ER 200–2–2, establish policy and provide procedural guidance for preparing and processing environmental documents in support of Civil Works functions. The procedures adopt the CEQ regulations and provide guidance on other environmental review and consultation requirements which may be undertaken concurrently with the NEPA process. On June 29, 1979, the Corps published proposed rules (44 FR 38292) in the **Federal Register** to revise its procedures to supplement the NEPA regulations issued by CEQ. During the commenting period, thirteen letters of comment were received on the proposed rules. Two letters were from Federal agencies, seven letters were from State agencies, one letter was from a City agency, two letters were from private industry, and one letter from a conservation organization. The full text of all comments received is on file and available for public inspection in Room 7132, Pulaski Building, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Ave., N.W., Washington, D.C. 20314. Subsequent to receipt of comments, the Corps prepared a final version of the regulation, which was submitted to the Council on Environmental Quality (CEQ) for its review in accordance with 40 CFR 1507.3(a). After conducting its review, CEQ sent comments and recommended changes to the Corps. The principal points of concern raised by those submitting written comments and the Corps responses are discussed below. All other comments not specifically discussed have nonetheless been carefully reviewed an considered in developing these final regulations.

*Categorical Exclusions.* Several commentors noted that the categorical exclusions were too broad and would allow too many actions to be excluded from the NEPA process. This part was rewritten to exclude only minor real estate management and disposal actions with a history of no or little impact, with the condition that the district engineer should be alert for extraordinary circumstances where normally excluded actions would have significant environmental effects and require an Environmental Assessment (EA) or Environmental Impact Statement (EIS). For categorical exclusions related to Regulatory Permit actions discussed in Appendix B, the regulations were revised to eliminate the "preliminary determination" concept or case-by-case determination, whether the permit action is categorically excludable or whether it requires an EA or EIS. The revised regulations provide that each district engineer may develop a list of proposed categorical exclusions appropriate to that district as defined in 40 CFR 1508.4. Federal, state, and local agencies and the public will be notified of the proposed listing through separate public notice procedures and provided a 90-day comment period. Upon completion of these procedures, the district engineer will forward the proposed list of categorical exclusions to the Office of the Chief of Engineers. The lists will be reviewed and consolidated for Corps-wide consistency and forwarded to CEQ for approval. After approval a public notice shall be issued announcing the final list. However, because of the general permit program (nationwide or regional) currently in effect covering routine, minor permit applications, the Corps expects minimal use of categorical exclusions. Subsequent public notices for site specific permit actions falling within such categories will state that the action is considered to be a categorical exclusion so that commenting agencies and the public will have the opportunity to demonstrate that extraordinary circumstances exist which may require the preparation of an EA or EIS.

*Environmental Assessment (EA) and Finding of No Significant Impact (FONSI).* Two commentors requested clarification of Corps procedures for announcing the availability of and circulating the EA and FONSI. The regulation was revised to require a 30-day circulation of the EA and FONSI to agencies, organizations, and the general public known to have an interest in the project for all Corps feasibility studies of limited scope when the EA is used in place of an EIS. In other Corps actions (except regulatory permits where a public notice procedure is used) a notice of availability of the FONSI will be sent to agencies, organizations and members of the public known to have an interest in the proposed action in accordance with 40 CFR 1501.4(e)(1).

*Emergency Actions.* Several commentors suggested clarifying changes to this part of the regulation to insure that any emergency action excluded from the EIS process should be limited to actions necessary to control the immediate impacts of the emergency. This part of the regulation has been revised to remove emergency actions from categorical exclusions. The new part lists emergency actions which the district engineer may undertake without observing the provisions of this regulation to prevent or reduce risks to life, health or property, or severe economic losses. However, major post-disaster restoration activities will be coordinated with CEQ concerning appropriate alternative NEPA arrangements.

*EIS Page Limit.* Several commentors objected to the concept of the 50 page limit for an EIS included within a feasibility report. The Corps believes that the limits are realistic and will help to achieve the goal of a concise and useful document. The 50 page limitation was based on a thorough analysis of the volume of the text, tables, etc. needed to address CEQ's EIS requirements in a typical EIS and not duplicate lengthy documentation contained in the main report and appendixes which can be appropriately referenced. Accordingly, Appendix A of the regulation was revised to delete the mandatory approval to exceed 50 pages.

*Alternatives.* Several commentors raised questions concerning the range of alternatives to be considered for regulatory permit actions. Inherent in the criteria and the direction provided in Appendix B is the concept that an alternative must be "reasonably foreseeable." This means that there must be some indication that the

alternative may reach fruition and excludes "far-fetched" or "pie-in-the sky" alternatives that must be considered in the decisionmaking process. Accordingly, the EIS shall document a range of reasonable alternatives which would satisfy the purpose and need for which the applicant has submitted his proposal. One commentor suggested that alternatives considered in the EIS should not be limited to only those which would satisfy the purpose and need given by the applicant, but also should include alternatives of modified purposes and needs. The Corps will consider reasonable alternatives including alternatives that are beyond the capability of the applicant or outside the jurisdiction of the Corps in order to evaluate the relative environmental impacts of the applicant's proposed activity. The no action (permit denial) alternative encompasses alternatives which are found to be preferable alternatives as determined by the public interest review process, and which are outside the scope of the applicant's reasonable capabilities, purposes and needs.

*The Pre-application Consultations.* One commentor recommended expanded guidance on pre-application consultations with potential private applicants where future Corps permit approvals are foreseeable. A new paragraph has been added which directs the district engineer to establish local procedures and policies (including an appropriate publicity program) to advise potential permit applicants of the pre-application consultation process where future Corps permitting actions may be required. Potential applicants would be advised of the required public interest review including preparation of an environmental document and attendant reviews, and other actions, including scoping, if appropriate.

Accordingly, the Corps of Engineers amends 33 CFR by deleting Section 209.410 and adding a new Part 230 as set forth below:

**§ 209.410 [Deleted and Reserved]**

1. Section 209.410 deleted and reserved;

2. Addition of a new Part 230 to read as follows:

Dated: August 14, 1980.

For the Chief of Engineers:

**Forrest T. Gay, III,**

*Colonel, Corps of Engineers, Executive Director, Engineer Staff.*

A new Part 230 is to be added as follows:

## PART 230—POLICY AND PROCEDURES FOR IMPLEMENTING NEPA

Sec.


230.1 Purpose.
230.2 Applicability.
230.3 References.
230.4 Definitions.
230.5 Policy.
230.6 Actions normally requiring an EIS.
230.7 Actions normally requiring an EA but not necessarily an EIS.
230.8 Emergency actions.
230.9 Environmental assessments (EA).
230.10 Finding of no significant impact (FONSI).
230.11 Environmental Impact Statements (EIS).
230.12 Record of decision.
230.13 Monitoring and mitigation.
230.14 Lead and cooperating agencies.
230.15 Scoping.
230.16 Notice of intent.
230.17 Filing requirements.
230.18 Availability.
230.19 Comments.
230.20 Integration with state and local procedures.
230.21 Adoption of EIS.
230.22 Limitations on actions during the NEPA process.
230.23 Predecision referrals.
230.24 Agency decision points.
230.25 Environmental reviews and consultation requirements.
230.26 General considerations in preparing Corps EIS.
Appendix A Organization and content of EIS for feasibility studies.
Appendix B Environmental operating procedures and documents for regulatory functions.
Appendix C Processing procedures for Corps EIS.
Appendix D Categorical exclusions for Real Estate Mgmt & Disposal Actions.


**Authority:** 16 U.S.C. 470 et seq., the "National Environmental Policy Act of 1969", as amended.

### § 230.1 Purpose.

This regulation provides policy and procedural guidance to supplement the Council on Environmental Quality (CEQ) final regulations implementing the procedural provisions of NEPA (40 CFR 1500–1508, November 29, 1978). It includes introductory discussions (§ 230.1–.5), guidance on typical classes of actions requiring environmental documents (§ 230.6–.8), definitions of the various NEPA reports (§ 230.9–.13), guidance on procedural requirements (§ 230.14–.22), and other considerations related to NEPA reports and this regulation (§ 230.23–.26).

### § 230.2 Applicability.

This regulation is applicable to all OCE elements and all field operating activities having responsibility for preparing and processing environmental documents in support of Civil Works functions.

### § 230.3 References.

(a) Executive Order 11514, Protection and Enhancement of Environmental Quality, 5 March 1970, as amended by Executive Order 11991, 24 May 1977 (42 FR 26967, 25 May 1977).

(b) Executive Order 11593, Protection and Enhancement of the Cultural Environment, 13 May 1971 (36 FR 8921, 15 May 1971)

(c) Executive Order 11988, Floodplain Management, 24 May 1977 (42 FR 26951, 25 May 1977)

(d) Executive Order 11990, Protection of Wetlands, 24 May 1977 (42 FR 26961, 25 May 1977)

(e) Executive Order 12114, Environmental Effects Abroad of Major Federal Actions, 4 January 1979 (44 FR 1957, 9 January 1979)

(f) Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*

(g) Clean Water Act (formerly known as the Federal Water Pollution Control Act) 33 U.S.C. 1344 (hereinafter referred to as Section 404)

(h) Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 *et seq.*

(i) Deepwater Port Act of 1974, as amended, 33 U.S.C. 1501 *et seq.*

(j) Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.*

(k) Federal Water Project Recreation Action Act, 16 U.S.C. 668aa–668ee.

(l) Fish and Wildlife Coordination Act, 16 U.S.C. 661 *et seq.*

(m) Historic Sites Act 1935, as amended, 16 U.S.C. 461

(n) Marine Mammal Protection Act of 1972, 16 U.S.C. 1361 *et seq.*

(o) Marine Protection, Research and Sanctuaries Act of 1972, as amended, 16 U.S.C. 1401 *et seq.*

(p) National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 *et seq.* (hereinafter referred to as NEPA)

(q) National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470 *et seq.*

(r) Preservation of Historic and Archeological Data Act of 1974, as amended, 16 U.S.C. 469 *et seq.* (Also referred to as the "Reservoir Salvage Act" of 1960, as amended).

(s) River and Harbor Act, March 3, 1899 (30 Stat. 1151, 33 U.S.C. 401 and 403) and (30 Stat. 1152, 33 U.S.C. 407)

(t) Wild and Scenic Rivers Act of 1968, 16 U.S.C. 1271 *et seq.*

(u) "Navigable Waters, Discharge of Dredged or Fill Material," (40 CFR 230.1–230.8), Environmental Protection Agency.

(v) "Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act of 1969," (40

CFR 1500–1508, 29 November 1978), Council on Environmental Quality.

(w) "Protection of Historic and Cultural Properties" (36 CFR 800, 30 January 1979), Advisory Council on Historic Preservation.

(x) "Procedures for Evaluating of National Economic Development (NED) Benefits and Costs in Water Resources Planning (Level C)" (18 CFR Part 713, 14 January 1980), Water Resources Council.

(y) Regulatory Programs of the Corps of Engineers 33 CFR 320–329 (42 FR 37122–37164, 19 July 1977)

(z) CEQ Memorandum of 30 August 1976, Analysis of Impacts on Prime and Unique Farmlands in EIS.

(aa) ER 200–2–1
(bb) ER 310–1–5
(cc) ER 1105–2–32
(dd) ER 1105–2–50
(ee) ER 1105–2–129
(ff) ER 1105–2–200
(gg) ER 1105–2–460
(hh) ER 1105–2–502
(ii) ER 1105–2–811
(jj) ER 1105–2–903
(kk) ER 1105–2–920
(ll) ER 1105–2–921
(mm) ER 1130–2–401
(nn) ER 1130–2–405
(oo) ER 1130–2–406
(pp) ER 1130–2–412
(qq) ER 1130–2–413
(rr) ER 1165–2–400
(ss) ER 360–1–10
(tt) ER 1165–2–501

**§ 230.4 Definitions.**

(Also refer to applicable Corps of Engineers Regulations and 40 CFR 1508).

(a) *Administrative Actions.* Administrative actions are defined as report or permit approval (where the report, project, or permit approval is contingent upon 30-day FEIS review), initial land acquisition or award of the initial construction or maintenance contract.

(b) *Environmental review and consultation requirements.* Federal policies, including Public Laws and Executive Orders, which require reporting officers to consult, coordinate or otherwise interact with other agencies to produce a finding, determination, conclusion, opinion, evaluation or other decision statement concerning a specific type or class of environmental resources.

(c) *NEPA document*—An Environmental Assessment (EA), FONSI, Draft EIS, Final EIS, EIS Supplement, Draft Supplement EIS, Final Supplement EIS, and Supplemental Information Report.

(d) *Responsible Officials.* Each district engineer is considered as the designated Corps NEPA official who is responsible for agency compliance of NEPA related actions originating within their district boundaries. District engineers may also be designated as the responsible Corps official to provide agency views on other agency's EIS. At the Headquarters level, the Office of Environmental Policy Development HQDA (DAEN–CWR–P) WASH DC 20314 (phone number 202–272–0120) is responsible for overall review of Corps NEPA compliance and other questions concerning the requirements of this regulation. This office will serve as the central point of contact for information on Corps NEPA documents. HQDA (DAEN–CWP–P) WASH DC 20314 (phone number 202–272–0131) will serve as the central point of contact for the review of other agencies EIS and related NEPA documents.

**§ 230.5 Policy.**

The U.S. Army Corps of Engineers, under the direction and supervision of the Secretary of the Army, will continue to implement vigorously the National Environmental Policy Act of 1969, applicable environmental quality statutes and the regulations of the Council on Environmental Quality in carrying out its Civil Works mission consistent with statutory responsibilities and other essential considerations of national policy. From the initiation of project planning through design, construction and operation and maintenance, and in developing decisions in the regulation of activities affecting waters of the United States, the goals and policies of NEPA will be considered to insure decisions in the public interest. To this end, the Corps will:

(a) Follow a systematic interdisciplinary approach to integrate the natural and social sciences and the environmental design arts in planning and decisionmaking.

(b) Undertake early and continuing interchange of views with concerned agencies, groups and the public by the use of the scoping process.

(c) Integrate the requirements of NEPA with other planning and environmental review and consultation requirements.

(d) Prepare and make available to the public environmental documents for Corps actions and activities. Documents shall be clear, concise, emphasize significant issues and be supported by necessary environmental analysis.

(e) Explore, study and analyze all reasonable alternatives, including non-structural alternatives, with a view to selecting a plan or approving an action that can best satisfy specified needs.

(f) Identify and make provisions for preserving unique cultural and biological resources, such as historic and archeological sites and threatened, endangered, and other significant species and their habitats.

(g) Utilize regulatory authorities to protect the waters of the United States including their adjacent wetlands and apply the same environmental criteria to Corps actions and activities.

(h) Implicit in this policy are four general environmental goals:

(1) To preserve unique and important ecological, aesthetic, and cultural values of our national heritage.

(2) To conserve and use wisely the natural resources of our nation for the benefit of present and future generations.

(3) To restore, maintain, and enhance the natural and man-made environment in terms of its variety, beauty, and other measures of quality.

(4) To create new opportunities for the American people to use and enjoy their environment.

**§ 230.6 Actions Normally Requiring an EIS.**

Listed below are types of Corps of Engineers actions which normally require the preparation of an EIS, although in certain cases an EA may be adequate (see § 230.7).

(a) *Legislation.* A legislative EIS will be prepared to accompany a bill or legislative proposal to Congress recommended by or with significant cooperation and support of the Corps of Engineers (exclusive of appropriations) significantly affecting the quality of the human environment. A Legislative EIS shall be prepared to conform to the requirements of these regulations except as provided in 40 CFR 1506.8(b).

(b) *Feasibility Studies.* Feasibility studies are planning actions conducted in accordance with the ER 1105–2–200 series of regulations. Studies resulting in recommendations by the reporting officer are documented in feasibility reports, which include Preauthorization Survey Reports, Post Authorization Advanced Engineering and Design (AE&D) Planning Reports, Significant Post Authorization Change (S–PAC) Reports and Detailed Project Reports (DPR). Where an EIS or EIS supplement is required it shall be integrated with the Main Report in the feasibility document and noted on the front cover as an Environmental Impact Statement. ER 1105–2–920 and Appendix A of these regulations provide guidance on the organization and content of reports and EIS for feasibility studies, respectively.

(1) *Survey Studies.* Survey studies are undertaken in response to specific Congressional Resolutions or by an item

in an Act and, if completed through Stage 3 planning, result in a Survey Report.

(2) *Post Authorization Advanced Engineering and Design (AE&D) Planning Report.* The Phase I GDM is the report which provides the affirmation or reformulation of an authorized project. The Phase II GDM is the report which presents the results of the detailed design and cost estimate studies. Under certain conditions the Phase I GDM may be combined with the Phase II GDM in a combined AE&D planning and design memorandum. Projects in this category will be reviewed to determine the adequacy of the final EIS on file at the time the project was authorized and what type of further NEPA documentation is required. Refer to § 230.10, .11(b) and Appendix C for discussion on the use of an EA or EIS supplements.

(3) *Continuing Authorities Studies.* Continuing authorities studies are prepared under one of the following authorities for authorization by the Chief of Engineers or the Secretary of the Army;

Sec. 3, Flood Control Act of 1945 (Snagging and clearing for navigation)
Sec. 205, Flood Control Act of 1948 (Small flood control projects)
Sec. 208, Flood Control Act of 1954 (Snagging and clearing for flood control)
Sec. 107, River and Harbor Act of 1960 (Small navigation projects)
Sec. 103, River and Harbor Act of 1962 (Small Beach erosion projects)
Sec. 111, River and Harbor Act of 1968 (Mitigation for navigation shore damages)
Sec. 202, Water Resources Development Act of 1976 (Drift and debris removal—commercial harbors)

Such studies generally result in Detailed Project Reports (DPR) which serves as a general design memorandum and provides the basis for approval of a project for construction.

(c) *Projects in a Construction Status.* This category includes authorized projects or separable project features or units, or major rehabilitation projects in a construction category. Actions in this category include the preparation of Feature Design Memorandum, Design Memorandum for Major Rehabilitation Projects, plans and specifications, and construction activities. Refer to § 230.11(b) and Appendix C for discussions on further NEPA documentation.

(d) *Operation, and Maintenance (O&M).* This category includes channel maintenance dredging and disposal activities, certain rehabilitation projects, the operation of dam and lake projects, lock and dam operations, aquatic plant control program and significant changes in the management of lands and project resources. Priority effort will be assigned to the preparation of an EIS for remaining O&M actions involving annually recurring dredging and disposal operations for which a final EIS has not been filed. A lesser priority effort will be assigned to any remaining O&M action on other completed projects.

### § 230.7 Actions Normally Requiring on Environmental Assessment (EA) but Not Necessarily an EIS.

Listed below are types of Corps actions which require at least the preparation of an EA.

(a) *Feasibility Studies.* Certain feasibility studies, such as some survey or continuing authorities studies with a limited range of planning objectives and plans, may be sufficiently analyzed and reviewed through the preparation and circulation of an EA together with the Finding of No Significant Impact (FONSI). For other Phase I GDM and certain Phase II GDM, which may include a PAC, the EA together with the FONSI will be included in the Main Report in place of an EIS.

(b) *Projects in a Construction Status.* Certain feature design studies which result in changes to the project but do not result in a S–PAC may also be sufficiently treated through the use of an EA.

(c) *Operation and Maintenance.* An EP may be prepared to analyze changes in O&M activities including new disposal areas not discussed in the final EIS covering the O&M activity and for certain infrequent or once-only minor O&M activities, such as infrequent maintenance dredging and disposal operations, infrequent reservoir debris removal and post-flooding shoal removal operations, public use area modifications or relocations, habitat improvement projects, modifications to existing project structures and facilities and certain rehabilitation projects.

(d) *Real Estate Management and Disposal Actions.* All real estate management and disposal actions not categorically excluded by Appendix D require an EA or an EIS, including:

(1) Disposal of a Civil Works project or portions of project properties not reported as excess to the General Services Administration.

(2) Grants of easements for oil and gas pipelines involving disturbances to earth, air or water.

(3) Interchanges of land with other Federal agencies.

(4) Disposals of real property for public port and industrial purposes.

(5) Grants of easements for road rights-of-way involving disturbances to earth, air or water.

(6) Grants of leases or easements for sewage or water treatment facilities and land fills.

(e) *Regulatory Permits.* See Appendix B.

### § 230.8 Emergency actions.

District engineers shall respond to emergency situations which may have a significant environmental impact without observing the provisions of this regulation. However, this exemption shall apply only to an immediate action which the district engineer determines is necessary to prevent or reduce risks to life, health, or property, or severe economic losses. When an emergency action covered by this section is taken which may have a significant environment impact, and is considered major in scope, e.g., extensive or lengthy restoration following a disastrous event, DAEN–CWO in coordination with DAEN–CWR–P will consult with CEQ concerning appropriate alternative NEPA arrangements. Emergency actions include:

(a) Emergency and disaster recovery actions performed under Public Law 99, 84th Congress, 69 Stat. 186, 33 U.S.C. 701n;

(b) Emergency actions directed by the Federal Emergency Management Agency (FEMA) under the provisions of Public Law 93–288 except where FEMA determines than an EA or EIS is required, the reporting officer will provide all necessary information to FEMA upon request.

(c) Other emergency actions, as determined by the district engineer, which do not permit delays necessary to process environmental documents such as emergency streambank or shoreline protection under provisions of Section 14 of the FCA of 1946; emergency dam, stilling basin or lock inspection; sunken vessel removal from navigable waters; etc.

(d) Emergency regulatory permit actions will be processed in accordance with 33 CFR 325.

### § 230.9 Environmental assessments (EA).

(a) *Purpose.* An EA is a brief document which provides sufficient information on potential environmental effects of the proposed action and its alternatives, to the district engineer, to determine if an EIS is required and to assist the district engineer in complying with NEPA whether or not an EIS is necessary. The district engineer is recognized as the responsible Corps NEPA official who will make this determination in the FONSI prepared for

the proposed action. It shall be the responsibility of the district engineer to keep the public informed of the availability of the EA and FONSI (see § 230.10 and 40 CFR 1506.6). For regulatory permit actions refer to Appendix B for guidance on public involvement.

(b) *What to Prepare.* An EA will be prepared and processed for those actions which are normally covered by an EA (§ 230.7), actions which normally require an EIS but under certain situations are not considered to be a significant action as discussed in § 230.6, (feasibility studies) or where the nature of the action is one without precedent. A separate EA is not required for those actions discussed in § 230.6 where an EIS will normally be prepared or for actions categorically excluded discussed in Appendix D. If a public meeting is to be held in connection with the proposed action the EA shall be made available to public at least 15 days in advance of such meeting.

