AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

1-8-81
Vol. 46 No. 5
Pages 2023-2312

federal register

Thursday
January 8, 1981

Highlights

Briefings on How To Use the Federal Register—For details on briefings in **Washington, D.C.**, see announcement in the **Reader Aids** section at the end of this issue.

2023 **Use of gasohol in Federal motor vehicles** Executive order

2159 **Grant Programs—Business** Commerce/MBDA seeks applications under its General Business Services Program to operate for a 12 month period beginning 5–1–81, to serve Manhattan, N.Y.; apply by 1–29–81; pre-application conference on 1–12–81

2203, 2204 **Continental Shelf** Interior/GS publishes notices of receipt of proposed development and production plans (2 documents)

2199 **Continental Shelf** Interior/GS and DOT/CG have signed a new memorandum of understanding to promote safety of activities and facilities; effective 12–18–80

2121 **Gases** DOT/MTB and RSPA updates changes in its regulations pertaining to the shipment of dispersant and refrigerant gas; comments by 2–23–81

CONTINUED INSIDE

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.

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

The **Federal Register** will be furnished by mail to subscribers, free of postage, for $75.00 per year, or $45.00 for six months, payable in advance. The charge for individual copies is $1.00 for each issue, or $1.00 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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

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.

2093 **Social Programs** HHS/SSA intends to issue regulations governing the conducting of experiments and demonstration projects under the Disability Insurance and Supplemental Security Income Programs

2093 **Social Programs** HHS/SSA intends to publish regulations relating to the allowance of additional child care dropout years for benefit compulation of younger disabled workers

2306 **Civil Rights** EPA proposes consolidated non-discrimination regulation; comments by 3-9-81 (Part VII of this issue)

2042 **Excise Taxes** Treasury/IRS amends temporary regulations that apply to tax on the use of civil aircraft

2026 **Banking** FRS sets requirements for updating transfer agent registration information; effective 1-7-81

2097 **Speed Measuring Radar Devices** DOT/NHTSA proposes performance requirements and test methods for evaluating speed measuring radar devices used by law enforcement agencies; comments by 2-2-81

2280 **Aviation Safety** DOT/FAA clarifies conditions under which a pilot may approach and land at an airport when weather conditions do not allow the pilot to see the runway until shortly before landing; effective 5-8-81 (Part III of this issue)

2063 **Highway Safety** DOT/NHTSA publishes final rule regarding improvement of seat belt assemblies; effective 9-1-82

2030 **Traffic Regulations** DOT/FHWA revises and consolidates existing regulation which prescribes procedures for obtaining basic uniformity of traffic control devices on all streets and highways; effective 1-30-81

2192 **Privacy Act Document** HHS

2245 **Sunshine Act Meetings**

Separate Parts of This Issue

2266 **Part II, EPA**
2280 **Part III, DOT/FAA**
2294 **Part IV, ICC**
2298 **Part V, DOT/FHWA**
2302 **Part VI, Commerce/NOAA**
2306 **Part VII, EPA**

Contents

Federal Register
Vol. 46, No. 5
Thursday, January 8, 1981

The President
EXECUTIVE ORDERS
2023 Use of gasohol in Federal motor vehicles (EO 12261)

Executive Agencies

Agricultural Marketing Service
RULES
2025 Oranges (navel) grown in Ariz., and Calif.
PROPOSED RULES
2084 Melons grown in Tex.

Agriculture Department
See also Agricultural Marketing Service; Forest Service; Soil Conservation Service.
NOTICES
2157 Rural abandoned mine program; payment determination

Alcohol, Drug Abuse, and Mental Health Administration
NOTICES
Committees; establishment, renewals, terminations, etc.:
2191 Alcohol Abuse Prevention Review Committee et al.

Army Department
See also Engineers Corps.
NOTICES
2166 U.S. Military Enlistment Processing Command; relocation of headquarters and subordinate element from Fort Sheridan to Naval Training Center, Ill.