(c) *Format.* While no special format is required, the EA should include a brief discussion of the need for the proposed action, its environmental impacts, alternatives to the proposed action and a list of the agencies, interested groups and the public consulted. The EA is not intended to be a substitute for an EIS and should not follow the EIS format in 40 CFR 1502.10. The document, supported by necessary appendixes or technical data to be retained by the district, is to be concise for meaningful review and decision (5–15 pages), using an interdisciplinary approach with disciplines appropriate to the scope of environmental issues expected with the proposed action and its alternatives. An EA may be supplemented or revised, as required. The EA must show compliance with appropriate environmental quality protection statutes and other environmental review requirements as discussed in § 230.25. In the case of feasibility studies where an EA is used in place of an EIS, the Main Report and EA will be circulated for concurrent consultation and comment to Federal and Federal-state agencies having jurisdiction by laws or special expertise to accomplish this consultation or coordination process.

**§ 230.10. Finding of No Significant Impact (FONSI).**

A FONSI shall be prepared by the district engineer or delegated official to accompany an EA prepared for a proposed action when, as a result of the analysis included in the EA, it is concluded that the proposed action will not have significant effects on the environment. The FONSI will be based on the information analyzed in the EA, reflecting pertinent data obtained from cooperating Federal agencies having jurisdiction by law and/or special expertise and the interested public. It shall briefly present the reasons why the action will not have a significant impact on the quality of the human environment and state that an EIS is not required. The FONSI should not directly duplicate any of the information contained in the EA but incorporate it by reference. In the case of feasibility studies, where a tentative determination has been made based on an EA that an EIS will not be prepared, the unsigned FONSI together with the EA will be included within the Main Report and circulated for review and comment to agencies, groups and members of the public who have expressed an interest in the project for a 30-day period (40 CFR 1501.4(e)(2)). A notice of availability of the EA and report will be sent to all other parties on the mailing list at this time. The same number of copies of the document(s) shall be circulated as a draft EIS except that only one copy shall be sent to Director, Office of Environmental Review (A–104), EPA, Wash., DC 20460. After review of the comments received the district engineer will prepare a comment-response display format (similar to that prescribed for an EIS) and attach it to the EA. If the district engineer determines after review of the comments that the proposed action will not have significant effects on the environment, the FONSI will be signed and included with the EA in the Main Report. If the district engineer determines after review of the comments received that an EIS should be prepared, procedures outlined in Appendix A shall be followed. In all other Corps actions discussed in § 230.7 which do not require circulation of the FONSI as outlined in 40 CFR 1501.4(e)(2), except for EPA review as noted below, the FONSI will be signed and placed in the project file. A copy of the FONSI and EA shall be sent to the concerned Regional Administrator(s) of EPA requesting agency comments within 15 working days under Section 176(c) and 309 of the Clean Air Act, as amended. Upon completion of the documentation, a notice of availability of the FONSI will be sent to concerned agencies, organizations an members of the public known to have an interest in the proposed action in accordance with 40 CFR 1501.4(e)(1).

**§ 230.11 Environmental Impact Statements (EIS).**

An EIS will be prepared for all Civil Works activities when the proposed action is expected to have significant effect upon the quality of the human environment. Types of activities which normally require the preparation of an EIS are listed in § 230.6. Activities which may require an EIS, as determined by the findings of the EA, are listed in § 230.7.

(a) *Format.* (1) *Draft EIS.* Draft EIS prepared for feasibility studies and regulatory permits shall follow the format outlined in Appendix A and B, respectively. A draft EIS prepared for all other Corps actions shall follow the format outlined in 40 CFR 1502.10 through 1502.18 except that a public involvement section will be included within the main text following the list of preparers, as discussed in § 230.19(c) 40 CFR 1502.7 discusses page limits, 40 CFR 1502.19 discusses circulation and 40 CFR 1503 discusses the commenting process.

(2) *Final EIS.* Final EIS prepared for feasibility studies shall follow the guidance in Appendix A. A final EIS prepared for all other Corps actions including regulatory permits, may take the form of an "abbreviated" document described in 40 CFR 1503.4(c) if the changes in response to comments and Corps internal review are minor and consist of factual corrections and/or are confined to explanations of Corps actions, citing authorities or reasons which support the agency position. With this revised procedure the draft EIS is incorporated by reference into the final EIS resulting in a savings of time, money and paper work. Letters transmitting the draft EIS should advise addresses of the probable use of this procedure so that the draft EIS and appendixes may be retained for future reference in reviewing the final EIS. The format for an abbreviated final EIS prepared under this revised procedure will, as a minimum, consist of a new title page, summary, errata or correction sheet(s), comments and responses and a brief public involvement section. The transmittal letter shall note the filing date and availability of the draft EIS. However, in filing the abbreviated final EIS with EPA (Washington Office), five copies of the draft EIS shall be included in the transmittal. If the comments on the draft EIS raise significant issues, present new reasonable and feasible alternatives, or other important matters not addressed in the draft EIS, a final EIS following the format outlined in 40 CFR 1502.10 shall be utilized. District engineers shall be responsible for determining the type of final EIS to prepare.

(b) *Supplements.* A Supplement to the draft or final EIS on file will be prepared whenever significant impacts resulting from changes in the proposed plan or

new significant impact information, criteria or circumstances relevant to environmental considerations impact on the recommended plan or proposed action as discussed in 40 CFR 1502.9(c). A supplement to a draft EIS will be prepared, filed and circulated in the same manner as a draft EIS and will be titled "Supplement I, Supplement II, etc. Appropriate sections in the final EIS and Record of Decision will address the new information or changes as amended by the supplement and as a result of the comments received on the draft and supplement EIS. A supplement to a final EIS will be prepared and filed first as a *draft* supplement and then as a *final* supplement. Both documents will be filed and circulated in the same manner as a draft and final EIS. Supplements to a draft or final EIS filed before 30 July 1979 may follow the format of the previously filed EIS. Supplements to a draft EIS filed after this date will follow the format outlined in 40 CFR 1502.10 or Appendixes A or B, as appropriate. References to the draft or final EIS being supplemented should be used to eliminate repetitive discussions in order to focus on the important issues and impacts. The transmittal letter to EPA as well as the cover sheet shall clearly identify the title and purpose of the document as well as the title and filing date of the previous EIS being supplemented and how copies can be obtained. The decision will be made on the proposed action by the appropriate Corps official after the final supplement has been on file for 30 days, and a Record of Decision will be prepared and signed.

(c) *Tiering and Program EIS.* Tiering, as discussed in 40 CFR 1502.20 and 1508.28 may be undertaken in certain types of Corps actions where the use of a broad programmatic EIS to be followed with site specific EIS or EIS supplements will concentrate on the significant decision-making issues at each level or stage of phased implementation and environmental review. The initial program EIS must present sufficient information regarding the generic impacts of the proposed action so that the decision makers can make a reasoned judgement on the merits of the action at the present stage of planning or development and exclude from consideration issues already decided or not ready for decision. The program EIS should identify data gaps and discuss future plans to supplement the data and prepare and circulate site specific EIS or EIS supplements, as appropriate, at each stage of phased implementation or major Corps decision points.

(d) *Supplemental Information Reports.* Whenever it is clearly understood that an EIS supplement is not necessary but where is only necessary to provide supplemental information to a point of concern discussed in the final EIS (and such point of concern was considered in making the decision on the proposed action), a supplemental information report will be prepared and filed with EPA. A separate category of information reports will be listed in EPA weekly list of EIS availability published in the **Federal Register.** The report will be circulated for information to concerned agencies and the interested public who provided comments on the draft and/or final EIS at the same time it is filed with EPA. No administrative waiting periods are required. For postauthorization planning reports a supplemental information report may be used to indicate compliance with environmental protection statutes, Executive orders, etc., not completed at the time the project was authorized. It will be attached as an appendix to the Main Report and circulated along with the draft report. It will be filed with EPA when the report is approved. District engineers will provide eight (8) copies of the report to appropriate elements within OCE or to the division engineer, as appropriate, for filing with EPA. The supplemental information report, together with the previously filed final EIS, may also be utilized as the document addressing the Section 404 evaluation for Corps projects in AE&D or construction status not included within a planning report or SPAC sent to Congress under Section 404(r).

(e) *Other Reports.* District engineers may also publish periodic fact sheets and other informational documents on long-term or complex EIS to keep the public informed on the status of the proposed action. These documents will not be filed with EPA.

**§ 230.12 Record of decision.**

The Record of Decision shall include the requirement in 40 CFR 1505.2 containing (a) a statement of what the decision was, (b) an identification of the environmentally preferable alternative or alternatives, (c) a discussion of economic, technical and agency statutory missions and other essential considerations of national policy balanced by the responsible official in making the decision, and (d) a statement of whether all practicable means to avoid or minimize environmental harm from the alternative selected, and if not, why not. This discussion shall identify mitigation measures and include a summary of any monitoring or enforcement program as applicable for any mitigation committed as part of the decision. In addition, it shall discuss compliance with Section 404 and other environmental statutes or Executive Orders having a bearing on the final decision. In the case of regulatory permit actions, see Appendix B. A Record of Decision will be completed to document the Corps final decision or recommendation to Congress on a proposed action requiring an EIS. The Record of Decision replaces the Statement of Findings (ER 1105–2–509) which is recinded by this regulation. The Record of Decision will be signed at the level approving the action and/or filing the final EIS. A notification letter of issuance of a Record of Decision, together with a signed copy of the Record of Decision, shall be sent to the Director, Office of Environmental Review (A–104), EPA, 401 M Street, S.W., WASH DC 20460 to close the administrative record for the EIS. This entry will indicate the Corps final procedural NEPA compliance with the CEQ regulations. A signed copy of the Record of Decision shall also be sent to concerned agencies, organizations and members of the public known to have an interest in the project. For Corps Survey Reports and AE&D planning reports requiring congressional authorization, the Secretary of the Army (S/A) will approve the report and sign the Record of Decision when the report is transmitted to Congress. For certain AE&D planning reports, continuing Authority Reports, Major Rehabilitation Reports and certain construction projects requiring OCE approval, the Director of Civil Works after review of the comments received following the filing of the final EIS will approve the project and sign the Record of Decision. For Administrative AE&D planning reports delegated to the division engineer for approval, certain projects in a construction category, completed projects in operations and maintenance and real estate actions, the Division Engineer after review of the comments received following the filing of the final EIS will approve the project and sign the Record of Decision. In the case of O&M and certain construction projects involving the disposal of dredged or fill material into waters of the U.S., the signing of the Record of Decision may be deferred until after completion of all public interest review requirements but prior to initiation of the proposed action when compliance was not attained concurrently with the circulation and review of the NEPA document. The district engineer preparing the EIS will be responsible for preparing the draft Record of Decision for signature of the

Division Engineer, Director or S/A as appropriate. It will accompany the letters of comment and Corps responses received on the final EIS as discussed in § 230.19(d). After signing the Record of Decision the approving official will transmit a copy to the district engineer for distribution to concerned agencies, organizations and members of the public. A Record of Decision is not required for decisions on proposals that do not require an EIS.

**§ 230.13 Monitoring and mitigation.**

District engineers shall be responsible for preparing reports which will provide information on the current status of environmental monitoring and authorized mitigation measures undertaken on Corps projects in accordance with 40 CFR 1505.3. These reports will be made available to cooperating and commenting agencies who proposed mitigation measures which were adopted by the Corps. Reports will not be required for those Corps actions with a final EIS on file as of 30 July 1979 except where environmental monitoring and/or authorized mitigation measures were underway or established in the final EIS. Budget requests will recognize the importance and timing of authorized monitoring and mitigation features and include necessary funds to insure phased project development.

**§ 230.14 Lead and cooperating agencies.**

(a) *Lead Agencies.* Where another Federal agency is directly involved with the Corps in an action or group of actions directly related to each other because of their functional interdependence or geographical proximity, consideration should be given to the designation of a lead agency to assume responsibility for the preparation of an EIS to cover all of the Federal actions involved. This determination should be accomplished by letter or memorandum of agreement between the district or division engineer and the regional office of the agency following the procedures outlined in 40 CFR 1501.5(c). If the question of lead agency designation cannot be resolved by the district or division engineers, the administrative record will be forwarded to HQDA (DAEN–CWZ–P) WASH DC 20314 for review and possible resolution prior to requesting resolution by CEQ as outlined by 40 CFR 1501.5(e) and (f).

(b) *Joint Lead Agencies.* The use of a joint lead agency designation with another Federal agency as provided for in 40 CFR 1501.5(b) may also be utilized in certain Corps actions, primarily regulatory, where more than one agency is involved in the environmental review and approval or authorization of the proposed action. This joint lead determination should be documented by letter or memorandum prior to initiation of EIS preparation.

(c) *Cooperating Agencies.* As soon as practicable after a determination has been made to prepare an EIS and the lead agency designation issue resolved (if appropriate), the district engineer shall request any other Federal agency having jurisdiction by law or special expertise with respect to any environmental effect involved in the proposal to become a cooperating agency. This request, usually directed to the regional office of the agency, may be accomplished by invitation to participate in the scoping process or by a separate letter requesting coordination. In the case of feasibility studies where the scoping process is integrated within the Corps planning process, a separate letter will be required. For Corps actions where an EIS will not be required, coordination with Federal agencies having jurisdiction by law or special expertise will be requested by separate letter or public notice at the time the EA is initiated. See § 230.25 for a listing of Federal agencies and applicable environmental review and consultation requirements. Duties and responsibility of cooperating agencies are outlined in 40 CFR 1501.6.

(d) *Corps as a Cooperating Agency.* Where the Corps is not the lead or joint-lead agency for a proposed action, and has been requested to become a cooperating agency, district engineers shall participate and review the EIS work of the lead agency relevant to the Corps area of expertise or jurisdiction by law (i.e., flood control, navigation, hydropower and regulatory functions). This coordination will insure that the draft EIS produced will satisfy the procedural and statutory requirements of the Corps and could possibly be adopted as a Corps EIS in accordance with 40 CFR 1506.3. Duties and responsibilities of a cooperating agency are discussed 40 CFR 1501.6 (b) and (c). In more complex actions where the Corps has been asked to participate beyond providing available information, routine coordination and review, and involves reimbursement of non-routine services (requests for personnel, etc.), or where more than one district or division may be involved, a memorandum of agreement with the lead agency should be prepared.

**§ 230.15 Scoping.**

Early agency and public participation planned and incorporated into the conduct of all Corps EIS actions will be referred to as "Scoping". This is a mandatory process and shall begin as soon as practicable after a determination is made to prepare an EIS. Refer to 40 CFR 1501.7 for a complete discussion on scoping requirements. For those actions discussed in § 230.6 where an EIS will normally be prepared, the scoping process will be initiated when the EIS preparation commences. The notice of intent for these actions will be prepared in accordance with ER 200–2–1 with special reference to 40 CFR 1507.3(e) and § 230.7 of Appendix A on the timing of the notice for Survey Studies. For all other Corps actions listed in § 230.6, the scoping process will begin at the earliest time practicable preceded by the notice of intent. The provisions of 40 CFR 1501.7 shall be applied in the development of an EIS for the proposed action. The use of scoping meetings is optional. However, meetings are encouraged where public input to the EIS is not generally obtained by regular communication, notices, etc. Such input could include public perception of the action, identification of major issues and environmental values, and development of alternatives and mitigation plans. No formal scoping process need be undertaken for those Corps actions categorically excluded or for actions which do not normally require an EIS. However, coordination with Federal agencies having jurisdiction by law or special expertise will be required during the preparation of the EA to identify issues relating to compliance with environmental review and consultation requirements.

**§ 230.16 Notice of intent.**

A notice of intent to prepare a draft EIS for publication in the **Federal Register** is discussed in ER 200–2–1. District engineers will provide a copy of the notice of intent to the Director, Office of Environmental Review (A–104), EPA, Washington, D.C. 20460 and to the appropriate regional office(s) of EPA at the time the notice is sent to the **Federal Register**.

**§ 230.17 Filing requirements.**

Draft and final EIS, EIS supplements and supplemental information reports shall be filed with EPA no earlier than they are also circulated to all parties on the project mailing list. Five (5) copies should be sent to: Director, Office of Environmental Review (A–104), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. District engineers shall file draft EIS, Supplements to a draft EIS, and draft supplements directly with EPA. Final EIS and final supplements shall be filed

by appropriate elements within OCE for Survey Reports, AE&D planning reports requiring Congressional authorization, DPR, certain Phase I and Phase II GDM, and certain construction projects requiring OCE approval. Division engineers shall file final EIS and final supplements for administrative Phase I GDM and certain Phase II GDM and construction projects delegated to the division engineer for approval, completed projects in operations and maintenance, and real estate actions. Final EIS or final supplements for permit actions will be filed by the district engineer after appropriate reviews by division and the incorporation in the EIS of division's comments. Supplemental information reports will be filed with EPA by the office approving the action and/or filing the final EIS. OCE and/or division will notify field office counterparts when to circulate the final EIS or final supplement and will not file the final document with EPA until notified by the district engineer that distribution of the document has been completed.

(a) *Timing Requirements.* EPA will publish a notice in the **Federal Register** each week (generally on Friday) listing environmental documents filed during the preceding week. The Friday date always starts the review period even if the notice appears the following Monday or later. No administrative action will be taken regarding the proposed action sooner than 90 days after a draft EIS has been filed with EPA as noticed in the **Federal Register**, or sooner than 30 days after the final EIS has been filed with EPA and noticed in the **Federal Register**. The 30-day minimum period of review for the final EIS may run concurrently with the minimum 90-day period if the final EIS is filed within 90-days after a draft EIS is filed. However, district engineers shall allow not less than 45 days for comment on the draft EIS. In unusually large or complex actions consideration should be given to a period longer than 45 days for review and comment on the draft EIS.

(b) *Expedited Filing.* In certain cases where the proposed action must be undertaken within critical time restraints or because of compelling reasons of national policy, a shortend review period may be recommended. In such cases, district engineers will provide the necessary information and facts to HQDA(DAEN–CWZ–P) WASH DC 20314 for consultation with EPA for a reduction in the precribed review periods. EPA may also extend the review periods on certain actions as described in 40 CFR 1506.10(d).

(c) *Timing Requirements on Supplements.* The minimum period or review for a draft and final supplement is the same as the review period for a draft and final EIS as discussed in § 230.17(a). Draft and final supplements covering project design changes or actions not having a bearing on the overall project for which a final EIS has been filed, will observe the minimum review periods for only those actions addressed in the supplement and not curtail other ongoing or scheduled actions on the overall project which have already complied with the procedural requirements of NEPA. No minimum administrative waiting periods are required for supplemental information reports discussed in § 230.11(d).

(d) *Timing Requirements During Departmental Reviews.* Final EIS included within Corps Survey and AE&D planning reports circulated by OCE for Departmental review to concerned Federal agencies and the affected State(s) will be given a 90-day review period. All other parties known to have an interest in the proposed action not contacted by OCE will be given the normal 30-day review period with the review beginning with the notice of availability published in the **Federal Register.**

**§ 230.18 Availability.**

Draft and final EIS and supplements, except for certain appendixes as provided in 40 CFR 1502.18(d), shall be made available to all public agencies, groups and individuals known to have an interest in the proposed action. A notice of availability of the EIS document will be sent to all others on the mailing list. Copies of the EIS will also be furnished in response to requests from the public. All parties not receiving a complete set of appendixes shall be advised of the location of a complete set such as (local public libraries, planning agencies, etc.) or how they may be obtained, including the cost. In certain cases the district engineer may circulate the EIS summary in lieu of the entire EIS. However, the procedures outlined in 40 CFR 1502.19 must be carefully followed. The district engineer should consult with the division engineer prior to using this procedure. Single copies will be furnished without charge to individuals on the mailing list and individuals requesting copies. For multiple copy requests, reproduction costs may be recouped from the requestor but shall not be greater than the actual costs of reproducing copies required to be sent to other Federal agencies. Copies of comments received from other Federal agencies on a draft EIS prior to the availability of the final EIS and other related EIS documents shall be made available to the requestor in accordance with the provisions of the Freedom of Information Act (5 U.S.C. 552) without regard to the exclusion for interagency memoranda where such memoranda transmits comments of Federal agencies on the environmental impact of the proposed action.

**§ 230.19 Comments.**

District engineers shall request the comments of Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved, and any appropriate Federal, State or local agency which is authorized to develop and enforce environmental standards. Comments will also be requested from state and local clearinghouses in accordance with OMB Circular A–95 (Revised). District engineers shall maintain and periodically update the mailing list and provide timely notices of NEPA related public meetings, workshops, etc. and the availability of environmental documents to all those parties on the list as well as notifying the general public through such means as newspapers or other local media. (See discussion in 40 CFR 1506.6 (a) and (b) (1) and (3).

(a) *Time Extensions.* Requests for extension of time to review and comment on an EIS, either oral or written, will be considered on a case by case basis. Timeliness of distribution of the document, prior agency involvement in the proposed action, and the action's scope and complexity will be used in making this determination. A lack of response may be presumed to indicate that the agency contacted has no comment to make, except that cooperating Federal agencies with jurisdiction by law, special expertise or authorized to enforce environmental standards shall be requested to comment even if the reply is that it has no comment. Time extensions of at least 15 days will be granted to timely requests for the entire draft EIS when only the summary of the draft EIS was circulated.

(b) *Public Meetings and Hearings.* If a public meeting or hearing is held in connection with an EIS for a proposed action, the draft EIS will be made available to the public at least 15 days in advance of the meeting or hearing (unless the meeting is a scoping meeting as discussed in § 230.15). Public meetings or hearings, other than those required by Corps regulations, will be at the option of the district engineer and should be held whenever an exchange of views and information would be beneficial. (40 CFR 1508.6(c).)

(c) *Comments Received on the Draft EIS.* Comments on the draft EIS that raise significant issues, present new reasonable or feasible alternatives or other important matters not addressed in the draft EIS shall receive responses in the final EIS in accordance with 40 CFR 1503.4(a). A public involvement section shall be included in the main text following the list of preparers for each EIS prepared by the Corps. In the draft EIS this section will briefly describe the public involvement program or scoping process undertaken during the conduct of the study and/or development of the draft EIS. Significant environmental concerns or issues related to the proposed action which surfaced as a result of the scoping process and had a major influence on the proposed action and how such concerns were incorporated into the draft EIS will also be discussed in this section. A list of parties receiving copies of the draft EIS will be included in this section. In the final EIS this public involvement section will be expanded to include a discussion of substantive issues, new alternatives or new data requiring clarification or resulting in changes or modifications of the proposed action. Issues or questions may be appropriately consolidated or grouped, with the source(s) of the comment identified. The discussion shall include references to appropriate paragraphs in the text of the final EIS where a thorough discussion of the significant issues raised new alternatives considered or other important matters can be found. A list of parties providing comments on the draft EIS will be included in this Section. Copies of all letters received (or summaries thereof where numerous repetitive "form" letters are received), together with Corps responses, may be included in the main text of the EIS if a limited number are received, or included in an Appendix when a large number of comments are received. In any case, all comments shall accompany the EIS whether or not the comment is thought to merit individual discussion in the main text. Use of the single-page correspondence-response reduced display format is recommended as a way to reduce reviewing time, assure all comments are responded to and make the review less confusing. Pages reproduced in this format should be placed in the EIS to read from left to right (normal left margin turned to become the top of the page). Reduction should be limited to one-half size in order to remain readable. A table of contents showing the commentor's name and the page(s) where the letter and responses are located will be placed at the beginning of the Section. Letters will be arranged as follows: Federal, State, groups or organizations and the public. See Appendix A, § 230.6(i)(6) for specific guidance on presenting comments on EIS for feasibility studies.

(d) *Comments Received On the Final EIS.* Letters of comment received during the 30-day review period on the final EIS, or 90-day review in the case of a final EIS for a feasibility study sent out for Departmental review, will be answered by district engineers or OCE, as appropriate. Responses shall indicate how substantive issues raised by the comments have been addressed citing authorities or rationale which support the Corps position. In the case of Survey or AE&D planning reports where the final report and EIS, BERH or MRC report, and the proposed Chief's report are circulated for review, all incoming state and agency letters responding to OCE request for review will be answered, if appropriate, by DAEN-CWP. Letters sent to the district engineer in response to circulation of the documents to other interested organizations and members of the public will be answered, if appropriate, by the district engineer. After the review period is over, DAEN-CWP will provide copies of all incoming state and agency letters received in OCE to the district engineer for use in preparing the draft Record of Decision. For all other Corps actions except permit actions, five (5) copies of all incoming letters (even if the letters do not require a response) together with the district engineer's response (as appropriate) and the draft Record of Decision will be submitted to the division engineer or appropriate element within OCE whoever filed the final EIS. After review of the draft and final EIS and the comments received and Corps responses, the Division Engineer (for those actions which the Division Engineer has approval authority), Director of Civil Works or S/A will sign the Record of Decision. For permit actions the district engineer will, after making the decision, sign the Record of Decision unless the action is forwarded to higher authority for a decision. In the case of a letter recommending a referral under 40 CFR 1504, reporting officers will notify (DAEN-CWZ-P) and request further guidance. The Record of Decision will not be signed nor any action taken on the proposal until the referred case is resolved.

(e) *Commenting on Other Agencies EIS.* District engineers shall review and comment on draft EIS or related NEPA documents prepared by other Federal, state and local agencies when the environmental impacts of the proposed action are related to the Corps jurisdiction by law or special expertise, as provided in 40 CFR 1503.2 and .3. Unless otherwise directed, the district engineer in whose area the proposal is located will review and provide comments directly to the appropriate agency within the time period specified with a copy provided to DAEN-CWP-P. In the case of Federal, national or geographic program EIS: legislative; or other major policies; DAEN-CWP-P may designate a district or division engineer to provide a coordinated agency reply to the agency or request review and comment from Corps field offices for a coordinated agency reply to be signed at OCE or higher level. Comments on another agency draft EIS should be specific and may address either the adequacy of the EIS or the merits of the alternatives discussed, or both, restricted to jurisdiction by law and special expertise as defined in 40 CFR 1508.15 and .26. As a cooperating agency the Corps will always provide comments on another Federal agency draft EIS even if the response is no comment. The specificity of comments in these cases are discussed in 40 CFR 1503.3 (c) and (d). If comments are prepared on another agency's final EIS one copy shall be furnished to Director, Office of Federal Activities, A-104, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460 and a copy provided to DAEN-CWP-P. Copies of comments on state or local final EIS which are unrelated to the Federal NEPA program will not be furnished to EPA.

**§ 230.20 Integration with state and local procedures.**

District engineers shall cooperate, to the fullest extent practicable, with State and local agencies to reduce duplication between Corps NEPA actions and those required by State and local requirements (40 CFR 1506.2 (b), (c) and (d)). Normally, this cooperation will consist of providing information on regulatory responsibilities with respect to the proposed action to determine the extent and degree of involvement of the Corps and whether an assessment or joint EIS is desirable. If the proposed State or local action falls within the Corps' area of NEPA activities, the concerned district engineer, as a joint lead agency, shall cooperate with the State or local agency in fulfilling State environmental impact statement requirements (if applicable) as well as Federal NEPA laws so that one document will comply with all applicable laws. An EIS produced as a joint Corps-State or local agency document will be prepared and

processed in accordance with applicable sections and appendixes of these regulations.

**§ 230.21 Adoption of EIS.**

The district engineer may adopt or prepare a supplement to another Federal agency's draft or final EIS or portion thereof provided that it meets the standards for an adequate EIS. However, the need to adopt and supplement another agency's EIS concerning a proposal which involves the authorities or regulatory responsibilities of the Corps can be minimized or avoided if the district engineer carefully follows the procedures in 40 CFR 1501.6 (cooperating agencies). If the Corps becomes a cooperating agency it may adopt without recirculating the EIS of a lead agency provided it contains the necessary information to support the Corps decision making in compliance with NEPA. If the Corps is not a cooperating agency and a decision is made to adopt another agency's EIS, the district engineer will review the criteria set forth in 40 CFR 1506.3(b) to determine whether to recirculate it as a final or a draft. In either case the document will be recirculated with a new cover, cover sheet, summary and distribution list. This package will be attached to the front of the agency's EIS. The cover sheet will clearly identify the EIS as a Corps EIS and the summary will describe the basis for the Corps adoption with a brief description of Corps involvement with the proposed action. Circulation, filing and review period will be the same as a regular EIS. If a decision is made to supplement another agency's EIS or portion thereof where the other agency's EIS does not provide sufficient information to enable the Corps to support its decision making, the district engineer will adopt the other agency's EIS or portions of it and simultaneously or thereafter supplement it. The supplement cover sheet and summary will describe the basis for the Corps adoption. The other agency's EIS or portions thereof will be attached and circulated for review with the Corps supplement. Where another agency's EIS is adopted for purposes of a Corps decision on a proposed action, a Record of Decision will be prepared in accordance with § 230.12.

**§ 230.22 Limitations on actions during the NEPA process.**

Limitations on Corps action during the NEPA review process are discussed in § 230.17. State and local agencies and private applicants should be made aware of the early stage involvement provisions of 40 CFR 1506.1(b) with respect to the Corps foreseeable regulatory responsibilities (refer to Appendix B). If a district engineer decides to prepare a programatic EIS, the limitations set forth in 40 CFR 1506.1(c) will apply to the extent practicable, but are not binding unless the program EIS is legally required. District engineers will carefully review proposed interim actions to be undertaken while work on a program EIS is in progress so as not be prejudice the ultimate decision on the program.

**§ 230.23 Predecision referrals.**

If the district engineer determines after review of another agency's Final EIS that the proposed action would be environmentally unsatisfactory with respect to the Corps area of expertise or jurisdiction by law, the case will be sent through division to reach (DAEN–CWZ–P) not later than 15 days after the final EIS was filed for review and processing to CEQ. The referral must be delivered to CEQ not later than 25 days after the final EIS was filed. The referral shall only be used after timely, but unsuccessful efforts have been undertaken to resolve the issue with the other agency. Such advice and/or a request for additional information to permit an analysis of the proposed action associated with the Corps area of expertise or regulatory responsibilities shall be contained in the district engineers comments on the other agency's draft EIS. Every effort should be made to resolve the problem(s) prior to the preparation of the final EIS. However, if an agreement cannot be reached, the district engineer shall prepare the referral in accordance with the procedures outlined in 40 CFR 1504.3. Corps actions referred to CEQ under this procedure by another Federal agency or by EPA under Section 309 of the Clean Air Act (42 U.S.C. 7609) shall be transmitted immediately to (DAEN–CWZ–P) for further guidance. District engineers receiving potential referral advice or requests for additional information from another Federal agency in comments on a draft EIS, shall, to the extent practicable, provide the necessary information and/or attempt to resolve the differences prior to filing the final EIS on the proposed action.

**§ 230.24 Agency decision points.**

(a) *General.* The instructions contained in Appendix C discuss the timing and integration of EIS preparation and processing in relation to major decision points in the Corps Civil Works Program. For major decision points for regulatory permit actions see 33 CFR 325 and Appendix B. Analyses of environmental data obtained during the early stages of planning, project development, operations and maintenance and management actions will provide the reporting officer with a basis to make a determination of the significance of the proposed action and whether an EA, EIS or EIS supplement will be required. Where the district engineer determines that the proposed action will not have a significant effect on the environment based on the EA, the district engineer will sign the FONSI based on the completed EA. EA and FONSI prepared for actions other than regulatory which normally require an EIS (feasibility studies) or are without precedent shall be circulated for public review and comment for 30-days before the FONSI is signed by the reporting officer in accordance with 40 CFR 1501.4(e)(2). Determinations based on an EA are reversible should controversy or other circumstances occur which require an EIS or supplement to be prepared.

(b) *Feasibility Studies.* In the case of feasibility studies discussed in § 230.6, the environmental document is an integral part of the Main Report and circulated to agencies and the public for review. However, where an EIS is included within the Main Report, the EIS must be a self-contained document which can be read and understood without constant reference to the Main Report. This procedure insures that environmental data and analyses are given equal consideration with other factors and are made available to agency decisionmakers at the time when they will be of most value in reviewing and deciding on a proposed action. The Main Report and EIS for Survey and legislative AE&D planning reports will accompany the Final Report of the Chief of Enigneers when the proposed action is forwarded for ASA (CW) and Executive review and ultimately to Congress. The Record of Decision will be signed by the S/A. DPR and AE&D planning reports approved at the OCE level will have the Director of Civil Works sign the Record of Decision. The Record of Decision for administrative AE&D planning reports will be signed by the Division Engineer.

(c) *Construction, O&M and Management Actions.* In the case of authorized and completed projects, environmental documents will be prepared, circulated for review and comment, and made available to agency decisionmakers for review (including comments received) prior to reaching a decision on the proposed construction, maintenance, real estate or management action. The Record of Decision as discussed in § 230.12 will be signed by

the Corps official approving the action after the final EIS or final EIS supplement has been on file for 30 days. When the district engineer determines that the proposed action will not have a significant effect on the environment based on the EA, the district engineer will sign the FONSI and approve the action based on the completed EA. No administrative action shall be taken on the proposed project until the Record of Decision or the FONSI has been signed.

**§ 230.25 Environmental review and consultation requirements.**

The following paragraphs list the principal environmental review and consultation requirements applicable to Corps Civil Works actions. In accordance with 40 CFR 1502.25, the following procedures outline how environmental review and consultation requirments may be undertaken concurrently with the circulation of the appropriate NEPA document. See Appendix A, paragraph 6b, for guidance on addressing environmental review and consultation requirements in feasibility studies and 33 CFR 320–329 for Corps regulatory permits. To the maximum extent possible, the district engineer will undertake early coordination to insure that environmental reviews required by these laws are done concurrently with the preparation of the EA or draft EIS so that the results of these reviews are integrated with the EA or draft EIS.

(a) *Federal Statutes.* (1) *Preservation of Historical Archeological Data Act of 1974 (16 U.S.C. 469 et seq.) which amends the Act of June 27, 1960, also referred to as the "Reservoir Salvage Act of 1960, amended; National Historic Preservation Act of 1966, as Amended, 16 U.S.C. 470 et seq.; Executive Order 11593, Protection and Enhancement of the Cultural Environment, 13 May 1971.* District engineers shall undertake certain studies and coordinate with appropriate state historic preservation officers, the Heritage Conservation and Recreation Service, the Advisory Council on Historic Preservation, and other groups with cultural resources expertise to identify and determine potential effects of proposed Corps actions on significant cultural resources. The draft EIS or EA may serve as the document requesting consultation with the Advisory Council pursuant to Section 106 of the National Historic Preservation Act and other authorities, as appropriate. The results of the coordination and consultation related to cultural resources shall be discussed in the Final EIS or EA and noted in the Record of Decision of FONSI in accordance with ER 1105–2–460. In the case of regulatory permits, policies related to cultural resources are provided in Appendix C of 33 CFR 325.

(2) *Clean Air Act, as amended, (42 U.S.C. 7609).* District engineers shall provide the Regional Administrator(s) of EPA copies of Corps EIS and EIS supplements on proposed actions to obtain written views and comments on the environmental impact of any matter relating to EPA's authorities from the standpoint of public health or welfare or environmental quality under Section 309 of the Act and the determinations and findings required by Section 176(c) of the Act to assure the conformity of Corps proposed actions to each state implementation plan (SIP). In the case of an EA and FONSI prepared for Corps actions, coordination with EPA is discussed in § 230.10.

(3) *Clean Water Act of 1977, (Federal Water Pollution Control Act Amendments of 1972) 33 U.S.C. 1251 et seq.* Evaluation of the effects of the discharge of dredged or fill material into waters of the United States, including consideration of the Section 404(b)(1) Guidelines, shall be included in an EA, EIS or EIS Supplement prepared for all Corps actions in planning, design and construction where the recommended plan or approved project involves the discharge of dredged or fill material into waters or the United States. In the case of Survey Reports (optional) and Legislative and Administrative AE&D Planning and Design Reports, the Section 404 evaluation will be discussed briefly in the body of the EIS or EIS Supplement and included as Appendix to the Main Report. Compliance with the Act will be noted in the Record of Decision. This procedure will satisfy Section 404(r) of the Act, upon submittal of the EIS to Congress, in lieu of issuing a public notice and obtaining a state water quality certificate. The same procedure will apply to projects in a construction category except that the 404 evaluation will be included as an appendix to the EIS or EIS Supplement or submitted as a supplemental information report to a final EIS field after 5 September 1975.

In the case of a Survey Report where the Section 404 evaluation has not been completed (optional), this information will be noted in the conclusions section of the report and EIS or EA. In case of a project authorized by Section 201 of P.L. 89–298, where a state water quality certificate is required, the Section 404 evaluation will be included with the EIS and the document filed with EPA but can not be sent to Congress under provisions of Section 404(r). In EIS cases involving a continuing authority project where a state water quality certificate is required, the certificate must be obtained before a decision is made on the project and the Record of Decision is signed. States requiring Corps final project approval prior to issuing a certificate must be advised of the Corps policy in this matter. District engineers shall provide the state with necessary detailed information it may need to issue the certificate. Where an EA is prepared for Corps actions in post-authorization planning, design and construction, and the project involves the discharge of dredged or fill material into waters of the United States, the 404 evaluation will be included with the EA and circulated for review and comment. Should a FONSI be prepared, the 404 evaluation will also be included in the FONSI after obtaining a state water quality certificate and approval of the project. In the case of completed projects in the O&M category involving the discharge of dredged material into waters of the United States, compliance (partial, full, etc.) with Section 404, state water quality certification and disposal permit requirements will be noted in the FONSI or Record of Decision prepared for the action. However, the 404 evaluation need not be included as an appendix to the EA or EIS and can be processed after the NEPA document has been filed but prior to actual commencement of the action. In the case of regulatory permit actions, compliance shall be in accordance with applicable provisions of 33 CFR 320 et seq. and Appendix B of this regulation.

(4) *Coastal Zone Management Act of 1972, as Amended, 16 U.S.C. 1451 et seq.* Proposed Corps projects and activities significantly affecting land or water uses in the coastal zone of a state or territory must be coordinated with the appropriate state agency responsible for administering the state's approved coastal management program. Coordination should be initiated early in the planning or scoping process to insure compliance with the consistency provisions of the Act (Section 307). In the case of feasibility studies, the consistency determination shall be summarized in the Main Report and EIS or EA and included as an Appendix to Main Report. In other Corps actions, except regulatory permits, the consistency determination will be noted in the EIS or EA and included as an Appendix, if necessary. For regulatory permits, compliance with the Act will be in accordance with 33 CFR 325.2.

(5) *Endangered Species Act of 1973, as Amended, 16 U.S.C. 1531 et seq.* District engineers shall initiate early coordination with the appropriate

Regional Director of the Fish and Wildlife Service (FWS) and/or National Marine FIsheries Service (NMFS) to determine if any listed endangered or threatened species or species proposed for listing or their critical habitat may be present in the area of the proposed Corps action. The results of this coordination and/or consultation as required by Section 7 of the Act, as amended, shall be discussed in the main report and included in the EA, final EIS or EIS supplement prepared for the proposed action. Copies of pertinent correspondence, biological assessments, opinions, consultants reports or other related information shall be provided as an Appendix to the Main Report or final EIS, as appropriate, with the conclusions and/or recommendations noted in the EIS and Record of Decision or FONSI, as appropriate. In the case of regulatory permits not requiring an EIS, the results of the coordination obtained by circulation of the public notice will be included within the EA prepared for the proposed permit action.

(6) *Estuary Protection Act (16 U.S.C. 1221 et seq.)* District engineers shall provide copies of EA or EIS on project plans and reports submitted to Congress affecting estuaries and their natural resources to the Department of the Interior for reviews and comment. The Secretary of the Interior has 90 days after receipt of plans and reports to make recommendations. This review can be accomplished when the project plans and reports and EA or EIS are circulated for Departmental (90-day) review.

(7) *Federal Water Project Recreation Act (16 U.S.C. 460–1–12 et seq.)* In planning Federal projects, district engineers shall give full consideration to opportunities afforded by the project for outdoor recreation and fish and wildlife enhancement. District engineers shall provide review copies of reports and accompanying EA or EIS to the Department of the Interior in regard to recreation and fish and wildlife activities for conformance with the comprehensive nationwide outdoor recreation plan formulated by the Secretary of the Interior.

(8) *Fish and Wildlife Coordination Act, 16 U.S.C. 661 et seq.* District engineers shall initiate early coordination with the appropriate Regional Director of the Fish and Wildlife Service (FWS), the appropriate Regional Director of the National Marine Fisheries Service (NMFS) and the head of the agency responsible for fish and wildlife for the state in which the proposed action will occur. The results of this coordination shall be discussed in the EIS in order to identify the concerns of the fish and wildlife agencies. In the case of feasibility studies the final fish and wildlife report will be included as an Appendix to the final Main Report and EA or EIS when the reporting officer transmits the report to higher authority. All recommendations presented by the fish and wildlife agencies shall be addressed in the text of the main report or included in the EA or EIS. In other Corps actions the final fish and wildlife report (if applicable) will be discussed in the EA or final EIS and included as an Appendix to the EA or final EIS prepared for the action, except for regulatory permit actions which are coordinated and processed under provisions of 33 CFR 320.4(c). Planning aids and other detailed fish and wildlife data and information received from the FWS, NMFS or the state should be referenced in the report or EIS as appropriate and need not be circulated with the documents unless the material is needed to clarify issues or provide an administrative record having a bearing on the project.

(9) *Land and Water Conservation Fund Act (16 U.S.C. 4601 et seq.)* Requirements are similar to Federal Water Project Recreation Act which require coordination with Interior to review conformance with the comprehensive outdoor recreation plan formulated by Interior.

(10) *Marine Protection Research and Sanctuaries Act of 1972, as amended, 16 U.S.C. 1401 et seq.* District engineers will be responsible for compliance with Section 102 Guidelines of the Act for proposed Corps actions involving the transportation of dredged material by vessel for the purpose of dumping it in ocean waters pursuant to Section 103 of the Act. Interim policy guidance for Corps studies and projects on this matter has been previously provided. Guidance for Corps operations and maintenance actions is provided in 33 CFR 209.145. Guidance for Corps regulatory permits is provided in 33 CFR 320 et seq. In the case of feasibility studies involving possible ocean dumping of dredged material, the evaluation of the need for ocean dumping including the availability of alternatives to ocean dumping will be incorporated into the main report as part of the multiobjective planning process and noted in the EIS. In other Corps actions, except regulatory permits, the evaluation and findings will be noted in the EIS and included as an Appendix to the EIS or EIS supplement. In the case of an EA, the evaluation and finding, together with pertinent correspondence will be included within the document in place of an EIS. Inclusion of the evaluation and findings in the EA or EIS documents for Corps studies and projects circulated for public review and comment will provide or satisfy the requirements of the opportunity for public review. For regulatory permits, compliance with the Act will be in accordance with 33 CFR 320 et seq. The public notice procedure used for regulatory permits will provide or satisfy the requirements of the opportunity for public review.

(11) *National Historic Preservation Act (16 U.S.C. 470a, et seq.)* See paragraph (1) above.

(12) *National Environmental Policy Act (42 U.S.C. 4321 et seq.)* District engineers will show compliance by indicating partial compliance when the draft EIS or EIS supplement is filed and full compliance when the Record of Decision is signed. In the case of an EA, full compliance will be noted when the FONSI is signed.

(13) *River and Harbor Act (33 U.S.C. 401 et seq.)* No requirements for Corps projects or programs authorized by Congress. (Requirements of the Act fulfilled by Corps planning actions)

(14) *Watershed Protection and Flood Prevention Act (16 U.S.C. 1001 et seq.* No requirements for Corps activities.

(15) *Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.)* In planning for the use and development of water and related land resources, district engineers shall consider designated components and potential national wild, scenic and recreational river areas. Although the Department of the Interior (or Agriculture for river segments in national forests) have not prepared guidelines to facilitate implementation of the Act, district engineers should regularly request updates of rivers listed for study or designation as wild, scenic or recreational in order to identify and evaluate the effects of any proposed Corps action which may conflict with the purpose of the Act. If a proposed Corps action is located on or may effect a designated river, the district engineer shall examine alternative uses of the river and inform the appropriate Secretary of any studies or activities that are underway. The results of this coordination shall be discussed in the report and included in the accompanying EA, EIS or EIS supplement prepared for the proposed action. Compliance will be noted in the EA or EIS and FONSI or Record of Decision.

(b) *Executive Orders.*—(1) *Executive Order 11988, Floodplain Management, 24 May 1977.* Policy guidance implementing the executive order for all

Corps Civil Works actions is contained in ER 1165–2–26, dated 15 May 1979. In the case of feasibility studies, implementation of the Executive Order will be incorporated into the Main Report as part of the multiobjective planning process, noted in the EIS and included as an Appendix to the main report, if necessary. Existing policies and procedures related to regulatory permits 33 CFR 320 et seq. fulfill the requirements of the Executive Orders and should continue to be followed. For all other Corps actions the results of the required assessment and evaluation together with the determination and finding shall be discussed briefly in the EA or EIS and included as an Appendix, if necessary.