Arts and Humanities, National Foundation
NOTICES
Meetings:
2222 Humanities Panel
2222 Theatre Advisory Panel

Civil Aeronautics Board
NOTICES
Hearings, etc.:
2157 Continental Air Lines, Inc. et al. service mail rates increase
2157 ICB International Airlines
2158 Trans World Air Lines, Inc.
2158 Universal Airlines, Inc., fitness investigation
2158 Wein Air Alaska Mainline et al.; mail rates
2245 Meetings; Sunshine Act

Coast Guard
RULES
Drawbridge operations:
2043 New Jersey; correction
PROPOSED RULES
Drawbridge operations:
2120 Massachusetts
NOTICES
2199 Outer Continental Shelf; mineral resources; safety of activities and facilities; memorandum of understanding with Geological Survey

Commerce Department
See Minority Business Development Agency; National Oceanic and Atmospheric Administration; National Technical Information Service.

Community Services Administration
NOTICES
Grantees; funding:
2166 Accidental hypothermia prevention, training and technical assistance

Defense Department
See Army Department; Engineers Corps; Navy Department.

Drug Enforcement Administration
NOTICES
Registration applications, etc.; controlled substances:
2222 Alexander, Clifton Jack, M.D.

Economic Regulatory Administration
NOTICES
Environmental statements; availability, etc.:
2169 Bergen Generating Station Units 1 and 2, N.J.; intent to prepare and scoping meeting
2170 Salem Harbor Generating Station Units 1, 2, and 3, Mass.; intent to prepare and scoping meeting
Natural gas; fuel oil displacement certification applications:
2168 Anchor Hocking Corp.
2170 Fruehauf Corp.

Energy Department
See also Economic Regulatory Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department.
NOTICES
2168 National Environmental Policy Act; implementation

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
2167 Bonpas Creek, Ill.; local flood protection project
2167 Williamsport and South Williamsport Pa.; flood protection level, raising

Environmental Protection Agency
RULES
Air pollution control; aircraft and aircraft engines:
2044 Emission standards for smoke and fuel venting in-use aircraft engines; request for comments
Air quality implementation plans; approval and promulgation; various States, etc.:
2043 Missouri

Water pollution; effluent guidelines for point source categories:
2266 Dichlorodifluoromethane and trichlorofluoromethane; removal from toxic pollutant list
Water pollution control:
2045 Permit programs, consolidated; national pollutant discharge elimination system, application requirements for coal mines
PROPOSED RULES
Hazardous waste programs, State; interim authorizations:
2120 Rhode Island; hearing
2306 Nondiscrimination on basis of race, color, national origin, age, handicap, and sex in federally assisted programs
NOTICES
Air pollutants, hazardous; national emission standards:
2186 Coal-fired electric utility steam generating units; collection SO_2 emissions data; inquiry
Air quality implementation plans; approval and promulgation:
2190 Prevention of significant air quality deterioration (PSD); nonapplicability
2189 Prevention of significant air quality determination (PSD); permit approvals (2 documents)
Toxic pollutants list:
2276 Chlorodifluoromethane; inquiry
2267 Ethylbenzene, etc.; petition to remove denied
2273 Monochlorophenyl phenyl; inquiry

Federal Aviation Administration
RULES
Air traffic operating and flight rules:
2280 Takeoff and landing minimums
Airworthiness directives:
2030 AVCO Lycoming
2031 Lockheed—California
2032 Control zones
2032 Control zones; Columbus International Airport facility name change
2033 Standard instrument approach procedures
PROPOSED RULES
2088 Control areas
2085 Control zones
NOTICES
Aircraft certification status, etc.:
2239 Boeing model 757 series
2241 Boeing model 767 series
2237 Turbine engine and auxiliary power unit rotor and blade failures, uncontained; draft advisory circular on design considerations for minimizing hazards; availability and inquiry