(2) *Executive Order 11990, Protection of Wetlands, 24 May 1977.* Reporting officers will be responsible for compliance with applicable provisions of the Executive Order for projects and programs for which a draft or final EIS is filed on or after 1 October 1977. Interim policy guidance on this matter has been previously provided. In the case of the feasibility studies the results of the analyses and findings related to wetlands will be incorporated into the Main Report as part of the multiobjective planning process, noted in the EA or EIS and included as an Appendix to the Main Report, if necessary. In other Corps actions, except regulatory permits, the analyses and findings will be discussed in the EA or EIS and included as an Appendix, as appropriate. Inclusion of the analyses and findings in the EIS documents for Corps studies and projects circulated for public review and comment will satisfy the opportunity for early public review requirements of Section 2(b) of the Executive Order. For regulatory permits, compliance with the Executive Order will be in accordance with 33 CFR 320 et seq. The opportunity for early public review through publication of a Public Notice will satisfy the requirements of this section in the case of regulatory permits.

(3) *Executive Order 12114, Environmental Effects Abroad of Major Federal Actions, 4 January 1979.* General policy guidance for all Department of Defense components is contained in the Department of Defense final rules implementing Executive Order 12114 published in the **Federal Register** of 12 April 1979 as 32 CFR Part 197. Procedural requirements for Corps Civil Works studies and projects are discussed below. Procedural requirements for Corps regulatory permit actions having significant effects on the environment outside of the United States are discussed in 33 CFR 322.

(i) The district engineer through the division engineer responsible for the activity will notify DAEN–CWP–E, –C, or –W as appropriate, of an impending action which may impact on another country and that environmental studies are necessary to determine the extent and significance of these impacts. The district engineer will inform DAEN–CWP whether entry into the country to study the base condition is necessary.

(ii) DAEN–CWP will notify the State Department, Office of Environmental and Health (OES/ENH) of the district engineers concern, and whether a need exists at this point to officially notify the foreign nation of our intent to study potential impacts. Depending on expected extent and severity of impacts, or if entry is deemed necessary, the matter will be referred to the appropriate foreign desk for action.

(iii) As soon as it becomes evident that the impacts of the proposed actions are considered significant, DAEN–CWP will notify the State Department. The State Department will determine whether the foreign embassy needs to be notified, and will do so if deemed appropriate requesting formal discussions on the matter. When the International Joint Commission (IJC) or the International Boundary and Water Commission, United States and Mexico (IBWC) is involved in a study, the State Department should be consulted to determine the foreign policy implications of any action and the proper cause of action for formal consultations.

(iv) Any press releases or report documents dealing with impact assessments in foreign nations should be made available to the appropriate foreign desk at the State Department for clearance and coordination with the foreign embassy prior to public dissemination.

(v) Assessments of Impacts of Civil Works projects on foreign countries should not be incorporated into any EIS, but the EIS will include notation that an assessment of impacts on foreign countries has been made in compliance with the Executive Order and will be available (as cleared by the Foreign Embassy involved) at the field office for inspection.

(c) *Executive Memorandum Analysis of Impacts on Prime and Unique Farmlands in EIS, CEQ Memorandum, 30 August 1976.* District engineers will be responsible for including an analysis of the effects of proposed actions on prime and unique farmland in the course of preparing environmental documents. Interim policy guidance on this matter has been previously provided. In the case of feasibility studies, the results of the evaluation will be incorporated into the Main Report as part of the multiobjective planning process and discussed in the appropriate sections of the EIS. In all other Corps actions the results of the evaluation will be discussed in the appropriate sections of the EA of EIS.

(d) *Other.* Other environmental treaties, laws, Executive Orders, regulations etc. as may be required by the proposed action.

**§ 230.26 General considerations in preparing Corps EIS.**

EIS for Corps Civil Works activities shall be prepared and processed in accordance with Appendix A through D and pertinent Sections of this regulation, CEQ regulations implementing the procedural provisions of NEPA (40 CFR 1500–1508), and the following:

(a) *Interdisciplinary Preparation.* EIS shall be prepared using an interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts (40 CFR 1502.6). Environmental investigations should be undertaken simultaneously with and to the same depth and scope as other study or project related investigations. EIS shall be coordinated with and reviewed by district and division counsel. A list of the names, expertise, experience, professional discipline and role of the persons who were primarily responsible for the preparation of the EIS shall be included. See paragraph 6h of Appendix A for suggested guidance on format (40 CFR 1502.17).

(b) *Incorporation by Reference.* EIS shall incorporate material by reference wherever possible in accordance with 40 CFR 1502.21. The incorporated material must be cited in the EIS and its contents briefly described. Footnotes should be used rarely; only where their use greatly aids the reader's understanding of the point discussed. Citation in the EIS of material incorporated by reference should be made by indicating an author's last name and date of the reference in parentheses at the appropriate location in the EIS. The list of references will be placed at the end of the EIS. Only information sources actually cited in the text should appear in the reference list. The reference list shall include the author's name and the date and title of the publication. Personal communications should also be listed with the person's employing office, date of communication and type of communication (e.g. letter, telephone, interview, etc.). Cited material must be

reasonably available for inspection by interested parties within the time allowed for comment (40 CFR 1502.21).

(c) *Incomplete or Unavailable Information.* Refer to 40 CFR 1502.22 (a) and (b) for guidance in preparing an EIS when there are data gaps or lack of information relevant to significant adverse impacts bearing on the decision on the action. Particular attention shall be given to the requirement in the case of projects where relevant information essential to a reasoned choice among alternatives is not known and the overall costs of obtaining it are either exorbitant or beyond existing scientific capability. In such situations the EIS should include a worst case analysis.

(d) *Methodology and Scientific Accuracy.* Refer to 40 CFR 1502.24. Methodologies, techniques, and other scientific sources used to arrive at information presented in the EIS or relied upon for conclusions shall be cited at appropriate locations in the EIS and included in the list of references.

(e) *Cost-Benefit Analysis.* Refer to 40 CFR 1502.23. In the case of feasibility studies, limited plan economic data will be displayed for the final array of alternatives in accordance with Appendix A. For other Corps actions, limited project economic data relevant to the choice among alternatives will be displayed, as appropriate (e.g. cubic yard cost for O&M dredging). When a cost-benefit analysis is prepared, the relationship between that analysis and any analyses of unquantified environmental impacts, values, and amenities shall be discussed. See Appendix B for regulatory permits.

(f) *Contractual Relationships.* The use of outside professional services (contractors) for the preparation of basic data for EA and EIS for Corps actions shall be in accordance with 40 CFR 1506.5(b) and (c). The reporting officer shall assist the contractor in the preparation of the document and independently evaluate and be responsible for its scope, content and accuracy. The names of the person(s) responsible for this independent evaluation and contractor participants shall be included in the list of principal preparers as discussed in paragraph 6h of Appendix A. Reporting officers shall prepare and have contractors execute a disclosure statement specifying that they have no financial or other interest in the outcome of the project. See Appendix B for regulatory permits.

(g) *Use of Regulation.* This regulation shall become effective on publication and will be used for the preparation and processing of all NEPA related documents prepared for Civil Works activities except for the requirements of publishing a notice of intent to prepare a draft EIS (ER 200–2–1) which became effective 12 February 1979. Draft EIS and draft supplements filed with EPA after 30 July 1979 must comply with these regulations. Final EIS and final supplements should, but need not comply with these regulations if the draft EIS or draft supplement for the proposed action was filed with EPA before 30 July 1979 (40 CFR 1506.12).

**Appendix A.**—*Feasibility Studies: Organization and Content of EIS's and Scoping*

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1. *Purpose.* This appendix provides guidance on the organization and content of Environmental Impact Statements (EIS) incorporated into Corps feasibility reports, including Survey Reports, Phase I General Design Memorandum (GDM) and Detailed Project Reports (DPR's). It also provides guidance on the timing of Corps feasibility study actions to meet CEQ's scoping requirements.

2. *References.*

a. 40 CFR 1500–1508
b. ER 11–2–220
c. ER 18–2–2
d. ER 200–2–1
e. ER 1105–2–10
f. ER 1105–2–32
g. ER 1105–2–50
h. ER 1105–2–129
i. ER 1105–2–200
j. ER 1105–2–210
k. ER 1105–2–220
l. ER 1105–2–230
m. ER 1105–2–240
n. ER 1105–2–250
o. ER 1105–2–460
p. ER 1105–2–502
q. ER 1105–2–800
r. ER 1105–2–920
s. ER 1105–2–921

3. *Background.* a. The Corps multiobjective planning process (ER 1105–2–200 series) integrates the substantive requirements of NEPA, the U.S. Water Resource Council's Principles and Standards (P&S), and related environmental policies. Thus, feasibility reports documenting the results of studies conducted in accordance with the ER 1105–2–200 series will contain the analysis required by NEPA as integral parts of the report. The organization of feasibility reports reinforces this concept by including a concise EIS within the Main Report (ER 1105–2–920).

b. The EIS must be clearly identified on the front cover of the feasibility report document and placed directly behind the last page of the Main Report. The EIS is a part of the Main Report and therefore will not be identified as an attachment or appendix. For ease of identification the EIS should be setout by the use of colored paper. It shall be presented as an analytical, self supporting document which informs decisionmakers and the public of the reasonable alternatives and their environmental effects and analyze measures which would avoid or minimize adverse impacts or enhance the quality of the human environment. Material detailed in the Main Report may be incorporated by reference in the EIS where the effect is to avoid duplication without sacrificing the self-supporting nature of the document and the ability of the agencies and the public to review and comment on the EIS. However, a reviewer should not have to refer to the Main Report or appendixes to have a clear understanding of the alternatives and their environmental impacts. References are to be provided should the reviewer require additional detailed technical information relative to the environmental consequences of the proposed action and reasonable alternatives considered.

c. The following paragraphs present the page limit, organization and content requirements for EIS included in feasibility reports, and guidance on scoping requirements in feasibility studies. Requirements of 40 CFR 1500–1508 are incorporated by reference where applicable.

4. *Page Limits.* a. Reference: 40 CFR 1500.4(a), 1502.7, 1502.11, 1502.12, 1502.15, and 1502. 17.

b. EIS prepared for feasibility studies will not duplicate lengthy documentation of the substantive requirements of NEPA contained elsewhere in the Main Report and Appendixes. However, pertinent information discussed in other sections of the main report and appendixes, may, by necessity, be duplicated in the alternative section of the EIS to serve as the analytical focal point of the document in order to clearly define the environmental issues and provide a basis for choice by the decisionmaker and the public. Based on an OCE analysis, and in accordance with the objective in the NEPA regulations to reduce paperwork, the average length of an EIS included in Feasibility Reports should not normally exceed 50 pages (single-spaced typed, pages numbered sequentially).

5. *EIS Organization.* a. Reference: 40 CFR 1502.10.

b. The EIS will follow the format in Section 1502.10. Each paragraph in each section of the text of the EIS will be numbered for ease of reference.

6. *EIS Contents.*—a. *Cover Sheet.* (1) Reference: 40 CFR 1502.10(a) and 1502.11.

(2) An example cover sheet is presented at Table 1.

(3) A statement shall be included on the cover sheet which states that information, displays, etc., referred to in the Main Report

or appendixes is incorporated by reference into the EIS.

(4) In all cases the estimated date for comments shall include sufficient time for mailing, receipt and preparing F. R. notice by EPA and required 45-day review for draft EIS. In the case of the final EIS, leave the date blank. The appropriate Corps office filing the final EIS will date stamp the document.

b. *Summary.* (1) Reference: 40 CFR 1502.2(d), 1502.10(b), 1502.12, 1502.16(c), 1502.20, 1502.25, 1506.2(d), 1506.3(d) and 1506.10(b)(2).

(2) This chapter will inform the reader of the major factors which were considered in and influenced planning related decisions. It shall be presented in the following four discussions.

(3) Major Conclusions and Findings. Present the rationale for the study's NED Plan, EQ Plan (or least environmentally damaging plan), and tentatively selected plan in a Draft EIS: the rationale for study's NED Plan, EQ Plan (or least environmentally damaging plan), selected plan and recommended plan in a Final EIS: and other major conclusions and findings of the district engineer (for example, Section 404, E.O. 11988 and E.O. 11990 findings).

(4) Area of Controversy. Describe the issues that were the subject of major disagreement among public interests during the course of the study. Describe the outcome of any resolved controversies.

(5) Unresolved Issues. Describe the unresolved major disagreements among study area interests and actions proposed or taken to resolve disagreements.

(6) Relationship to Environmental Protection Statutes and Other Environmental Requirements. Describe the relationship of each plan included in the Stage 3 final array of alternatives to the requirements of environmental laws, executive orders and other policies; the objectives of Federal, State and local land use plans, policies and controls applicable to the study area and other related State and Local plans and laws; and any Federal requirements for permits, license and other entitlements needed to implement the detailed plans. An Example similar to that presented at Table 2 is recommended for this presentation.

(7) References to adoption of a previously prepared EIS and supplementing an EIS under the tiering concept (see 40 CFR 1502.20), and references to an EIS meeting the criteria of 30 CFR 1506.3(d) or 1506.10(b)(2) should be included in this chapter, as appropriate.

c. *Table of Contents.* (1) Reference: 40 CFR 1502.10(c).

(2) Even though the EIS is included as a part of the Main Report, page numbering of the EIS shall be independent of the Main Report. EIS pages will be numbered sequentially as EIS–1, EIS–2, EIS–3, . . . etc.

d. *Need for and Objectives of Action.* (1) Reference: 40 CFR 1502.4(a), 1502.10(d) and 1502.13.

(2) This chapter will explain concisely to the reader why the Corps became involved in the study and what public concerns and consequent planning objectives were identified as the basis for plan formulation. It shall be presented in the following three discussions.

(3) Study Authority. Identify the study's authorizing document and summarize the Congressional intent for undertaking the study.

(4) Public Concerns. Describe the public concerns and related resource management needs (problems and opportunities) which were identified in the study.

(5) Planning Objectives. State the planning objectives which were derived from the aforementioned resource management needs and employed in plan formulation.

e. *Alternatives.* (1) Reference: 40 CFR 1502.1, 1502.2, 1502.2(e), 1502.4(a), 1502.10(e), 1502.14, 1502.16(h), 1502.23, 1505.1(e) and 1508.27.

(2) This chapter is the heart of the EIS. It will identify and describe all reasonable and feasible alternatives considered, and the assessment and evaluation of the most responsive solutions (detailed plans). It shall be presented in the following discussions.

(3) Plans Eliminated from Further Study. Briefly describe each plan considered in late Stage 2 planning but not included in the Stage 3 final array of alternatives. Present the rationale for eliminating such plans.

(4) Without Conditions (No Action). Briefly describe the without conditions that are expected to occur in the absence of any Federal action to address the planning objectives. If non-Federal actions to address the planning objectives are included in the without conditions assumptions (as in the case of water supply and power-related planning objectives), describe such actions and identify the agency(ies) or group(s) responsible for their implementation and any mitigation requirements of such actions.

(5) Plans Considered in Detail. Briefly describe each plan included in the Stage 3 final array of alternatives. Summarize each plan description, implementation responsibilities (Federal and non-Federal), and any mitigation requirements (including fish and wildlife "compensation," cultural resources "data recovery," endangered species "conservation," etc.). Identify the designated NED and EQ Plans (or least environmentally damaging plan), and the selected, or tentatively selected, plan.

(6) Comparative Impacts of Alternatives. Describe in a comparative form, the base and without condition, the impacts of the detailed plans on significant resources, and plan economic characteristics (i.e. total costs, net benefits, benefit-cost ratio). An example similar to that presented at Table 3 is recommended for this presentation. However, where a comparative table is used, the Environmental Effects section shall contain a detailed analysis of the environmental consequences of each alternative including the proposed action and shall provide sufficient back-up analysis for the comparative table.

(7) All discussions concerning the without condition and Stage 3 final array of alternatives must be presented consistently and sufficiently in the same level of detail such that any option could be selected based on the presentation. This approach will aid the decision-making process by "sharply defining the issues and providing a clear basis for choice among options by the decision maker and the public" (40 CFR 1502.14) and minimize document revision should the selected plan or recommendations change.

(8) Plan location maps, section views, the study's System of Accounts and other graphics and tables presented elsewhere in the Main Report or Appendixes should be referenced in the EIS to avoid duplication.

f. *Affected Environment.* (1) Reference: 40 CFR 1502.10(f) and 1502.15.

(2) This chapter will briefly describe study area existing and without conditions in the following discussions:

(3) Environmental Conditions. Briefly describe the major characteristics of the study area's natural and human resources to provide the reader with a general understanding of physical, ecological, social, cultural and economic conditions. This discussion will normally not exceed one page.

(4) Significant Resources. Describe each significant resource included in the Comparative Impacts of Alternatives discussion, including its location, quantity and quality. This discussion should explain to the reader what is significant and why it is significant. In identifying resources to be included in this discussion, those specifically mentioned in Section 122, 1970 R & HA, PL 91–611 will be addressed. If they are found not significant in the study area this fact will be noted. In further identifying and characterizing resources, consideration should be given to the following criteria for resource significance:

(a) Resources identified in the laws, regulations, guidelines or other institutional standards of national, regional and local public agencies should be considered significant (e.g. sites listed on the National Register of Historic Places, species included in State "endangered species" lists, natural open space identified in local land use plans, etc.) Resources identified in the guidelines of certain private groups may also be considered (e.g. bird species on the National Audubon Society's "Blue List", historic properties of the National Trust for Historic Preservation, etc.).

(b) Resources meeting certain study-specific technical criteria for measuring characteristics that may be critical to resource existence should be considered significant. Technical criteria may include, but are not limited to, measurement of resource scarcity, fragility, resiliency, reproducibility and tolerance. For example, spawning habitat for a study area fish species may be abundant at a regional level but scarce in a local study area.

(c) Resources specifically identified as a concern by public interests should be considered significant. For example, a local farm association may identify certain tracts of productive agricultural land as important to the community's economic well-being.

(d) Resources which, if effected by a plan, would violate an institutional standard, meet a study-specific technical criterion, or become the subject of public concern should be considered significant. For example, a currently abundant game habitat could become scarce due to the effect of a certain plan.

g. *Environmental Effects.* (1) Reference: 40 CFR 1502.9(a), 1502.10(g), 1502.16 and 1502.22.

(2) This chapter will briefly describe the effects of each detailed plan on the previously described significant resources. Its purpose is to provide the reader with a detailed analysis of the impacts described in the Comparative Impacts of Alternatives discussion. Where a comparative table is used in the Comparative Impacts of Alternatives Section, the Environmental Effects section shall contain a detailed analysis of the environmental consequence of each alternative including the proposed action and shall provide sufficient back-up analysis for the comparative table.

(3) Discussion in this chapter should be subheaded with the names of the previously described significant resources to assist the reader in quick and easy reference. For example, if a study's significant resources were identified as shown at Table 3 (listed as column headings), the subheadings in this chapter would be "Blue River Wetlands," "Fort America Historic Site," etc. When using this approach, the discussion under each subheading will describe the effects of each plan on the subject resource. Plans with no effect on a resource should be noted.

(4) If an effect is described as being adverse, the discussion of that effect shall include an indication of the completeness and availability of information in accordance with 40 CFR 1502.22. If information related to an adverse effect meets the criteria stated in 40 CFR 1502.22(b)(1) and (2), the discussions required in 1502.22(b) shall be included in the EIS before it is made available to the public.

(h) *List of Preparers.* (1) Reference: 40 CFR 1502.6, 1502.10(h), 1502.17 and 1507.2(a).

(2) An example List of Preparers is presented at Table 4. The study manager, an EIS coordinator and any consultant(s) should be identified in the list, as appropriate. Only people primarily responsible for preparing the document will be listed.

(i) *Public Involvement.* (1) Reference: 40 CFR 1502.9(b), 1502.10(i), 1503.1, 1503.4(a) and (b), 1506.6 and 1506.9.

(2) This chapter will briefly describe public involvement in the study to inform the reader of how public views guided and were incorporated into the study's decision-making process. It shall be presented in the following four discussions.

(3) Public Involvement Program. Briefly describe the means used to involve the public in the study and the major results of such involvement, including scoping activities.

(4) Required Coordination. Briefly describe any remaining required coordination with other agencies or groups, particularly coordination that is to be satisfied by circulation of the EIS for review and comment.

(5) Statement Recipients. List agencies, groups and individuals to whom copies of the EIS are sent. If a list of individuals receiving the EIS is extensive the word "Individuals" may be entered at the end of the list, followed by a reference to the Report Appendix and page number(s) presenting the full list of individuals.

(6) Public Views and Responses. In a draft statement, briefly describe public views that had a major influence on the study and how such views are incorporated into the study's decision-making process. In a final statement, include this draft statement discussion and a brief discussion of all substantive comments received on the draft which resulted in major changes in the study's decision factors (as described in the EIS Chapter 1 Summary) or those items specified in 40 CFR 1503.4(a)(1)–(3) and (5). Such changes should also be noted in appropriate discussions elsewhere in the final statement. The discussion will include references to other paragraphs and pages in the Main Report and Appendixes which present more thorough analyses of EIS comments and the district's responses, and the full text of comments received. Copies of comments shall not be included directly in the EIS but rather included in the Public Views and Responses Appendix in accordance with ER 1105–2–920, Appendix B, paragraph 3b(1).

j. *Index, References and Appendixes.* (1) Reference: 40 CFR 1500.4(j), 1502.10(j) and (k), 1502.18, 1502.21 and 1506.4.

(2) An index, list of references and appendixes will be combined as shown at table 5. The purpose of the table is to provide the reader with an alphabetized subject index with references to the EIS Main Report and Report Appendixes for each subject.

(3) Inclusion of a reference in the table will constitute incorporation of the cited material into the EIS by reference. No other lists of reference, bibliographies or other appendixes shall be included in the EIS.

7. *Scoping.*—a. *General.* (1) Reference: 40 CFR 1501.4(d), 1501.7, 1507.3(e), 1508.22 and 1508.23.

(2) CEQ's NEPA regulations state: "As soon as practicable after its decision to prepare an environmental impact statement and before the scoping process the lead agency shall publish a notice of intent (1508.22) in the *Federal Register* except as provided in 1507.3(e)" (40 CFR 1501.7). The Notice of Intent shall, in part, "Describe the proposed action and possible alternatives" (40 CFR 1508.22(a)). CEQ's NEPA regulations also state:

"Agency procedures may provide that where there is a lengthy period between the agency's decision to prepare an environmental impact statement and the time of actual preparation, the notice of intent required by 1501.7 may be published at a reasonable time in advance of preparation of the draft statement." (40 CFR 1507.3(e))

(3) In feasibility studies, a selected (or tentatively selected) plan is not identified until Stage 3 planning, prior to Milestone 6. Inasmuch as Milestone 6 is accomplished upon the reporting officer's submittal of a Draft Report (including a Draft EIS, as necessary) to higher authority, a Notice of Intent must be issued sufficiently in advance of Milestone 6 to allow adequate time for the EIS scoping process. The earliest prior time when a Notice of Intent could be issued would be in late Stage 2, following the completion of Milestone 5, when the reporting officer and higher authority have concurred in the final array of alternatives to be studied in detail during Stage 3 planning. While a single plan will not have been selected at this time, a "proposal" as defined in 40 CFR 1508.23, will have been identified. The "proposal" will be the final array of alternatives, one of which usually may be designated the selected plan (prior to Milestone 10). For feasibility studies, this "proposal" should be described in the Notice of Intent, Summary Items 1 and 2 required in ER 200–2–1, Appendix A. Publication of a Notice of Intent following Milestone 5 is consistent with the provisions of 40 CFR 1501.7, 1507.3(e) and related CEQ requirements.

(4) The district engineer may elect to publish a Notice of Intent following Milestone 5 but prior to the Formulation Stage Public Meeting if it is determined that a "scoping meeting" will be conducted and that such a meeting should be combined with an otherwise required public meeting. "Scoping meetings" are not required but may be conducted at the discretion of the district engineer.

(5) The intent of the scoping process is not limited to the preparation of EIS's in feasibility studies. Many of specific requirements included in CEQ's scoping process were integral parts of feasibility planning prior to promulgation of 40 CFR 1500–1508. These requirements, including the need for early and ongoing public participation in all aspects of the study, will continue to be met as a normal planning function prior to the publication of a Notice of Intent and the subsequent initiation of the formal EIS scoping process.

b. *Timing of Feasibility Study Actions to Meet Scoping Requirements.* The specific requirements of the scoping process, as defined in 40 CFR 1501.7, should be accomplished in accordance with the following paragraphs to the extent practicable. Cited milestones should be adjusted for Phase I studies in accordance with ER 18–2–2. Adjustments should also be considered for Continuing Authorities Studies where milestones are not applicable and planning Stages 2 and 3 may be combined. Scoping actions conducted at the discretion of the reporting officer are indicated by an asterisk (*).

(1) *Early Stage 1, following Milestone 1.* The following actions are taken (and continued or repeated as necessary throughout planning) with respect to environmental considerations in the study:

(a) Invite public participation (40 CFR 1501.7(a)(1)).

(b) Determine environmental scope and significant issues to be analyzed (40 CFR 1501.7(a)(2)).

(c) Eliminate not significant and previously covered environmental issues (40 CFR 1501.7(a)(3)).

(d) Indicate other related environmentally documents (40 CFR 1501.7(a)(5)).

(e) Hold a "scoping meeting" (40 CFR 1501.7(b)(4)).*

(2) *Stage 1, prior to Milestone 2.* The following actions are taken (and continued or repeated as necessary throughout planning) with respect to environmental considerations in the study.

(a) Allocate assignments for environmental analyses and reports (40 CFR 1501.7(a)(4)).

(b) Identify other environmental review and consultation requirements (40 CFR 1501.7(a)(6)).

(c) Indicate timing relationships between environmental analyses and planning-decision making (40 CFR 1501.7(a)(7)).

(d) Set time limits (study schedule) (40 CFR 1501.7(b)(2)).*

(3) *Early Stage 2, following Milestone 2.* "Scoping" determinations can be revised at this or at any subsequent time whenever it is necessary to do so (40 CFR 1501.7(c)).

(4) *Late Stage 2, following Milestone 5, usually prior to the Formulation Stage Public Meeting.* A Notice of Intent may be published at this time or any subsequent time prior to Stage 3, Milestone 6 (40 CFR 1501.7). Publication of a Notice of Intent will initiate the formal EIS scoping process.

(5) *Late Stage 2, following Milestone 5, in conjunction with the Formulation Stage Public Meeting.* An EIS "scoping meeting" may be conducted in conjunction with the Formulation Stage Public Meeting or any subsequent time prior to Stage 3, Milestone 6 (40 CFR 1501.7(b)(4)).*

(6) *Stage 3, prior to Milestone 6.* The following actions are taken with respect to environmental considerations in the EIS:

(a) Determine scope and significant issues to be analyzed (40 CFR 1501.7(a)(2)).

(b) Eliminate not significant and previously covered issues (40 CFR 1501.7(a)(3)).

(c) Allocate assignments for EIS preparation (40 CFR 1501.7(a)(4)).

(d) Indicate other related environmental documents (40 CFR 1501.7(a)(5)).

(7) *Not Applicable.* The following scoping requirements are met by previously established requirements and, therefore, are not accomplished by a particular action in planning during any given study:

(a) Set page limits (40 CFR 1501.7(b)(1))*; page limits are established in 40 CFR 1502 and ER 200–2–2.

(b) Set time limits (40 CFR 1501.7(b)(2))*; EIS review time limits are established in 40 CFR 1506.10 and ER 200–2–2.

(c) Adopt procedures for combining assessment and scoping requirements (40 CFR 1501.7(b)(3))*; combined impact assessment, public involvement and study management processes are established in the ER 1105–2–200 series and supporting regulations.

**Table 1.**—*Draft Coversheet Environmental Impact Statement*

*Proposed Plan for Recreational Navigation and Wetland Habitat at Port Anytown American County, Va.*

The responsible lead agency is the U.S. Army Engineer District, Gotham. The responsible cooperating agency is the U.S. Fish and Wildlife Service.

*Abstract:* Port Anytown is a small community in American County at the mouth of the Blue River. The Gotham District has investigated public concerns of the Port Anytown study area related to inadequate facilities for recreational navigation and the decline of the Blue River wetlands. Of the eleven plans initially considered, four were selected for detailed study. Plan 1, consisting of navigation channels and extensive breakwaters, would meet all navigation needs and destroy the wetlands. Plan 2, consisting of navigation channels and wetland acquisition, would meet some navigation needs and preserve the wetlands. Plan 3, consisting of wetland acquisition and management would not meet navigation needs and enhance the wetlands. Plan 4, consisting of navigation channels, limited breakwaters and wetlands acquisition, would meet most navigation needs and preserve the wetlands. Plan 4 has been tentatively selected based on its performance in addressing the identified public concerns and its net positive contributions to the goals of National Economic Development and Environmental Quality.

Send your comments to the district engineer by 1 January 1980. If you would like further information of this statement, please contact: Mr. John Smith, U.S. Army Engineer District, Gotham, 100 Main Street, Gotham, Virginia 10101, Commercial Telephone: (800) 555–1212, FTS Telephone: 555–1212.

**Note.**—Information, displays, maps, etc. discussed in the Port Anytown Main Report are incorporated by reference in the EIS.

**Table 2.**—*Relationship of Plans to Environmental Requirements Protection Statutes and Other Environmental Requirements*

[Name of Selected, or Tentatively Selected, Plan]

| Federal Statutes | Plan 1 | Plan 2 | Plan 3 | Plan 4 |
|---|---|---|---|---|
| Archeological and Historic Preservation Act, as amended, 16 U.S.C. 469 *et seq.* | Partial | Partial | Partial | Partial |
| Clean Air Act, as amended, 42 U.S.C. 7401, *et seq* | Full | Full | Full | Full. |
| Clean Water Act, as amended (Federal Water Pollution Control Act), 33 U.S.C. 1251 *et seq.* | Full | Full | Full | Full. |
| Coastal Zone Management Act, as amended, 16 U.S.C. 1451, *et seq.* | N/A | N/A | N/A | N/A. |
| Endangered Species Act, as amended, 16 U.S.C. 1531 *et seq* | Full | Full | Full | Full. |
| Estuary Protection Act, 16 U.S.C. 1221, *et seq* | N/A | N/A | N/A | N/A. |
| Federal Water Project Recreation Act, as amended, 16 U.S.C. 460–1(12), *et seq.* | Full | Partial | Full | Partial. |
| Fish and Wildlife Coordination Act, as amended, U.S.C. 661, *et seq.* | Etc | Etc | Etc | Etc. |
| Land and Water Conservation Fund Act, as amended, 16 U.S.C. 4601—4601–11 *et seq.* | | | | |
| Marine Protection, Research and Sanctuaries Act, 22 U.S.C. 1401 *et seq.* | | | | |
| National Historic Preservation Act, as amended, 16 U.S.C. 470a, *et seq.* | | | | |
| National Environment Policy Act, as amended, 42 U.S.C. 4321, *et seq.* | | | | |
| Rivers and Harbors Act, 33 U.S.C. 401 *et seq* | | | | |
| Watershed Protection and Flood Prevention Act, 16 U.S.C. 1001, *et seq.* | | | | |
| Wild and Scenic Rivers Act, as amended, 16 U.S.C. 1271, *et seq*. | | | | |
| Etc | | | | |

**Table 2.**—*Relationship of Plans to Environmental Requirements Protection Statutes and Other Environmental Requirements* —Continued

[Name of Selected, or Tentatively Selected, Plan]

| Federal Statutes | Plan 1 | Plan 2 | Plan 3 | Plan 4 |
|---|---|---|---|---|
| Executive Orders, Memoranda, etc.: | | | | |
| Floodplain Management (E.O. 11988) | | | | |
| Protection of Wetlands (E.O. 11990) | | | | |
| Environmental Effects Abroad of Major Federal Actions (E.O. 12114). | | | | |
| Analysis of Impacts on Prime and Unique Farmlands (CEQ Memorandum, 30 Aug 76). | | | | |
| Etc | | | | |
| State and Local Policies: | | | | |
| (List appropriate State and local policies and laws, e.g., a State "NEPA"). | | | | |
| Land Use Plans: | | | | |
| (List appropriate Federal, State and local land use plans, policies and control not previously listed). | | | | |
| Required Federal Entitlements: | | | | |
| (List Federal permits, licenses and other entitlements needed to implement the plan, e.g., NPDES permit from EPA). | | | | |

NOTES.—The compliance categories used in this table were assigned based on the following definitions:

a. Full compliance—All requirements of the statute, E.O., or other policy and related regulations have been met.
b. Partial compliance—some requirements of the statute, E.O., or other policy and related regulations remain to be met.
c. Noncompliance—None of the requirements of the statute, E.O., or other policy and related regulations have been met.
d. Not Applicable—N/A statute, E.O., or other policy not applicable.

**Table 3.**—*Comparative Impacts of Alternatives*

[Name of Selected, or Tentatively Selected, Plan]

| Base condition and alternatives | Blue River wetlands | Fort America historic site | Endangered yellow trout habitat | Blue River class "A" water quality | Marine-related employment |
|---|---|---|---|---|---|
| Base condition | Available: 1,000 acres. | Available: site on National Register of Historic Places (NRHP). | Available: 10 acres.. | Available: 15 river-miles. | Available: 10 full-time equivalent (FTE) employees. |
| Without condition (No action). | Available: 200 acres. Impact: 0 acres. | Available: site on NRHP. Impact: None year. | Available: 10 acres. Impact: 0 acres/year. | Available: 10 river-miles. Impact: 0 river-miles/year. | Available: 10 FTE employees. Impact: 0 FTE employees/year. |
| Plan 1 | Available: 0 acres. Impact: −350 acres/year. | Available: site on NRHP. Impact: loss of base condition visual setting due to unavoidable introduction of visible elements. | Available: 0 acres. Impact: −10 acres/year. | Available: 0 river-miles. Impact: −10 river-miles/year. | Available: 40 FTE employees. Impact: +27.5 FTE employees/year. |
| Plan 2 | Available: 200 acres. Impact: 0 acres/year. | Available: site on NRHP. Impact: none. | Available: 0 acres. Impact: −10 acres/year, miles/year. | Available: 10 river-miles. Impact: 0 river/year. | Available: 20 FTE employees. Impact: +9.5 FTE employees. |
| Plan 3 | Available: 1,500 acres. Impact: +775 acres/year. | Available: site on NRHP. Impact: none. | Available: 10 acres. Impact: 0 acres/year. | Available: 10 river-miles Impact: 0 river-miles/year. | Available: 10 FTE employees. Impact: 0 FTE employees/year. |
| Plan 4 | Available: 200 acres. Impact: 0 acres/year. | Available: site on NRHP. Impact: none. | Available: 8 acres. Impact: −2 acres/year. | Available: 10 river-miles. Impact: 0 river-miles/year. | Available: 40 FTE employees. Impact: +27.5 FTE employees/year. |

NOTES.—1. Base condition year = 1990. 2. Period of analysis = 100 years.

**Table 4.**—*List of Preparers*

The following people were primarily responsible for preparing this Environmental Impact Statement:

| Name | Discipline/expertise | Experience | Role in preparing EIS |
|---|---|---|---|
| Mr. William Brown | Biology/general, fisheries. | 2 years, lab assistant, American Biology Co.; 4 years, EIS studies, Gotham District. | Effects on Fishery Resources and Public Health. |
| Dr. Richard Green | Archeology | 17 years, Professor of Prehistoric Archeology, Anytown University. | Consultant on Cultural Resource Impacts. |
| Mr. Thomas Jones | Engineering/civil, water resources. | 5 years, civil engineer, Ubildum, Inc.; 3 years, planner, Gotham District. | Study Manager, Formulation of Alternatives, Needs Assessment |
| Mr. John Smith | Biology/wildlife | 6 years, EIS studies, Gotham District | EIS Coordinator, Effects on Wildlife Resources. |

**Table 4.**—*List of Preparers*—Continued

The following people were primarily responsible for preparing this Environmental Impact Statement:

| Name | Discipline/expertise | Experience | Role in preparing EIS |
|---|---|---|---|
| Ms. Mary White | Chemistry/water | 3 years, EIS studies, Gotham District | Effects on Water Quality. |
| Mr. Michael Yost | Economics/ industrial, social. | 2 years, industrial site analyist, Bencos Consultants; 6 years, economic studies, Gotham District. | Socio-Economic Effects. |
| Mr. Tom Black | Landscape architect/site planning and beautification. | 4 years, site planner, Design Concepts Inc. of New York; 7 years EIS studies, Gotham District. | Effects on Natural Beauty and Landscape Aesthetics. |

**Table 5.—Index, References and Appendixes**

[Name of Selected, or Tentatively Selected, Plan]

| Subjects | Study documentation | | |
|---|---|---|---|
| | Environmental Impact Statement | Main Report (References Incorporated) | Report Appendixes (References Incorporated) |
| Affected Environment | Pp. EIS 21–25, para. 4.01 | Pp. 22–29 | App. A, pp. A–11—A–143. |
| Alternatives | Pp. EIS 13–20, para. 3.01 | Pp. 35–97 | App. B, pp. B–3—B–210. |
| Areas of Controversy | Pp. EIS 6–7, para. 1.05 | P. 4, pp. 63–64 | App. C, pp. C–5—C–17; App. X, pp. X–10—X–22. |
| Comparative Impacts of Alternatives. | Etc | Etc | Etc. |
| Cover Sheet | | | |
| Enviornmental Conditions | | | |
| Environmental Effects | | | |
| List of Preparers | | | |
| Major Conclusions and Findings | | | |
| Need for and Objectives of Action. | | | |
| Planning Objectives | | | |
| Plans Consisted in Detail | | | |
| Plan Eliminated from Further Study. | | | |
| Public Concerns | | | |
| Public Involvement | | | |
| Public Involvement Program | | | |
| Public Views and Responses | | | |
| Relationship to Environmental Requirements. | | | |
| Required Coordination | | | |
| Resource No. 1 | | | |
| Resource No. 2 | | | |
| Significant Resources | | | |
| Statement Recipients | | | |
| Study Authority | | | |
| Summary | | | |
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| Unresolved Issues | | | |
| Without Conditions (No Action) | | | |

NOTE.—Replace, in alphabetical sequence, with the subject titles developed for significant resources (see paragraph 6g).

## Appendix B

*Environmental Operating Procedures and Documents for Regulatory Functions*

*Subject and Paragraph*


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Elimination of Duplication with State and Local Procedures ..... 4
Informing the Public ..... 5
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Corps as Lead Agency ..... 10b
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1. *Introduction.* Because of the diverse geographic areas and types of activities covered by this regulation, it is likely that interpretive problems may arise from time to time. In keeping with Executive Order 12044 and the policy stated in the CEQ regulation implementing NEPA (40 CFR 1500.2), where interpretive problems arise and consideration of all other factors do not give a clear indication of a reasonable interpretation, the interpretation (consistent with the spirit and intent of NEPA) which results in the least paperwork and delay will be used.

2. *General.* This appendix provides guidance on the environmental requirements of 40 CFR 1500–1508 for Corps Civil Works field operating agencies with regulatory permits responsibilities. Where guidance in this appendix is not specific, the reader is referred to the basic regulation (ER 200–2–2). Where guidance is not specific in both this appendix and in the basic regulation, the reader is referred to 40 CFR 1500–1508.

3. *Development of Information and Data.* The district engineer (division engineer in the case of New England and Pacific Ocean divisions) may require the applicant to furnish appropriate information that the district engineer considers necessary to allow preparation of an EA or EIS. This information shall include appropriate data necessary to properly evaluate reasonable alternatives to the applicant's proposal and to fully describe all such reasonable alternatives in the appropriate environmental document. The applicant should be advised that there is no assurance that favorable action will ultimately be taken on the application. In such situations where relevant information is missing or incomplete and the costs of obtaining it are exorbitant or the means to obtain it are not known, the district engineer should include a "worst-case" analysis (see 40 CFR 1502.22) in the appropriate environmental document if the district engineer believes the applicant's proposal may be approved. The district engineer may require the applicant to furnish any additional information necessary to properly assess the impacts of the applicant's proposed project and to evaluate alternatives under paragraph 11b(5) of this appendix. The district engineer shall assure the conduct of an independent evaluation and shall be responsible for the accuracy of the information submitted by the applicant.

4. *Elimination of Duplication with State and Local Procedures.* See paragraph 20 basic regulation.

5. *Informing the Public.* Several paragraphs of this appendix (paragraphs 7, 8, 10, 12, and 18) and 33 CFR 325 provide information regarding district engineers making available to the public certain environmental documents in accordance with 40 CFR 1506.6. The district engineer may, if resources are available, go beyond this regulation and inform the public of various other environmental and decision processes that have occurred.

6. *Pre-Application Consultation for Major Applications.* In accordance with 40 CFR 1501.2(d) and the guidance in 33 CFR 325, the district engineer shall establish local procedures and policies including an appropriate publicity program to advise potential permit applicants of the pre-application consultation process where future Corps permitting actions may be required. At the earliest possible time, the district engineer (or designated staff) shall inform potential applicants of the required public interest review including the preparation of an environmental document and attendent reviews, and other actions including the scoping process, if appropriate.

7. *Categorical Exclusions.* In addition, each district engineer may develop a supplemental list of proposed categorical exclusions as defined in 40 CFR 1508.4 appropriate to that district; notify other Federal, state, and local agencies and the general public through separate public notice procedures with a minimum 90 day comment period; and, if deemed necessary, hold a public hearing. The district engineer shall then forward the list through the division engineer to DAEN–CWO–N. Following review for Corps-wide consistency, the list will be forwarded to CEQ for approval. A public notice shall be issued at the conclusion of these procedures announcing the final list. This list may be revised from time to time using these public notice procedures. After adoption of categorical exclusion categories, public notices on site specific applications falling within such categories shall state that the application is considered to be a categorical exclusion so that commenting agencies and the public will have the opportunity to demonstrate that extraordinary circumstances exist on a particular application, thus requiring the preparation of an EA.

8. *EA/FONSI Document.* (See 40 CFR 1508.9 and 1508.13 for definitions).

a. *Environmental Assessment (EA).* The district engineer shall prepare an EA as soon as practicable after all relevant information has been made available to the district engineer (i.e., after the comment period for the public notice announcing receipt of the permit application has expired) and prior to preparation of the Findings of Fact (FOF). The alternative portion of the EA shall follow paragraph 11b(5) of this appendix. However, when the EA confirms that the impact of the applicant's proposal is not significant, there are no "unresolved conflicts concerning alternative uses of available resource . . ." (Section 102(2)(E) of NEPA), and the proposed action is a water dependent activity, the EA need not include a discussion on alternatives to the proposal. In all other cases the EA must address all the alternatives, as discussed in paragraph 11b(5) of this appendix, that go before the ultimate decision maker. This discussion will include suggested means by which the environment might be protected and by which adverse impacts could be reduced by conditioning of the permit. The EA shall be a brief document (5–15 pages) primarily focusing on whether or not the entire project subject to the permit requirement could have significant effects on the environment but shall not be used to justify a decision. (For example, where a utility company is applying for a permit to construct an outfall pipe from a proposed power plant, the EA must assess the direct and indirect environmental effects and alternatives of the entire plant.) The EA shall conclude with a FONSI (See 40 CFR 1508.13) or a determination that an EIS is required.

b. *Responsibilities in Preparing EA.* If information for an EA is undertaken by an outside consultant or prepared by the applicant, the district engineer is responsible for independent verification and use of the data, evaluation of the environmental issues, and for the scope and content of the EA. Preparation of an EA shall be based on considerations discussed in 40 CFR 1501, 1506 and 1508 and the instruction contained in paragraph 9 of the basic regulation.

c. *FONSI.* If, the district engineer determines that a permit proposal's impact is not significant, the district engineer shall include a FONSI (See 40 CFR 1508.13) at the end of the EA. The combined document (i.e., both the EA and the FONSI) shall be dated, signed, and placed in the permit record. Where the district engineer has delegated authority to sign permits on his behalf, he may similarly delegate the signing of the EA/FONSI document. The FONSI will be based on information contained in the EA and other pertinent data obtained from cooperating Federal agencies having jurisdiction by law or special expertise, the interested public, the applicant, and Corp's expertise.

9. *Findings of Fact (FOF).* In accordance with 33 CFR 325, the District Engineer shall prepare as a separate document a FOF for every permit application not requiring an EIS. The FOF may reference the EA to avoid duplication.