Federal Deposit Insurance Corporation
NOTICES
2245 Meetings; Sunshine Act

Federal Election Commission
NOTICES
2245 Meetings; Sunshine Act

Federal Emergency Management Agency
RULES
2049 National Environmental Policy Act; implementation; categorical exclusions

Federal Energy Regulatory Commission
RULES
Natural Gas Policy Act of 1978:
2036 Incremental pricing; alternative fuel price ceilings for Kentucky (December 1980—January 1981); interim
NOTICES
Hearings, etc:
2171 Arizona Public Service Co.
2172 Boott Mills and Proprietors of the Locks and Canals of the Merrimack River
2172 Central Power & Light Co.
2172 El Paso Natural Gas Co., et al.
2172 Georgia Power Co.
2173 Michigan Wisconsin Pipe Line Co.
2174 Middle Tennessee Electric Membership Corp.
2175 Northwest Pipeline Corp.
2175, 2176 Panhandle Eastern Pipe Line Co. (2 documents)
2177 Panhandle Eastern Pipe Line Co. et al.
2177 Pataya Storage Co.
2178 Power Authority of State of New York (2 documents)
2179 Riddell Petroleum Corp.
2180 Southwestern Public Service Co.
2181 Tennessee Gas Pipeline Co.
2181 Transcontinental Gas Pipe Line Corp.
2182 Twin Falls Canal Co. et al.
2182 Utah Hydro Corp.
2246 Meetings; Sunshine Act

Federal Highway Administration
RULES
Engineering and traffic operations:
2298 Carpool and vanpool projects
2030 Traffic control devices on Federal-aid and other streets and highways; uniformity
PROPOSED RULES
Engineering and traffic operations:
2093 Uniform Traffic Control Devices Manual; amendments; advance notice
NOTICES
Environmental statements; availability, etc.:
2244 Broward County, Fla.; intent to prepare

Federal Home Loan Bank Board
RULES
Federal home loan bank system:
2029 Member banks; investment in corporate debt obligations and commercial paper to satisfy liquidity requirements
NOTICES
2246 Meetings; Sunshine Act

Federal Maritime Commission
NOTICES
2245 Meetings; Sunshine Act
Senior Executive Service:
2191 Performance Review Board; membership

Federal Railroad Administration
NOTICES
Meetings:
2244 Minority Business Resource Center Advisory Committee

Federal Reserve System
RULES
Authority delegations:
2027 Banking Supervision and Regulation Division, Director; administrative actions

2027 Banking Supervision and Regulation Division, Director; waiver of notification period
State banking institutions membership and bank holding companies (Regulations H and Y):
2026 Transfer agents; elimination of registration statement amendments on Form TA-1

Federal Trade Commission
RULES
Prohibited trade practices
2034 Farnam Companies, Inc., et al.
2035 Murata Manufacturing Co., Ltd.

Fish and Wildlife Service
RULES
Fishing:
2078 Chincoteague National Wildlife Refuge, Va., et al.
Public entry and use:
2076 Mason Neck National Wildlife Refuge, Va., et al.

Forest Service
NOTICES
Meetings:
2155 Continental Divide National Scenic Trail Advisory Council; location change

General Services Administration
NOTICES
Authority delegations:
2191 Defense Department Secretary

Geological Survey
NOTICES
Committees; establishment, renewals, terminations, etc.:
2203 Earthquake Studies Advisory Panel
2203 Water Data for Public Use Advisory Committee
2199 Outer Continental Shelf; mineral resources; safety of activities and facilities; memorandum of understanding with Coast Guard
Outer Continental Shelf; oil, gas, and sulphur operations; development and production plans:
2203 Chevron U.S.A. Inc.
2204 Ocean Production Co.