10. *Environmental Impact Statement—General.*

a. *Determination of Lead and Cooperating Agencies.* When the district engineer concludes that the applicant's proposed activity may significantly affect the quality of the human environment and the district engineer believes that a permit may be warranted, the district engineer will first determine whether any other Federal agencies are involved. The district will contact any such other Federal agencies to determine their respective role(s) in the overall Federal action, i.e., that of lead agency, joint lead agency, or cooperating agency.

b. *Corps as Lead Agency.* When the Corps is lead agency, it will be responsible for funding the entire EIS except for those

portions which come under the jurisdiction of other Federal agencies. Staff support from other Federal agencies beyond the immediate jurisdiction of those agencies may be cost reimbursed by the Corps under written agreement.

c. *Corps as Cooperating Agency.* If another agency is the lead agency as set forth by the CEQ regulations (40 CFR 1501.5 and 1501.6(a) and 1508.16), the district engineer will coordinate with that agency as a cooperating agency under 40 CFR 1501.6(b) and 1508.5 to insure that agency's resulting EIS may be adopted by the Corps for purposes of exercising its permit authority. As a cooperating agency the Corps will be responsible to the lead agency for providing that environmental information which is directly related to the regulatory matter involved and which is required for the preparation of an EIS and any inherent funding involved. This in no way shall be construed as lessening the district engineer's ability to request the applicant to furnish appropriate information as discussed in paragraph 3 of this appendix.

When the corps is a cooperating agency because of a regulatory permit action, the district engineer will, in accordance with 40 CFR 1501.6(b)(4), "make available staff support at the lead agency's request" to enhance the latter's interdisciplinary capability provided the request pertains to the Corps permit action covered by the EIS. Beyond this, Corps staff support will generally be made available to the lead agency to the extent practicable within its own responsibility and available resources. Any assistance to a lead agency beyond this will normally be by written agreement with the lead agency providing for a cost reimbursible basis for Corps resources expended. If the district engineer thinks a public hearing should be held and another agency is the lead agency, the district engineer may request that the lead agency hold a joint public hearing and provide reasons why the joint hearing will be helpful. The district engineer should offer to take an active part in the hearing and ensure coverage of Corps concerns.

d. *Additional Information from Applicant Relating to EIS Preparation.* In cases where a Corps EIS is required, the district engineer may require the applicant to furnish appropriate additional information that the district engineer considers necessary to allow preparation of the EIS. The district engineer shall assist the applicant by outlining the types of information required. Early draft submittals of data may be made by the applicant to the district engineer for advisory review by appropriate disciplines either within the district engineer's staff or other agencies. This procedure envisions Corps or agency mark-up and informal comment and return to the applicant with brief time schedules to avoid unnecessary delays in the preparation process. The single point of contact designated within the district staff to effectively coordinate the regulatory process (33 CFR 325) shall also coordinate this process.

e. *Scoping Process.* The district engineer shall include the applicant in the scoping process with a view that the scope of the material to be submitted by the applicant will be sufficient. The scoping process should develop the topical scope of the pending EIS and allow the applicant to be advised of the data and information required by the district engineer. The scoping process shall be conducted by the element within the district that is responsible for preparing the EIS, but shall in any case, involve and include the single district regulatory staff coordinator for the proposed regulatory (and NEPA) action.

f. *Contracting.* The district engineer may prepare an EIS either with its own in-house staff or by choosing a contractor. In choosing a contractor who reports directly to the district engineer, the procedures of 40 CFR 1506.5(c) will be followed. Where the district engineer is aware of any conflict of interest concerning the outcome of the proposed permit action which the proposed contractor may have, the district engineer shall not select that contractor. Where the information base required for an EIS is prepared by a consultant employed by the applicant with a view that the resulting information will meet the district engineer's request for additional information which may be used by the district engineer in preparing an EIS, the district engineer will i) advise the applicant and/or his consultant of the Corps' information requirements, and ii) meet with the application and/or his consultant from time to time and provide him with the district engineer's views regarding adequacy of the data that is being developed (including how such data will be viewed in light of any possible conflict of interest which the consultant may have). The applicant and/or his consultant may either accept or reject the district engineer's guidance. However, the district engineer may require the applicant to resubmit any previously submitted data which the district engineer considers inadequate or inaccurate. The district engineer must specify the portion of information which is in contention. In all cases, the district engineer shall ensure the conduct of an independent evaluation of the information submitted and shall be responsible for its accuracy. This shall be documented in the record. Both the names of the principal preparers and those responsible for the independent evaluation shall be included in the EIS (see CFR 1506.5(a)).

g. *Change in EIS Determination.* If the district engineer has previously published a notice of intent to prepare an EIS, or has already prepared and distributed a Draft EIS, the district engineer may at any time determine an EIS is no longer required due to (1) reevaluation of the original determination, (2) reduced scope of the proposal, (3) receipt of additional information, or (4) sufficient evidence in the record to support denial of the proposal. If the EIS process is curtailed, the distict engineer shall notify in writing the Office, Chief of Engineers, the appropriate Corps division office, the appropriate EPA Regional Administrator, the Office of Environmental Review of the Environmental Protection Agency, Washington, DC, and the public of his determination.

h. *Permit Denial Anticipated.* The EIS process may follow through the completion of the final EIS stage even though denial of the application is anticipated if the record is not sufficient to support denial without completion of the final EIS process or if, in the district engineer's opinion, the public interest would be better served if the EIS process were completed. However, if denial is anticipated, the district engineer may informally notify the applicant that, although a final decision has not been made, the district engineer anticipates denial of the permit with the view that this applicant may wish to modify his proposal. If the case will be elevated to higher authority for decision, any EIS process must be completed prior to any such elevation. In this instance the district engineer should not limit the alternatives from which higher authority must choose. The district engineer shall forward to higher authority his views on comments received on the final EIS or final supplement to the final EIS.

i. *Time Limits.* If, in addition to time requirements the district engineer might otherwise set, the Corps is asked by an applicant to set time limits for the various stages in the NEPA process under 40 CFR 1501.8, the district engineer shall set time limits in accordance with the guidelines presented in 40 CFR 1501.8. These time limits shall be set in the best judgment of the district engineer based on past experience. Because problems beyond the control of the district engineer occasionally arise, any time limits set cannot be considered absolutely binding. When the Corps is a cooperating agency in a permit related action, the district engineer will make every reasonable effort to adhere to the time limits imposed by the lead agency.

j. *Definition of Corps Action.* For regulatory permits, the Corps action is issuance of a permit or issuance of a permit with conditions. For regulatory permits, denial of a permit application is considered "no action" on the part of the Corps.

11. *Organization and Content of Draft EIS's.*

a. *General.* This section gives detailed information for preparing Draft EIS for regulatory permit applications that significantly affect the quality of the human environment. When the Corps is the only lead agency, this Draft EIS format and these procedures will be followed. When the Corps is one of the joint lead agencies, the joint lead agencies will mutually decide which agency's format and procedures will be followed. When the Corps is a cooperating agency, the district engineer will ensure that the Corps' information requirements are contained in the lead agency's Draft EIS. In either case, the EIS should assess the direct and indirect environmental effects and alternatives on the entire project including the portion directly subject to the permit requirement.

b. *Format.*

(1) *Cover Sheet.*

(a) Ref. 40 CFR 1502.11.

(b) The "person at the agency who can supply further information" (40 CFR 1502.11(c)) is the regulatory action officer handling that permit action.

(c) The cover sheet shall identify the EIS as a Corps permit action and state the authorities (Sections 9, 10, 404, 103, etc.) under which the Corps is exerting its jurisdiction.

(2) *Summary.* In addition to the requirements of 40 CFR 1502.12, this section shall identify the proposed action as a Corps permit action stating the authorities (Sections 9, 10, 404, 103, etc.) under which the Corps is exerting its jurisdiction; it shall also summarize the purpose and need for the proposed action as described in paragraph 11(b)(4) below, and it shall briefly state the beneficial/adverse impacts of the proposed action.

(3) *Table of Contents.*

(4) *Purpose of and Need for the Proposal.* This section shall briefly recognize that every application has both an applicant's purpose and need and a public purpose and need. These may be the same when the applicant is a governmental body or agency. In most instances when an EIS is required and the applicant is not a governmental body or agency, the applicant is a member of the private sector engaged in providing a good or service for profit. At the same time, the applicant is requesting a permit to perform work which, if approved, is considered in the public interest (i.e., provides a public benefit). This public benefit shall be stated in as broad, generic terms as possible. For instance, the need for a water intake structure requiring a Corps permit as part of a fossil fuel power plant shall be stated as the need for energy and not be limited to the need for cooling water. In a similar way, the need for housing near canals or near marinas, etc., shall be expressed as the need for shelter and not as the need for recreation near water.

(5) *Alternatives.*

(a) Ref. 40 CFR 1502.14

(b) *Alternatives to be considered.* The EIS shall document a reasonable number and range of alternatives which would satisfy the purpose and need (as described in paragraph 11(b)(4) above) for which the applicant has submitted his proposal. The EIS (or EIS supplement) must address all the practicable alternatives that go before the ultimate decision maker (see 40 CFR 1505.1(e)). If the decision maker's proposed action on a permit application was not included as one of the alternatives in the final EIS and it differs substantively from those alternatives which were discussed, a draft and final supplemental to the final EIS as discussed in paragraph 16 of this appendix, must be prepared and circulated. However, new alternatives not previously discussed in a draft EIS may be included in the final EIS if they are variants of alternatives described in the draft EIS. The alternative section shall discuss the environmental impacts of the applicant's proposal and alternatives in comparative form. A chart is highly recommended as a means of providing easy, side by side, analysis of the impacts of the proposal and its alternatives. Only those features and impacts that are significant and comparable shall be compared side by side. In depth evaluation will normally be limited to those reasonable alternatives which are both practical and:

(i) Within the capability of the applicant and within the jurisdiction of the Corps of Engineers. (These alternatives may encompass the Corps alternative to issue the permit as requested or to issue with mitigating conditions. It may also encompass the alternative to deny the permit with a view toward accomplishing the objective of the proposal by the applicant (or by any other party) by some other means or at some other site still within Corps jurisdiction.)

(ii) Within the capability of the applicant but outside the jurisdiction of the Corps of Engineers. (This alternative may include denial of the permit with a view toward accomplishing the objective of the proposal by the applicant (or any other party) outside of Corps jurisdiction.)

(iii) Reasonably foreseeable, beyond the capability of the applicant but *within* the jurisdiction of the Corps of Engineers. (This alternative may include the do-nothing or deny alternative, with a view toward the satisfaction of the public and/or private need by some other entity beyond the control of the applicant but within the jurisdiction of the Corps of Engineers).

(iv) Reasonably foreseeable, although beyond both the capability of the applicant *and* outside the jurisdiction of the Corps of Engineers. (This alternative may include the do-nothing or deny alternative, with a view toward the satisfaction of the public and/or private need by some other entity beyond the control of the applicant and beyond the scope of the Corps of Engineers.)

The EIS should clearly identify alternatives discussed in detail by the above categories. While these alternatives are to be discussed in depth, the level of in-depth evaluation of each may vary dependent upon the ranking of the alternatives in order of the likelihood that they may be accomplished. For non-water dependent activities which may affect floodplain values, the district engineer shall include in his EA or EIS a discussion of the availability of practicable alternatives outside the floodplain pursuant to Executive Order 11988.

(c) 40 CFR 1502.23 states a cost-benefit analysis shall be incorporated into the EIS when such an analysis is "relevant to the choice among alternatives . . . being considered for the proposed action." For regulatory permits, cost-benefit ratios need not be prepared on proposed actions as they relate to the efficiency of the proposal or the efficiency of the enterprise in the private sector. However, baseline economic data and its interpretation is appropriately included in an EIS when the data shows a measurable impact on the public (e.g. the price variation of energy when produced by a coal-fired generating plant versus nuclear plant or hydropower).

(d) *Disclosure of Preferred Alternative.* For regulatory permit actions, the Corps takes an impartial position whether to issue or deny a particular application until the public interest review is complete. At no time is the Corps a proponent of any action. It simply determines whether or not certain actions proposed by applicants are in the public interest and under what circumstances such proposals, if modified, would be in the public interest. The Corps' actual decision that is made by the final decision maker will be stated in the Record of Decision. This does not negate the requirement under 40 CFR 1505.2(b) for the district engineer to objectively state the "environmentally preferred alternative."

(e) *Mitigation.* Guidance on mitigative measures which may be considered when evaluating permit applications is given in 33 CFR 325.4.

(6) *Affected Environment.* Ref. 40 CFR 1502.15

(7) *Environmental Consequences.*

(a) Ref. 40 CFR 1502.16

(b) Ref. to 33 CFR 325 for definitions of primary effects, secondary effects, and other impacts.

(c) Except for Federal projects meeting the requirements of Section 404(r) of the Clean Water Act, the Section 404(b)(1) analysis under the Clean Water Act may, but need not necessarily, be included in the EIS at the discretion of the district engineer. The information required by the 404(b)(1) guidelines, when included, will be integrated into the text of the EIS.

(8) *List of Preparers.* Ref. 40 CFR 1502.17

(9) *Public Involvement.*

(a) References: 40 CFR 1502.9(b), 1502.10(i), 1503.1, 1503.4, 1506.6, and 1506.9.

(b) This section shall briefly describe the public's involvement in the EIS process. It shall (i) briefly state the means used to involve the public including the scoping process, any public hearings held, etc., (ii) briefly state the Federal, State, and local agencies, organizations, and individuals (in this order) to whom copies of the statement have been sent, (iii) if a final EIS include copies of the public's comments on the draft EIS and the Corps responses to those comments. This portion shall include any responsible opposing views as well as the Corps responses to those issues raised. See paragraph 19c, "Comments Received on The Draft EIS" of basic regulation.

(10) *Appendixes.* The appendix portion of the EIS should contain background and supporting data and studies while the text of the EIS should contain data stating baseline information and anticipated impacts of the proposal. One guideline to be used in this regard is to place the data in the EIS text itself when to do otherwise would cause the reader to refer frequently to the appendix in order to understand the EIS text. Any remaining information not able to be incorporated by reference in accordance with 40 CFR 1502.21 should be placed in the appendix. Placing as much data, studies, etc., into the draft EIS appendixes, within the above guidance, has the additional advantage that such information need only be referenced in the final EIS, not additionally reproduced in the final EIS.

(11) *Index.* The index of an EIS is to be designed to provide for easy reference to items discussed in the main text of the EIS. These items are to be listed in the index in alphabetical order and page(s) and paragraph number(s) given for each item. The index shall be placed at the very end of the EIS document.

12. *Notice of Intent.* The district engineer shall follow the guidance in ER 200–2–1 in preparing a notice of intent to prepare a Draft EIS for publication in the **Federal Register**. A notice of intent announcing a proposed Draft EIS for regulatory permit actions shall identify the action as a regulatory permit action in the title of the notice as listed in the Table of Contents to the **Federal Register**.

13. *Public Hearing.* If a public hearing is to be held pursuant to 33 CFR 327, and a draft EIS is to be considered at the public hearing, the district engineer will make the draft EIS available to the public at least 15 days in advance of the hearing (unless the purpose of the hearing is to provide information for the draft EIS). If a hearing request is received from another agency having jurisdiction as provided in 40 CFR 1506.6(c)(2), the district engineer shall initiate coordination for a joint hearing with that agency whenever appropriate. Unless the district engineer concurs that such a hearing is required under 33 CFR 327 he will not independently conduct a hearing.

14. *Organization and Content of Final EIS.* The organization and content of the final EIS shall follow the guidance in paragraph 11a(2) of the basic regulation. The EIS is not a decision document and the filing of a final EIS is not to be considered a decision on a permit application. Nor is an EIS to be prepared to justify a decision. An EIS is prepared to provide information on which a decision is based. Filing the final EIS is merely one of the administrative steps which must be taken to comply with the procedural provisions of NEPA in accordance with CEQ regulations when processing a permit application which may significantly affect the quality of the human environment. Permit issuance cannot occur until 30 days after the final EIS has been noticed in the **Federal Register** by EPA and the Record of Decision signed.

15. *Comments Received on the Final EIS.* For permit cases to be decided at the district level, the district engineer will carefully review and consider all comments received on the final EIS before making a final decision on the applicant's proposal but need not reply to those parties providing comments on the final EIS. For permit cases elevated to higher authority for a decision, the district engineer shall forward the incoming letters together with appropriate responses to the substantive comments to higher authority along with the case. In the case of a letter recommending a referral under 40 CFR 1504, the district engineer will follow the guidance in paragraph 23 of this appendix.

16. *EIS Supplement.* a. See 40 CFR 1502.9(c)(1) and paragraph 11b of basic regulation when a supplement to either a draft or final EIS is required.

b. A supplement to a draft EIS will require a 45-day minimum comment period. Note that there is no draft supplement or final supplement to a draft EIS, only a supplement to a draft EIS. The final EIS will encompass all information presented in both the draft EIS and the supplement to the draft EIS.

c. A supplement to a final EIS will be prepared as both a draft supplement to the final EIS and a final supplement to the final EIS. The 45- and 30-day minimum comment periods, respectively, are required. No final action shall be taken on the applicant's proposal sooner than 90-days after the draft supplement has been filed with EPA. See 40 CFR 1502.9(c)(4).

d. Supplements will be prepared in the EIS format described in paragraph 11 of this appendix. References to the draft or final EIS being supplemented should be used extensively to eliminate repetitive discussion. The supplements should primarily be concerned with and should discuss the significance of impacts resulting from the changes, new information, or circumstances relevant to the environmental or other concerns which impact or have a bearing on the applicant's proposal.

17. *Supplemental Information and Other Reports.* Paragraphs 11(d) and (e) of the main text provide background information and guidance for supplemental information reports. Supplemental information reports are not required by 40 CFR 1500. Therefore, regulatory permit field elements need not prepare them. However, should a district engineer feel the public interest would be better served by distributing such supplemental information reports to the public, he may do so at his discretion. Unless specifically requested none are to be forwarded to DAEN–CWO–N.

18. *Public Notice Announcing Availability of Draft, Final EIS and EIS Supplements.* In order to notify the interested public of its opportunity to comment on draft and final EIS and any EIS supplements, the district engineer shall issue a public notice as soon as practicable after the filing notation has been published in the **Federal Register.** This notice should be furnished to all parties receiving any earlier notices, all parties receiving any previous copies of the EIS, and all others who have expressed an interest in the application as well as those parties listed in 40 CFR 1506.6 as appropriate. When the Corps is a cooperating agency, the district engineer may, but is not required, to distribute public notices in accordance with this paragraph. The public notice should include:

a. A brief summary of the application (applicant work, date(s) of other notice(s), dates of any previous EIS (draft, supplement to the draft, final, draft supplement to the final), date(s) of hearing(s) if held;

b. Opportunity to comment to the district engineer on the EIS or EIS supplement until the deadline date projected by the comment period (required by 40 CFR 1506.10 and paragraph 16 of Appendix B) which began with notation in the **Federal Register** that the EIS or EIS supplement had been filed;

c. A statement that the comments received on the EIS or EIS supplement will be evaluated and considered in arriving at a final decision on the application; and

d. Information on how interested parties can obtain or have access to the EIS or EIS supplement.

19. *Filing Requirements.* District engineers will file draft and final EIS and any EIS supplements directly with EPA after appropriate review by the respective division office and the incorporation in the EIS of division's comments. Five (5) copies shall be sent to Director, Office of Environmental Review (A–104), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Draft and final EIS and any appropriate supplements shall be mailed (with the required number of copies) to those agencies, groups, and individuals known to have an interest or who have requested they receive such copies for the proposal in question and in accordance with 40 CFR 1502.19, 1503.1, and 1506.6. At the same time they are mailed to EPA for filing, one copy of each draft and final EIS, and EIS supplements when appropriate, shall be forwarded to HQDA (DAEN–CWO–N) WASH DC 20314. The transmittal letter to OCE shall include the status of the permit application, a list of the objectors, the issues involved, whether the case is in litigation, and a preliminary determination whether the permit decision will be made at the district level. 40 CFR 1506.10 describes the timing of an agency action when an EIS is involved.

20. *Expedited Filing.* 40 CFR 1506.10 provides information on allowable time reductions and time extensions associated with the EIS process. When an applicant's proposed action must be undertaken within critical time restraints or because of compelling reasons of national policy, a shortened review period may be recommended. In such cases, the district engineer will provide the necessary information and facts to HQDA (DAEN–CWZ–P) WASH DC 20314 (with copy to DAEN–CWO–N) for consultation with EPA for a reduction in the prescribed review periods.

21. *Record of Decision.* In those cases involving an EIS, the Findings of Fact will be called the Record of Decision and shall incorporate the requirements of 40 CFR 1505.2. The Record of Decision is not to be included when filing a final EIS. The Record of Decision is not to be prepared nor signed until 30 days after the final EIS has been noticed in the **Federal Register** by EPA. To avoid duplication, the Record of Decision may reference the EIS.

22. *Predecision Referrals by Other Agencies for Regulatory Permits.* If the district engineer receives comments on a draft EIS from another Federal agency advising of a potential referral to CEQ under 40 CFR 1504, the district engineer shall, to the extent practicable, provide the necessary information and/or attempt to resolve the differences prior to filing the final EIS on the proposed action. In all cases the final decision-maker, as set forth in 33 CFR 325.8, will wait the 30 day comment period following filing of the final EIS before making his final decision. If this decision is contrary to the position of the agency which has indicated an intent to refer the matter to CEQ, the decision-maker will notify the agency and CEQ of his proposed decision. The referring agency will then have 25 calendar days to actually refer the case to CEQ under 40 CFR 1504 if it so chooses. If a referral is made, the decision-maker will transmit the referral to (DAEN–CWZ–P) and (DAEN–CWO–N) for further guidance.

23. *Review of Other Agencies' EIS.* If the district engineer determines after review of another agency's draft EIS that the proposed action (which must involve a Corps permit action) is inadequate with respect to the Corps permit action, the district engineer shall attempt to resolve the differences concerning the Corps permit action prior to the filing of the final EIS by the other agency. If these attempts are unsuccessful and, upon review of another agency's final EIS the district engineer finds that final EIS is inadequate with respect to the Corps permit

action, the district engineer shall supplement the final EIS with either an EA or a draft and final supplement to that agency's final EIS.

24. *Monitoring.* Monitoring compliance with permit requirements shall be carried out in accordance with 40 CFR 1505.3 and as deemed necessary under 33 CFR 325. For those permit actions for which an EIS has been prepared and the Corps is the lead agency, the district engineer shall, upon written request, make available to the public the results of relevant monitoring. Appropriate mitigation and other conditions shall be a part of the permit as specified in 33 CFR 325. For those permit actions for which an EIS has been prepared and the Corps is the lead agency, the district engineer shall, upon written request, inform cooperating or commenting agencies on progress in carrying out mitigation measures which they have proposed and which the Corps adopted in making its permit decision.