Health and Human Services Department
See also Alcohol, Drug Abuse, and Mental Health Administration; Social Security Administration.
NOTICES
Meetings:
2191 Physical Fitness and Sports, President's Council
Organization, functions, and authority delegations:
2193 National Institutes of Health
2192 Privacy Act; systems of records

Hearings and Appeals Office, Energy Department
NOTICES
Applications for exception:
2183 Decisions and orders

Immigration and Naturalization Service
RULES
2025 Aliens; representation and appearances; clarifying right to representation; correction

Indian Affairs Bureau
NOTICES
Environmental statements; availability, etc.:
2195 Shoshone-Paiute Indian Tribes of Duck Valley, Elko County, Nev.; Wildhorse Reservoir lands recreation lease
Irrigation projects; operation and maintenance charges:
2194 Fort Hall Irrigation Project, Idaho
Jurisdiction retrocession acceptances:
2195 Umatilla Indian Reservation, Oreg.

Interior Department
See also Fish and Wildlife Service; Geological Survey; Indian Affairs Bureau, Land Management Bureau; Surface Mining Reclamation and Enforcement Office.
NOTICES
2204 Grazing of livestock on public lands; 1981 fee schedule

Internal Revenue Service
RULES
Excise taxes:
2042 Civil aircraft use, July 1 through September 30, 1980; tax rate, date for filing returns, etc.

International Trade Commission
NOTICES
2246 Meetings; Sunshine Act

Interstate Commerce Commission
RULES
Accounts, uniform system:
2076 Motor carrier; "carrier net income" definition for dividend purposes; temporary exclusion of non-cash charge from write-off of carrier operating rights
Motor and water carriers, etc.:
2294 Operating authority application procedures; Commissioner's statement
Motor carriers:
2295 Intercorporate hauling operations; final rule; Commissioner's statement
2294 Operating authorities restrictions removal; property carriers; Commissioner's statement
Tariffs and schedules
2295 Motor carrier rate bureaus; conforming amendments to CFR; Commissioner's statement
PROPOSED RULES
Accounts and reports:
2146 Railroads; freight train car repair costs; reopening of proceeding
NOTICES
Motor carriers:
2205 Finance applications
2296 Intercorporate hauling; interpretation; supplemental notice
2296 Operating authority; acceptable forms of request; policy statement; supplemental notice
2208-2216 Permanent authority applications (5 documents)
Rail carriers:
2204 Recyclables cost ratio; 1980 determination proceeding
Railroad freight rates and charges:
2204 Coal rate guidelines, nationwide; extension of time

Justice Department
See also Drug Enforcement Administration; Immigration and Naturalization Service.
NOTICES
Pollution control; consent judgments:
2220 Clark Oil & Refining Corp.
2221 Douglas County Sewer Improvement District No. 1, et al.
2221 Honokaa Sugar Co. and Laupahoehoe Sugar Co.
2221 Kaiser Steel Corp.
2222 Marathon Oil Co. and Amoco Oil Co.

Land Management Bureau
RULES
Public land orders:
2048 Arizona
2046 California
2046 Nevada
2047 Oregon (3 documents)
NOTICES
Coal leases, exploration licenses, etc.:
2197 Wyoming; hearing rescheduled
Environmental statements; availability, etc.:
2196 Burns District, Andrews and Riley Resource Areas; Harney planning continuation, Oreg.
2196 Canon City District, Colo.; Northeast Resource Area and Fountain Creek Planning Unit; meetings
2197 La Sal Pipeline Co.; right-of-way for proposed crude oil pipeline, Colo. and Wyo.
Meetings:
2195 Burley District Advisory Council
2196 Salt Lake District Advisory Council
Resource management plans:
2198 Southern Malheur Resource Area et al., Vale District, Oreg.; multiple land use
Withdrawal and reservation of lands, proposed, etc.:
2197 Colorado

Libraries and Information Sciences, National Commission
NOTICES
2246 Meetings; Sunshine Act (2 documents)

Management and Budget Office
NOTICES
2226 Agency forms under review

Minority Business Development Agency
NOTICES
2159 Financial assistance application announcements