Appendix C

*Processing Corps EIS*

EIS prepared for Corps Civil Works actions will be processed in accordance with the instructions contained in this Appendix and applicable paragraphs in the regulation.

*Title*

1. Survey Studies
2. Continuing Authority Studies
3. Post Authorization Advanced Engineering and Design (AE&D)
4. Projects in a Continuing Construction Category
5. Completed Projects in an Operations and Maintenance Category
6. Regulatory Permits
7. Real Estate Managment and Disposal Actions
8. EIS Processing Instructions for ASA (CW) Review

1. *Survey Studies.* Environmental considerations shall be integrated into the multiobjective planning process in accordance with the ER 1105–2–200 series. Documentation and related processing requirements based on 40 CFR 1500–1508 are discussed below for the three planning stages.

a. *Stage 1 Planning.* No separate, formal NEPA-related documents are required during Stage 1 Planning. Environmental considerations will be included in the Reconnaissance Report (See ER 18–2–2, ER 1105–2–210 and ER 1105–2–920).

b. *Stage 2 Planning.* Environmental considerations will be included in Stage 2 documentation submitted to Division for the Stage 2 Checkpoint Conference (See ER 18–2–2, ER 1105–2–210 and ER 1105–2–920).

c. *Stage 3 Planning.* A Draft Survey Report, consisting of a draft of the Main Report (which includes a Draft EIS) and Appendixes, will be submitted to Division to accomplish Milestone 06 (See ER 18–2–2, ER 1105–2–210 and ER 1105–2–920). Circulation of the Draft Survey Report and filing of the Draft Survey Report and EIS with EPA (Milestone 09) will be accomplished at least 15 days before the Stage 3 Public Meeting is conducted.

(1) The number of copies of the Draft Survey Report to be distributed to accomplished Milestone 09 is as follows:

(a) Three (3) copies to HQDA (DAEN–CWP–E, C or W, as appropriate) WASH DC 20314.

(b) Three (3) copies to the appropriate division engineer (not applicable to NED and POD).

(c) Five (5) copies to EPA (Washington Office) for filing (See paragraph 17).

(d) One or more copies to public agencies, private groups and individuals known to have an interest in the study. A notice of availability will be sent to all others on the mailing list.

(2) District engineers shall insure that the Draft Survey Report and EIS will be filed with EPA no earlier than they are also circulated to parties on the study mailing list.

(3) The complete Draft Survey Report and EIS, including all report Appendixes, will be provided in the distribution required by paragraphs 1c (1) (a)–(c) above. Other groups and parties on the study mailing list known to have an interest in the study will receive, as a minimum, the draft of the Main Report (which includes a Draft EIS) and the report appendix titled Public Views and Responses (See ER 1105–2–920, Appendix B, paragraph 3). In cases where the other report Appendixes are exceedingly voluminous, consideration should be given to including in the distribution only those Appendixes that will be of particular interest to each recipient. For example, it may not be necessary to provide a state fish and game agency with a copy of the Social and Cultural Resources Appendix. If this approach is used, an annotated Bibliography of Report Appendixes (citing the title, preparation date and cost and a summary of the contents for each Appendix, as well as instructions for obtaining copies of Appendixes) should be attached to the Report. In any case, Appendixes will be provided upon request.

(4) A news release announcing the availability of the draft may also be issued by the reporting officer releasing the document.

d. *Division Review.* After the Stage 3 public meeting and public review of the Draft Survey Report and EIS, the district engineer will finalize the Survey Report, including preparation of the final EIS. In accordance with paragraph 19c and Appendix A all comments and appropriate responses will be included in the Public Views and Responses Appendix. Significant issues and/or substantive comments received will be discussed in the Public Involvement chapter in the main text of the final EIS. The Final Survey Report, which will include the final EIS as a part of the Main Report will be submitted to the division engineer for review, approval and transmittal to the Board of Engineers for Rivers and Harbors (BERH) or Mississippi River Commission (MRC) in the case of Survey Reports prepared for Mississippi River and Tributaries projects. For the purpose of this regulation, only the acronym BERH will be used since the review functions of MRC and BERH are identical. (Milestone 10). Although the EIS in the main report is identified as a "final" at this stage of processing, it should be clear to all those requesting a copy that it is an "Interim Document Under Agency Review—Subject to Revision" and will become the agency's final EIS when it is filed with EPA after BERH and OCE review.

e. *BERH Review.* BERH will review the EIS at the same time as it reviews the Final Survey Report. The report and EIS should be compatible. If BERH review requires minor revisions to the plan as recommended by the reporting officers, minor changes to the EIS reflecting plan revisions shall be noted in the BERH report. If BERH action results in major revisions to the plan recommended by the reporting officer and the revisions are variants of the plan or alternatives described in the draft EIS, an addendum to the final EIS will be prepared by BERH (with assistance from the reporting officer, as required). This addendum "package" will be identified as an "Addendum to the Final EIS—Environmental Consequences of the Modifications Recommended by the Board of Engineers for Rivers and Harbors—project name." The format shall include an abstract on the cover page, recommended changes to the reporting officer's proposed plan, rationale for the recommended changes, environmental consequences of the recommended changes and the name, expertise/discipline, experience, and role of the principal preparer(s) of the addendum. Letters received during BERH review which provide new pertinent information having a bearing on the modifications recommended by BERH will be attached to the addendum.

f. *Departmental Reviews.* The Main Report including the final EIS, together with the proposed report of the Chief of Engineers and the BERH report, will be filed with EPA at the same time as it is circulated for 90-day Departmental review to the concerned state(s) and Federal agencies at the Washington level (Milestone 13). District engineers will circulate the Proposed Chief's report, BERH report, and the Main Report and final EIS to parties on the project mailing list not contacted by OCE (groups and individuals known to have an interest in the study or who provided comments on the draft EIS) allowing the normal 30-day period of review. Copies of report appendixes circulated with the draft need not be circulated with the Main Report and final EIS except for the Public Views and Responses Appendix which shall accompany all final EIS. All letters of comment received on the Main Report and final EIS together with OCE responses (including the responses of the district engineer as discussed in paragraph 19d) and the draft Record of Decision will be included with other papers furnished at the time the final Chief's Report is transmitted to ASA (CW) for further review and processing. (Milestone 15).

g. *Executive Reviews.* After completion of review, the Chief of Engineers will sign his final report and transmit the report and accompanying documents to ASA (CW). ASA (CW) will transmit the entire report to the WRC for technical review. After technical review the WRC will prepare its findings and return the report to ASA (CW) who will transmit the report to OMB requesting its views in relation to the program of the President (Milestone 16). The WRC and OMB packages will not contain copies of the draft Record of Decision. After OMB provides its views, ASA (CW) will sign the Record of Decision and transmit the report to Congress (Milestones 17–19). A letter of issuance

inclosing a copy of the Record of Decision will be sent to the Washington Office of EPA with a copy of the letter to the concerned Regional Administrator. The district engineer shall provide copies of the Record of Decision to agencies, organizations and members of the public known to have an interest in the proposed action.

2. *Continuing Authority Studies.*—a. *General.* The Detailed Project Report (DPR) as discussed in paragraph 6b(3), is the decision document for Continuing Authority Studies and will be prepared in draft and final format including a draft and final EIS and FONSI (as appropriate) within the bound document. The DPR should follow the format of a survey report as discussed in ER 1105–2–920.

The organization, format and content of the EIS will be in accordance with the guidance in Appendix A. If an EA and FONSI are used, they will be prepared in accordance with paragraphs 9 and 10 and included within the DPR in place of the EIS. Since the proposed action normally requires an EIS, the EA and unsigned FONSI will be circulated with the DPR.

b. *Preparation and Draft Review.* As soon as practicable after initiation of the study, a Notice of Intent, as discussed in paragraph 16, will be prepared and published in the **Federal Register** if the district engineer determines that an EIS will be prepared for the proposed action. Following the essential planning stage documentation, the district engineer will prepare the draft DPR including the draft EIS within the DPR, and circulate it to agencies, groups and individuals known to have an interest in the study. A notice of availability will be sent to all others on the mailing list. Five (5) copies shall be sent directly to EPA for filing in accordance with paragraph 17. In the case of an EA, only one copy of the report and the EA shall be furnished to the Washington office of EPA. Six (6) copies will be transmitted to higher authority (three to HQDA (DAEN–CWP–E, C, or W as appropriate) WASH DC 20314, and three to the division engineer). District engineers shall insure that the Draft Report and EIS will be filed with EPA no earlier than they are also circulated to parties on the mailing list. If a late stage public meeting is held in connection with the proposed action, the Draft Report and EIS should be available to the public at least 15 days before the meeting. A news release announcing the availability of the document may also be issued when the draft is filed with EPA.

c. *Agency Review.* After review and evaluation of comments received the district engineer will finalize the DPR, including preparation of the final EIS within the DPR. Comments and responses will be handled in accordance with paragraph 19c, and Appendix A. In the case of an EA, the comments and responses will be handled the same as for an EIS. The district engineer will sign the FONSI and include it with the EA in the final DPR. Eleven (11) copies of the Final DPR will be transmitted to the division engineer for review and approval of the technical aspects of the proposed action. After review the division engineer will transmit eight (8) copies of the Final DPR to HQDA (DAEN–CWP–E, C or W as appropriate) WASH DC 20314 for further processing. Appropriate elements within OCE will review the Final DPR and EIS and file it with EPA in accordance with paragraph 17 with a copy provided to ASA(CW). District engineers will be advised when OCE review is completed so that the Final DPR and EIS will be filed with EPA no earlier than they are also circulated to parties on the mailing list.

d. *Final Review.* Letters of comment on the Final DPR including the final EIS, will be answered by the district engineer on an individual basis. Five (5) copies of all incoming letters and the district engineer's reply, as appropriate together with a draft of the Record of Decision, will be submitted through division to the appropriate element within OCE who filed the Final DPR. After review of all incoming comments and Corps responses, the Director of Civil Works will sign the Record of Decision and approve the project. A letter of issuance together with a copy of the Record of Decision will be sent to the Washington Office of EPA with a copy to the concerned Regional Administrator. The district engineer shall provide copies of the Record of Decision to agencies, organizations and members of the public known to have an interest in the project.

3. *Post Authorization Advanced Engineering and Design (AE&D).*— a. *Phase I GDM.* The Phase I GDM (AE&D Planning Report) as discussed in paragraph 6b(2), is the decision document at this first phase of post-authorization planning for those projects authorized for construction, those authorized for post authorization planning only and those cases where a combined post authorization planning and design report is considered advisable. It will follow the format prescribed for survey reports as discussed in ER 1105–2–920 and procedures outlined in ER 1105–2–30 for OCE or division approval or congressional action. After receipt of Phase I planning study funds, the district engineer will review the final EIS that was filed with the project was authorized and make a determination what type of further NEPA documentation may be required. If the Phase I study indicates that the environmental effects of the plan as proposed have not changed significantly from that which was authorized, and were adequately and fully covered in the final EIS, no further documentation is required except to note the availability of the previously filed final EIS. An EA may be used to demonstrate compliance with environmental review and consultation requirements not completed at time of authorization, as discussed in paragraph 25, except if the final EIS is to be submitted to Congress under Section 404(r) in which case a Supplemental Information Report addressing the Section 404 evaluation shall be utilized, together with the previously filed final EIS, as the documents submitted to Congress under Section 404(r). If the Phase I review indicates that there are significant impacts resulting from changes in the project which would significantly affect the quality of the human environment, a draft and final EIS supplement, prepared in accordance with paragraph 11.b. will be included within the draft and final Phase I GDM. Projects administratively combined for AE&D planning and design (Phase I and II) will undergo similar review, and EA or EIS documentation as necessary will be prepared.

(1) *Legislative Phase I GDM.* EIS documentation for Phase I GDM prepared for projects authorized for Phase I planning only which require BERH and Departmental review will be processed similar to survey studies as discussed in paragraph 1c, d, e, f and g of this Appendix. This documentation may vary from a statement indicating that no further NEPA documentation is required (no significant change) to a draft and final EIS supplement (where the environmental effects of the plan, as reformulated, are significant).

(2) *Administrative Phase I GDM.* EIS documentation for Phase I GDM prepared for projects authorized for construction including Section 201 projects which can be approved by the division engineer, or under certain conditions by OCE, may vary from a statement of no change to a draft and final EIS supplement as noted above.

b. *Phase II GDM.* The Phase II GDM (AE&D Design Report) presents the results of the detailed design and cost estimate studies. It may be used the same as the Phase I GDM as a basis for Congressional modification of an existing authorization. For projects authorized for Phase I planning only, the Phase I GDM must be submitted to Congress before design studies are initiated. For projects authorized for construction, the timing of initiation of design studies is discussed in ER 1110–2–1150. In either case the Phase I GDM together with the proper NEPA documentation will be reviewed during design studies to determine if the environmental effects of the recommended project were adequately discussed. If the design review indicates no significant changes, no further EIS documentation is required except to reference the previously filed documents in the Phase II GDM. If the environmental effects have changed significantly, a draft and final EIS supplement will be required.

c. *Preparation and Draft Review.* The organization and content for an EIS supplement included within the Phase I GDM will follow the guidance in Appendix A. The EIS supplement for the Phase II GDM will follow the format outlined in 40 CFR 1502 and will be prepared and circulated as a separate, self supporting document except if extensive reformulation studies are required in which case it may be combined and circulated with the Phase II GDM. A Notice of Intent, as discussed in paragraph 16 will be prepared and published in the **Federal Register** if the district engineer determines that a draft EIS supplement will be prepared. The Draft Phase I GDM or Phase II GDM if applicable including the draft EIS supplement or separate draft EIS supplement will be circulated to agencies and groups and individuals known to have an interest in the project. A notice of availability will be sent to all others on the project mailing list. Five (5) copies shall be sent directly to EPA for filing in accordance with paragraph 17. In the case of an EA, only one copy of the report and the EA and unsigned FONSI shall be furnished to the Washington office of EPA. For Legislative Phase I GDM, six (6) copies

will be transmitted to higher authority (three to HQDA (DAEN–CWP–E, C, or W as appropriate) WASH DC 20314, and three to the division engineer). For Administrative Phase I GDM, three (3) copies will be transmitted to the division engineer. For Phase II GDM, either three or six copies will be transmitted to higher authority depending on the level of approval of the proposed action. District engineers shall insure that the Draft Phase I or Phase II GDM and EIS supplement or separate draft EIS supplement will be filed with EPA no earlier than they are also circulated to parties on the project mailing list. If a public meeting is held in connection with the proposed action the draft should be available to the public at least 15 days before the meeting. A news release announcing the availability of the draft may also be issued when it is filed with EPA.

d. *Agency Review.* After review and evaluation of comments received the district engineer will finalize the Phase I or II GDM including preparation of the final EIS supplement within the Main Report or as a separate final EIS supplement. Comments and responses will be handled in accordance with paragraph 19c and Appendix A. Eleven (11) copies of the final Phase I or Phase II GDM will be transmitted to the division engineer for review and processing. Depending on the level of approval of the proposed action, either eight (8) or three (3) copies will be sent to HQDA (DAEN–CWP–E, C, or W; or DAEN–CWE–BB as appropriate) WASH DC 20314, and three or eight for the division engineer. After review the division engineer will file the final Phase I or II GDM and EIS supplement or separate final EIS supplement with EPA in accordance with paragraph 17 for those AE&D actions which the division engineer has approval authority. Copies of the transmittal letter will be provided to OCE and the district engineer. Appropriate elements within OCE will review the Final Phase I or II GDM and EIS supplement or separate final EIS supplement and file it with EPA for those AE&D actions requiring OCE approval with a copy provided to ASA(CW). Legislative AE&D Planning Reports will be processed similar to survey studies as discussed in paragraph 1 of this Appendix.

e. *Final Review.* Letters of comment received on the final Phase I GDM and EIS supplement may be answered by OCE or the district engineer depending on whether the Phase I GDM is legislative or administrative. In the case of an Administrative Phase I GDM, five (5) copies of all incoming letters with the district engineers reply, as appropriate, together with a draft of the Record of Decision will be submitted to the appropriate Corps office which filed the final EIS supplement. In the case of a Legislative Phase I GDM, processing will be similar to Survey Reports discussed in paragraph 1. For Phase II GDM, letters of comment will be answered by the district engineer. Five (5) copies of all incoming letters with the district engineer's reply together with a draft Record of Decision will be submitted to the appropriate Corps office which filed the final EIS supplement. After review of the NEPA documents and comments and responses the appropriate Corps Official or ASA(CW) will sign the Record of Decision and approve the action. A letter of issuance together with a copy of the Record of Decision shall be sent to the Washington office of EPA and a copy provided to the concerned Regional Administrator. The district engineer shall provide copies of the Record of Decision to agencies, organizations and members of the public known to have an interest in the proposed action.

4. *Projects in a Continuing Construction Category.*

a. *General.* District engineers will review the existing filed NEPA document(s) covering the proposed construction project to determine if there are any significant environmental impacts resulting from design changes or any new circumstances which have occurred since completion of the Phase II GDM. If there are no significant impacts or new circumstances, no further NEPA documentation is required. However, where there are significant impacts resulting from design changes or new circumstances have occurred, a draft and final EIS supplement as discussed in paragraph 11b will be prepared. EIS for projects in a construction category without an EIS having been previously filed will be prepared in accordance with 40 CFR 1502.

b. *Preparation and Draft Review.* As soon as practicable after the district engineer makes a determination to prepare an EIS if one was not previously filed or EIS supplement for the proposed construction project, a Notice of Intent (as discussed in paragraph 16) will be prepared and published in the **Federal Register**. Following the guidance discussed in 40 CFR 1502, the district engineer will prepare the draft EIS or EIS supplement and circulate it to agencies, groups and individuals on the mailing list known to have an interest in the project for review and comment. Five (5) copies shall be sent directly to EPA for filing in accordance with paragraph 17. Six (6) copies will be transmitted to higher authority (three to HQDA (DAEN–CWO–C or CWE–BB, as appropriate) WASH DC 20314, and three (3) to the division engineer). Only three (3) copies will be sent to the division engineer for those actions which the division engineer has approval authority. District engineers shall insure that the draft EIS or EIS supplement will be filed with EPA no earlier than they are also circulated to parties on the project mailing list. If a public meeting is held in connection with the proposed action the draft EIS should be made available to the public at least 15 days before the meeting. A notice announcing the availability of the draft will be sent to all others on the project mailing list. Appropriate news media may also be notified when the draft is filed with EPA.

c. *Agency Review.* After receipt and evaluation of comments received the district engineer will prepare the final EIS or final EIS Supplement. Depending on the level of approval of the proposed action, either eight (8) or three (3) copies will be sent to HQDA (DAEN–CWO–C or CWE–BB, as appropriate) WASH DC 20314, and three or eight for the division engineer. After review the appropriate Corps office will file the final EIS or EIS supplement in accordance with paragraph 17. A copy of the final EIS will be sent to ASA (CW) for actions approved at OCE. A copy of the final EIS will be provided to appropriate elements in OCE for actions approved at the division level. OCE or the division engineer shall insure that the final is filed no earlier than it is also circulated by the district engineer to parties on the project mailing list.

d. *Final Review.* Letters of comment on the final EIS will be answered by the district engineer on an individual basis. Five (5) copies of the incoming letters and the district engineer's reply together with a draft of the Record of Decision will be submitted to the appropriate Corps office filing the final EIS. After review of the NEPA documents and comments and responses, the appropriate Corps official will sign the Record of Decision. A copy of the signed Record of Decision will be sent to appropriate Corps offices. A letter of issuance together with a copy of the Record of Decision shall be sent to the Washington office of EPA and a copy provided to the concerned Regional Administrator. The district engineer shall provide copies of the Record of Decision to agencies, organizations and members of the public known to have an interest in the project.

5. *Completed Projects in an Operation and Maintenance Category.*

a. *General.* District engineers will review operation and maintenance (O&M) activities to determine if the final EIS filed when the project was authorized adequately discusses the proposed action. If the environmental effects of the O&M actions have not changed significantly, or no new circumstances have occurred, no additional EIS documentation will be required. If the review indicates that there may be significant impacts resulting from changes in the proposed O&M action or new circumstances have occurred, an EA or draft EIS supplement will be prepared. Projects completed prior to NEPA or completed projects without a final EIS will require an EA or EIS covering the proposed O&M activity as discussed in paragraph 6d or 7c. The EIS will follow the format outlined in 40 CFR 1502. Consideration should be given to the use of a program EIS to group similar types of O&M activities as discussed in paragraph 11c. A separate O&M EIS should be prepared where the activity is unique or where substantial environmental controversy presently exists or can reasonably be expected to exist.

b. *Preparation and Draft Review.* As soon as practicable after the district engineer makes a determination to prepare an EIS or EIS supplement for the proposed O&M action a Notice of Intent (as discussed in paragraph 16) will be prepared and published in the **Federal Register**. Following the guidance discussed in 40 CFR 1502, the district engineer will prepare the draft EIS or EIS Supplement and circulate it for review and comment to agencies, groups and individuals on the project mailing list known to have an interest in the project. Five (5) copies shall be sent directly to EPA for filing in accordance with paragraph 17. Six (6) copies will be transmitted to higher authority (three to HQDA (DAEN–CWO–M) WASH DC 20314, and three to the division engineer). District

engineers shall insure that the draft EIS will be filed with EPA no earlier than they are also circulated to parties on the project mailing list. A notice of availability of the draft EIS will be sent to all others on the mailing list and appropriate news media.

c. *Agency Review.* After receipt and evaluation of comments received the district engineer will prepare the final EIS or final EIS Supplement. Depending on the level of approval of the proposed action, either eight (8) or three (3) copies will be sent to HQDA (DAEN–CWO–M or CWE–BB, as appropriate) WASH DC 20314, and three or eight for the division engineer. After review the appropriate Corps office will file the final EIS or EIS supplement in accordance with paragraph 17. A copy of the final EIS will be sent to ASA (CW) for actions approved at OCE. A copy of the final EIS will be provided to appropriate elements in OCE for actions approved at the division level. OCE or the division engineer shall insure that the final is filed no earlier than it is also circulated by the district engineer to parties on the project mailing list.

d. *Final Review.* Letters of comment on the final EIS will be answered by the district engineer on an individual basis. Five (5) copies of the incoming letters and the district engineer's reply together with a draft of the Record of Decision will be submitted to the appropriate Corps office filing the final EIS. After review of the NEPA documents and comments and responses, the appropriate Corps official will sign the Record of Decision. A copy of the signed Record of Decision will be sent to the appropriate Corps offices. A letter of issuance together with a copy of the Record of Decision shall be sent to the Washington office of EPA and a copy provided to the concerned Regional Administrator. The district engineer shall provide copies of the Record of Decision to agencies, organizations and members of the public known to have an interest in the project.