National Highway Traffic Safety Administration
RULES
Confidential business information:
2049 Confidentiality determinations; fuel economy standards and reports and motor vehicle safety standards
Motor vehicle safety standards:
2063 Seat belt assemblies, manual and automatic, installed in motor vehicles weighing 10,000 pounds or less; performance requirements
PROPOSED RULES
Motor vehicle safety standards:
2132 Lamps, reflective devices, and associated equipment; single center, high-mounted stoplamp installation on passenger cars
2136 Trucks and trailers, rear underride protective devices
2097 Radar devices, speed measuring; performance standards

National Oceanic and Atomospheric Administration
RULES
Fishery conservation and management:
2079 Foreign fishing; 1981 fee schedule
2081 Foreign fishing; trawl fishery and herring gillnet fishery, Eastern Bering Sea and Northeast Pacific Ocean
Outer Continential Shelf:
2302 Fishermen's contingency fund; claim file closing and claim application contents
PROPOSED RULES
Fishery conservation and management:
2153 Atlantic billfish draft fishery management plan; hearing
2154 Foreign and domestic fishing; Gulf of Alaska groundfish; hearing
Marine mammals:
2153 Commercial fishing operations; incidental taking effecting eastern tropical Pacific Ocean tuna fishery; porpoise sundown set prohibition; enforcement policy; advance notice
NOTICES
Environmental statements; availability, etc.:
2160 Pacific Coast Groundfish Fishery Management Plan; hearings
Meetings:
2160 New England Fishery Management Council
Senior Executive Service:
2160 Bonus awards

National Technical Information Service
NOTICES
2161 Inventions, Government-owned; availability for licensing

National Transportation Safety Board
NOTICES
2223 Accident reports, safety recommendations and responses, etc.; availability

Navy Department
NOTICES
Environmental statements; availability, etc.:
2167 Feral animal removal program, San Clemente Island, Calif.; hearing

Nuclear Regulatory Commission
RULES
Plants and materials; physical protection:
2025 Incorporations by reference; clarifying and correcting amendments

Postal Rate Commission
NOTICES
2246 Meetings; Sunshine Act (2 documents)

Research and Special Programs Administration, Transportation Department
PROPOSED RULES
Hazardous materials:
2121 Dispersant and refrigerant gases, shipment
2126 Shipment; miscellaneous amendments

Pipeline safety:
2130 Highly volatile liquids (HVL) transportation; valve spacing on piplines; withdrawn

Securities and Exchange Commission
RULES
2035 Holding companies, registered, and subsidiaries; statements of beneficial ownership of securities
NOTICES
Hearings, etc.:
2228 Exeter Fund, Inc.
2229 Fidelity Money Market Trust
2230 Fundamental Trust Shares, Series A
2231 Hellenic American Development Corp.
2232 Kredietbank N. V. et al.
2235 Short-Term Investments Co.

Social Security Administration
PROPOSED RULES
Social security benefits:
2093 Disability insurance; allowance of additional child care dropout years for benefit computation of younger disabled workers; decision to develop regulations
Social security benefits and supplemental security income:
2093 Experiments and demonstration projects; decision to develop regulations

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
2155 Hancock Park Critical Area Treatment RC&D Measure, Tex.
2155 Oregon Park East Water-Based Recreation RC&D Measure, Ill.
2156 Pere Marquette Township Park RC&D Measure, Mich.
2156 Sand Island Critical Area Treatment RC&D Measure, Mich.
2156 Slosson Drain Outlet Critical Area Treatment RC&D Measure, Mich.

Surface Mining Reclamation and Enforcement Office
RULES
Surface coal mining and reclamation enforcement operations:
2043 Permanent regulatory program; recordkeeping and reporting requirements; GAO approval; extension of time

Textile Agreements Implementation Committee
NOTICES
2162 Export visa and certification stamps for cotton, wool, and man-made textile products from Taiwan

Transportation Department
See Coast Guard; Federal Aviation Administration; Federal Highway Administration; Federal Railroad Administration; National Highway Traffic Safety Administration; Research and Special Programs Administration, Transportation Department.