6. *Regulatory Permits.* See Appendix B.

7. *Real Estate Management and Disposal Actions.*

a. *General.* Whenever the district engineer determines that a proposed real estate management and disposal action is a major Federal action having a significant effect upon the human environment, an EIS will be prepared and processed as follows:

b. *Preparation and Draft Review.* As soon as practicable after the district engineer makes a determination to prepare an EIS for the proposed action, a Notice of Intent (as discussed in paragraph 16) will be prepared and published in the **Federal Register.** Following the guidance discussed in 40 CFR 1502, the district engineer will prepare the draft EIS and circulate it for review and comment to agencies, groups and individuals on the project mailing list known to have an interest in the proposed action. Five (5) copies shall be sent directly to EPA for filing in accordance with paragraph 17. Six (6) copies will be transmitted to higher authority (three to HQDA (DAEN–REM–I) WASH DC 20314, and three to the division engineer). District engineers shall insure that the draft EIS will be filed with EPA no earlier than they are also circulated to parties on the mailing list. A notice of availability of the draft EIS will be sent to all others on the mailing list and appropriate news media.

c. *Agency Review.* After receipt and evaluation of comments received, the district engineer will prepare the final EIS. Eight (8) copies of the final EIS will be transmitted to the division engineer for review and processing. After review, the division engineer will file the final EIS with EPA in accordance with paragraph 17. A copy of the final EIS and transmittal letter will be provided DAEN–REM–I and the district engineer. The division engineer shall insure that circulation of the final EIS by the district engineer will be completed no later than when it is filed with EPA.

d. *Final Review.* Letters of comment on the final EIS will be answered by the district engineer on an individual basis. Five (5) copies of the incoming letters and the district engineer's reply together with a draft of the Record of the Decision will be submitted to the division engineer. After review of the NEPA documents and comments and responses and approval of the action, the division engineer will sign the Record of the Decision. A copy of the Record of Decision will be returned to the district engineer with a copy provided to DAEN–REM–I. A letter of issuance together with a copy of the Record of Decision shall be sent to the Washington office of EPA with a copy to the concerned Regional Administrator. The district engineer shall provide copies of the Record of Decision to agencies, organizations and interested members of the public.

8. *EIS Processing Instruction for ASA (CW) Review.* Appropriate elements within OCE will provide a copy of the final EIS or final EIS Supplement to ASA (CW) at the time of filing with EPA for Corps actions requiring OCE approval except for survey reports and legislative planning reports which will be furnished to ASA (CW) for transmittal to Congress at a later date. These actions include all Continuing Authority Studies and certain AE&D Planning and Design Reports and certain projects in a construction category. ASA (CW) will not require copies of the final EIS for Corps actions which are filed by the division or district engineer.

**Appendix D**

*Categorical Exclusions for Real Estate Management and Disposal Actions*

In accordance with 40 CFR 1508.4 the following actions, which individually or cumulatively have no significant impact on the quality of the human environment, are excluded from the requirement for preparation of an EA or EIS. Nevertheless, district engineers should be alert for extraordinary circumstances where normally excluded actions would have significant environmental effects and thus require an EA or EIS. Also, district engineers in their discretion may require the preparation of an EA or an EIS when a decision on the action in question could result in public controversy or potential litigation, or if for some other reason environmental review and analysis prior to reaching a decision would serve the public interest. *NOTE:* Even though an EA or EIS is not legally mandated for any Federal action falling within one of the following "categorical exclusions", that fact does not exempt any Federal action from procedural or substantive compliance with any other Federal law. For example, compliance with the Endangered Species Act, the Clean Water Act, etc., is always mandatory, even for actions not requiring an EA or EIS.

1. Grant of leases and licenses to accomplish the highest and best use or authorized project purposes for:

a. Agricultural and grazing purposes.

b. Public park and recreational purposes.

c. Commercial concession purposes.

d. Private recreational purposes.

e. Miscellaneous purposes of a minor nature such as lakeshore protection and improvements, steps, lights etc.

f. Use and occupancy of existing buildings, facilities, and real property.

2. Grants of leases, licenses, permits and easement, for use of excess or surplus real property.

3. Grants of leases for Government-owned housing.

4. Exchanges of excess real property and interests therein for property required for project purposes.

5. Grant easement for rights-of-way which do not involve significant disturbances to earth, air, or water:

a. Minor access roads or streets.

b. Minor electric power, telephone, telegraph and other communication lines.

c. Minor oil and gas pipelines; water, sewer, and irrigation pipelines, pumping plants and appurtenant facilities.

d. Minor canals, ditches, dikes, retarding structures, etc. used in connection with fish and wildlife conservation and development programs.

6. Grants of consents to use Government-owned easement areas.

7. Grants of licenses issued pursuant to the Secretary of the Army's general administrative authority which do not involve significant disturbances to earth, air or water:

a. Telephone and telegraph facility purposes.

b. Removal of sand, gravel, rock, and other borrow material.

c. Oil and gas seismic and gravitymeter survey and exploration purposes.

8. Grants of permits for archeological and historical investigations.

9. Renewal and minor amendment of existing leases, licenses, easements, permits, consents, and other documents evidencing authority to use Government-owned real property.

10. Reporting excess or surplus real property to the General Services Administration for disposal.

11. Disposal of lands or release of deed restrictions to cure encroachments.

12. Disposal of excess easement areas to the underlying fee owner.

13. Disposal of existing buildings and improvements for off-site removal.

14. Sale of existing cottage site areas.

15. Return of Public Domain lands to the Department of the Interior.

16. Transfer or permit of lands to other Federal agencies (NEPA compliance is the responsibility of the other Federal agency).

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federal register

Monday
August 25, 1980

Part IX

# Department of Energy

## Economic Regulatory Administration

## Mandatory Petroleum Allocation Regulations; Strategic Petroleum Reserve Entitlements

**DEPARTMENT OF ENERGY**

**Economic Regulatory Administration**

**10 CFR Part 211**

**[Docket No. ERA-R-80-27]**

# Mandatory Petroleum Allocation Regulations; Strategic Petroleum Reserve Entitlements

**AGENCY:** Economic Regulatory Administration, Department of Energy.

**ACTION:** Final rule; and request for comments.

**SUMMARY:** The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is amending the Entitlements Program regulations (10 CFR 211.67) so as to achieve the same effect as if lower tier crude oil were directly allocated to the Federal Government for the Strategic Petroleum Reserve (SPR). This final rule is being adopted to implement the Congressional directive set forth in section 805(a) of the Energy Security Act (ESA, Pub. L. 96–294) signed on June 30, 1980. The amendments adopted provide for the issuance of entitlements to the Federal Government for upper tier and uncontrolled domestic crude oil and imported crude oil acquired for the SPR so that the Government will pay lower tier prices for such oil.

**DATES:** Effective date of final rule: August 29, 1980. Written comments are due by 4:30 p.m., e.d.t., September 10, 1980.

**ADDRESSES:** All comments should be sent to Office of Public Hearing Management, Economic Regulatory Administration, Room 2313, Docket No. ERA–R–80–27, 2000 M Street, N.W., Washington, D.C. 20461.

**FOR FURTHER INFORMATION CONTACT:**

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B–110, 2000 M Street, N.W., Washington, D.C. 20461 (202) 653–4055.

Cynthia Ford (Hearing Procedures), Economic Regulatory Administration, Room B–210, 2000 M Street, N.W., Washington, D.C. 20461 (202) 653–3971.

David A. Welsh (Office of Petroleum Operations), Economic Regulatory Administration, Room 6212–A, 2000 M Street, N.W., Washington, D.C. 20461 (202) 653–3475.

Josette Maxwell (Office of Regulations and Emergency Planning), Economic Regulatory Administration, Room 7202–D, 2000 M Street, N.W., Washington, D.C. 20461 (202) 653–3256.

Harry A. Jones (Strategic Petroleum Reserve Office), Room 410, 1726 M Street, N.W., Washington, D.C. 20461 (202) 634–5510.

Samuel M. Bradley or Jeffrey D. Stoermer (Office of General Counsel), Department of Energy, Room 6A–127, 1000 Independence Avenue, S.W., Washington, D.C. 20585 (202) 252–6754 or 252–6911.

**SUPPLEMENTARY INFORMATION:**

I. Background
II. Amendments Adopted
III. Effective Date of the Final Rule
IV. Procedural Requirements

## I. Background

On June 30, 1980, the ESA, Pub. L. 96–294, was signed into law by the President. Section 801 of the ESA amended section 160 of the Energy Policy and Conservation Act (EPCA), Pub. L. 94–163, 42 U.S.C. section 6240, to require the President immediately to undertake and continue crude oil acquisition for the SPR, at a level sufficient to assure that storage of crude oil in the SPR will be increased at an average rate of at least 100,000 barrels per day (B/D) for the fiscal year beginning October 1, 1980, and each fiscal year thereafter.

Section 805(a) of the ESA directs the President to amend the Entitlements Program regulations no later than August 29, 1980, so as effectively to allocate lower tier crude oil to the Federal Government for storage in the SPR.[1] According to the Conference Report, the effect of this amendment to the Entitlements Program will be to enable DOE to obtain a greater amount of oil for storage in the SPR given the limited financial resources available.[2]

The Conference Report also indicates that as an incentive for the Government to purchase the lowest price uncontrolled oil it can obtain, it is Congress' intention that the per barrel entitlement benefit that the Government receives when it purchases uncontrolled crude oil for the SPR not exceed the difference between the average cost of uncontrolled oil and the average lower tier price. In other words, the value of the entitlement benefit to the Government will be the same irrespective of whether the Government purchases high-priced oil on the spot market or oil at the average price for uncontrolled oil.

Section 805(c) of the ESA requires that proceeds received by the Government be placed in a special Treasury account and appropriates such proceeds in that account for fiscal year 1981 for acquisition of crude oil for the SPR.

The current Entitlements Program regulations provide that suppliers of imported crude oil to the SPR will receive entitlements as if the imported oil had been processed in a domestic refinery. See § 211.67(d)(6) and (d)(7). The effect of these provisions is to reduce the Government's cost for imported crude oil to approximately the national average cost of crude oil for all refiners. As discussed in the next section of this preamble, the final rule adopted today eliminates these provisions.

## II. Amendments Adopted

As noted above, under current regulations imported oil supplied to the SPR already qualifies for entitlement benefits. The amendments adopted today utilize that regulatory framework with three major changes. First, in accordance with the statutory requirement, the entitlement benefits will accrue to each barrel of oil, other than lower tier oil, rather than only to imported oil. Second, again in accordance with the statutory requirement, the value of the entitlement benefit will not be limited to a "runs credit," but rather will be the actual price of an entitlement with respect to uncontrolled oil acquired for the SPR, and the difference between the average prices for upper tier oil and lower tier oil with respect to upper tier oil acquired for the SPR. Third, rather than provide the entitlement benefit to the supplier of the oil to the SPR, as is done under the current regulations, the United States Government will be added to the

[1] Section 805(a) of the ESA provides as follows:

Sec. 805(a)(1) In order to carry out the requirement of the amendment made by section 801 of this Act and to carry out the policies and objectives established in sections 151 and 160(b)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6231 and 6240(b)(1)), the President shall within 60 days after the date of the enactment of this Act, promulgate and make effective an amendment to the provisions of the regulation under section 4(a) of the Emergency Petroleum Allocation Act of 1973 relating to entitlements, which has the same effect as allocating lower tier crude oil to the Government for storage in the Strategic Petroleum Reserve. Such amendment shall not apply with respect to crude oil purchase after September 30, 1981, for storage in such reserve.

(2) The authority provided by this subsection shall be in addition to, and shall not be deemed to limit, any other authority available to the President under the Emergency Petroleum Allocation Act of 1973 or any other law.

(3) The President or his delegate may promulgate and make effective rules or orders to implement this subsection without regard to the requirements of section 501 of the Department of Energy Organization Act or any other law or regulation specifying procedural requirements.

[2] House Conference Report No. 96–1104, 96th Congress, 2d Session, p. 318 (June 19, 1980).

entitlements list. The list will reflect the number of entitlements issued to the Government for oil supplied to the SPR and the number of entitlements the Government is required to sell. The reason for this change is that some potential suppliers to the SPR, including firms not heretofore participating in the Entitlements Program, have been reluctant to contract for partial payment in entitlements. While this difficulty was not unmanageable when the benefit was on the order of $5 (the approximate value of a runs credit), under the new amendment the value of the entitlement will be on the order of $25. Sellers of oil are likely to be reluctant to lower the direct payment by the Government for their oil by such an amount in expectation of reimbursement from the Entitlements Program. Elimination of the present system of partial payment to oil suppliers through entitlements may encourage additional suppliers to offer oil for sale for the SPR. Moreover, adjusting the amount withheld from the Government's direct payments to suppliers in light of later entitlements requires estimation of the future entitlement value with subsequent adjustments in light of the actual value. All of these problems are avoided by adding the United States Government to the entitlements list to receive entitlements directly.

To effect these changes, we are amending § 211.67(a) to add a new paragraph (7). This paragraph provides for the issuance of entitlements to the Federal Government for crude oil, other than lower tier oil, purchased for or obtained by exchange or matching purchase and sale for the SPR. The Government will receive one full entitlement for each barrel of uncontrolled oil delivered to the SPR, and a fractional entitlement for each barrel of upper tier oil delivered to the SPR. With respect to non-ANS upper tier oil, that fraction is the difference between the weighted average cost to refiners of upper tier oil (other than ANS) and the weighted average cost to refiners of lower tier oil, divided by the entitlement price. With respect to ANS upper tier oil, the fraction is the difference between the weighted average cost to refiners of ANS upper tier oil and the weighted average cost to refiners of lower tier oil, divided by the entitlement price. The entitlement price and refiners' costs used in computing these entitlements will be that price calculated and those costs reported for the month prior to the month in which oil is delivered to the SPR. These entitlements will be reflected in the Entitlements Notice in the month following the month in which the oil is delivered to the SPR, as is the current regulatory practice for deliveries of imported oil to the SPR.

Where crude oil is delivered to the SPR pursuant to an exchange or matching purchase and sale of oil belonging to the United States, the entitlements issuable to the Federal Government will be calculated on the basis of the oil given up by the United States, rather than on the basis of the oil actually delivered to the SPR. That is, the Federal Government will be issued entitlements based on the category of oil (upper tier, ANS upper tier, or uncontrolled) and the volume of each category that it has given up in the exchange or sale. This is in recognition of the fact that the exchange or matching purchase and sale is the equivalent of supplying the Government's oil to the SPR without the uneconomical transportation of that oil. In addition, the supplier of oil to the SPR pursuant to an exchange or matching purchase or sale is deemed to retain the oil given up. For example, if Naval Petroleum Reserves (NPR) oil were exchanged for lower tier oil delivered to the SPR, the Federal Government would be issued a full entitlement for each barrel of NPR oil given up, and the supplier of the lower tier oil would report the lower tier oil delivered to the SPR in the supplier's crude oil receipts. This treatment of exchanges for entitlements purposes with respect to the firm supplying the oil to the SPR is consistent with their treatment under the old SPR entitlements provisions. *See* § 221.67(d) (6) and (7). The provisions of § 211.67(g)(2) have been incorporated by reference so that refiners will include the volumes of crude oil given up in such transactions in their crude oil receipts at the time such volumes would be included in a refiner's crude oil receipts under § 211.67(g)(2).

Section 211.67(c) is amended to add the Federal Government as a seller of any entitlements issued to it.

Section 211.62 is amended by revising the definition of "national domestic crude oil supply ratio" to provide that any entitlements issued to the Federal Government are subtracted from the numerator of the ratio. In addition, the definition of the ratio is amended to reflect the current regulatory practice of subtracting from the numerator of the ratio the entitlements issued pursuant to orders by the Office of Hearings and Appeals in exception cases and adding to the denominator of the ratio the barrels considered to be crude oil under the petroleum substitutes program.

Sections 211.67(d)(6) and (7) and 211.67(m)(5) are deleted in light of the SPR entitlements being issued to the Federal Government rather than to refiners.

Section 211.66(k) is deleted because there is no longer a need for refiners to report deliveries to the SPR. The SPR will itself report deliveries.

### III. Effective Date of the Final Rule

As mentioned previously, section 805(a) of the ESA directs that this final rule be promulgated and made effective by August 29, 1980. Therefore, August 29, 1980, will be the effective date of this rule. Entitlements will be issued to the Government for oil delivered to and accepted for delivery to the SPR in the month of September 1980 and in each month thereafter. Thus, for example, if any oil is accepted for delivery to the SPR in September 1980, the SPR would report the receipt of such oil by October 5, 1980. The August Entitlements Notice published in October 1980 would list the number of entitlements issued to the Federal Government for the September receipt.

### IV. Procedural Requirements

Section 805(a)(3) of the ESA provides that the "President or his delegate may promulgate and make effective rules or orders to implement this subsection without regard to the requirements of section 501 of the Department of Energy Act or any other law or regulation specifying procedural requirements."

The Conference Report states that this provision was added to ensure that the statutory deadline for issuing these amendments, sixty days from enactment of the ESA (August 29, 1980), would be met. The conferees urged, however, that normal administrative procedures be followed to the extent possible consistent with meeting the statutory deadline.

Section 553(d) of Title 5, United States Code, normally requires publication of a final rule 30 days prior to its effective date. The purpose of this provision is to provide those affected by a new regulation adequate opportunity to read and understand the new regulatory requirements before they are actually subject to them. This rule does not provide the full 30 day comment period. Nevertheless, we seek comments on the rule we are adopting. Comments should be submitted by 4:30 p.m., e.d.t., September 10, 1980, to the address set forth in the "ADDRESSES" section of this Rule. Comments should be identified on the outside envelope and on the document submitted with the designation "SPR Entitlements," Docket No. ERA–R–80–*27*. Ten copies should be submitted. All comments received by the ERA will be available for public

inspection in the DOE Freedom of Information Office, Room 5B–138, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., and in the ERA Office of Public Information, Room B–110, 2000 M Street, N.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

Any information or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of the information or data and to treat it according to our determination.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, Pub. L. 95–70, Pub. L. 95–619, and Pub. L. 96–30; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95–91, Pub. L. 95–509, Pub. L. 95–619, Pub. L. 95–620, and Pub. L. 95–621; Energy Security Act, Pub. L. 96–295; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267; E.O. 12231, 45 FR 52139)

In consideration of the foregoing, Part 211 of Chapter II, Title 10, of the Code of Federal Regulations is amended as set forth below, effective August 29, 1980.

Issued in Washington, D.C., August 21, 1980.

**Hazel R. Rollins,**

*Economic Regulatory Administration.*

1. Section 211.62 is amended by revising the definition of "national domestic crude oil supply ratio" to read as follows:

**§ 211.62 Definitions.**

* * * * *

"National domestic crude oil supply ratio" means, for a particular month, the volume of deemed old oil (as defined in § 211.67(b)) included in the aggregate adjusted crude oil receipts of all refiners, decreased by a number of barrels of deemed old oil equal to the number of entitlements issuable to small refiners under § 212.67(e), the number of entitlements issuable pursuant to orders under subpart D of part 205, and the number of entitlements issuable under § 211.67(a)(4), § 211.67 (a)(6), and § 211.67(a)(7), divided by the sum of the total volume of the crude oil runs to stills for all refiners for that month, the number of barrels considered as crude oil under § 211.67(a)(5) for that month, and fifty percent (50%) of the total volume of imports of eligible products by eligible firms for that month. The calculation of the national domestic crude oil supply ratio for each month shall take into account entitlement purchase or sale requirements resulting from the correction of reporting errors pursuant to paragraph (j) of § 211.67.

* * * * *

**§ 211.66 [Amended]**

2. Section 211.66 is amended by deleting paragraph (k).

3. Section 211.67 paragraph (a)(7) is added and paragraph (c) is revised to read as follows:

**§ 211.67 Allocation of domestic crude oil.**

(a) * * *

(7)(i) For each month commencing with the month of August 1980, the United States Government shall be issued entitlements for crude oil purchased for, delivered to, and accepted for delivery to the Strategic Petroleum Reserve in the following month. The number of entitlements issued shall be calculated in accordance with the provisions of subparagraphs (iii) through (vi) of this paragraph (a)(7).

(ii) In any case where the United States Government acquires from a refiner or other firm crude oil for the Strategic Petroleum Reserve pursuant to an exchange or matching purchase and sale transaction, no crude oil shall be deemed to have transferred by that refiner or other firm in that exchange or transaction and such volumes of crude oil deemed to have been retained by a refiner shall be included in that refiner's crude oil receipts under the provisions of § 211.67(g)(2), and the United States Government shall be issued entitlements for the month prior to the month in which such crude oil is delivered to and accepted for delivery to the Strategic Petroleum Reserve. The number of entitlements issued shall be calculated in accordance with the provisions of subparagraphs (iii) through (vi) of this paragraph (a)(7) on the basis of the volume of crude oil given up by the Government in any such exchange or transaction.

(iii) One entitlement shall be issued for each barrel of imported crude oil and each barrel of domestic crude oil the first sale of which is not subject to the ceiling price limitations of Subpart C of Part 212 of this chapter.

(iv) A fraction of an entitlement shall be issued for each barrel of upper tier crude oil other then ANS upper tier crude oil, the numerator of which is the difference between the reported weighted average cost per barrel to refiners of upper tier crude oil other than ANS upper tier crude and the reported weighted average cost per barrel to refiners of lower tier crude oil, and the denominator of which is the entitlement price.

(v) A fraction of an entitlement shall be issued for each barrel of ANS upper tier crude oil, the numerator of which is the difference between the reported weighted average cost per barrel to refiners of ANS upper tier crude oil and the reported weighted average cost per barrel to refiners of lower tier crude oil, and the denominator of which is the entitlement price.

(vi) The calculations in paragraphs (a)(7)(iv) and (a)(7)(v) of this section shall be based on the entitlement price fixed for, and the weighted average costs reported for, the month prior to the month in which the crude oil is delivered to the Strategic Petroleum Reserve.

(b) * * *

(c) *Required sale of excess entitlements.* For each month, commencing with the month of February 1976, each refiner that has been issued a greater number of entitlements for that month than the number of barrels of deemed old oil (as calculated under paragraph (b)(2) of this section) included in its adjusted crude oil receipts shall sell such excess entitlements, and the United States Government and any eligible firm (other than a refiner) that has been issued entitlements shall sell such entitlements.

* * * * *

4. Section 211.67 is amended by deleting and reserving paragraphs (d)(6) and (d)(7), and by deleting paragraph (m)(5).

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