Treasury Department
See Internal Revenue Service.

Veterans Administration
NOTICES
Meetings:
2244 Educational Allowances Station Committee

MEETINGS ANNOUNCED IN THIS ISSUE

ARTS AND HUMANITIES, NATIONAL FOUNDATION
2222 Humanities Panel, Chicago, Ill., 1-19-81
2222 Theatre Panel, Washington, D.C., 1-22 and 1-23-81

COMMERCE DEPARTMENT
Minority Business Development Agency—
2159 General Business Services Program, New York, N.Y., 1-12-81
National Oceanic and Atmospheric Administration—
2160 New England Fishery Management Council, Danvers, Mass., 1-27 and 1-28-81

DEFENSE DEPARTMENT
Corps of Engineers, Department of the Army—
2167 Baltimore District, intent to prepare a draft environmental impact statement for a proposed raising of the level of flood protection at Williamsport and South Williamsport, Pa., 1-20-81

ENERGY DEPARTMENT
Economic Regulatory Administration—
2169 Bergen Units 1 & 2 Generating Station, Ridgefield, N.J., 2-17-81
2170 Salem Harbor Generating Station Units 1, 2 and 3, Salem, Mass., 2-10-81

HEALTH AND HUMAN SERVICES DEPARTMENT
Office of the Assistant Secretary for Health—
2191 President's Council on Physical Fitness and Sports (PCPFS), Washington, D.C., 1-22-81

INTERIOR DEPARTMENT
Land Management Bureau—
2195 Burley District Advisory Council, Burley, Idaho, 2-25-81
2197 Colorado State Office, proposed crude oil pipeline and related facilities, tentatively Grand Junction, Craig and Denver, Colo.; Casper and Cheyenne, Wyo., 1-26 through 1-30 and 2-2 through 2-6-81
2196 Northeast Resource Area and Fountain Creek Planning Unit, April meetings
2196 Salt Lake District Grazing Advisory Board, Salt Lake City, Utah, 2-18-81

TRANSPORTATION DEPARTMENT
Federal Railroad Administration—
2244 Minority Business Resource Center Advisory Committee, Washington, D.C., 1-15-81

VETERANS ADMINISTRATION
2244 Station Committee on Educational Allowances, Atlanta, Ga., 2-26-81

CHANGED MEETINGS

AGRICULTURE DEPARTMENT
Forest Service—
2155 Continental Divide National Scenic Trail Advisory Council, Albuquerque, N. Mex., 1-14 through 1-17-81 (location change)

HEARINGS

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration—
2154 North Pacific Fishery Management Council, 1-31-81
2160 Pacific Fishery Management Council and the National Marine Fisheries Service, draft Pacific Coast Groundfish Fishery Management Plan, 1-29 through 1-31-81
2153 South Atlantic Fishery Management Council, Billfish Fishery Management Plan, 1-13 through 1-15 and 1-20 through 1-22-81

DEFENSE DEPARTMENT
Navy Department—
2167 Feral Animal Removal Program, 1-12-81

ENVIRONMENTAL PROTECTION AGENCY
2120 Rhode Island interim authorization application, 2-12-81
2043 State of Missouri, approval and promulgation of implementation plan, 1-21-81

RESCHEDULED HEARING

INTERIOR DEPARTMENT
Land Management Bureau—
2197 Federal Coal Leasing Target for the Powder River Coal Production Region, rescheduled from 12-23-80 to 1-15-81

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR

Executive Orders:

12261 2023

7 CFR

907 2025

Proposed Rules:

979 2084

8 CFR

292 2025

10 CFR

73 2025

12 CFR

208 2026
211 2027
225 2026
265 (2 documents) 2027
523 2029

14 CFR

1 2280
39 (2 documents) 2030, 2031
71 (2 documents) 2032
91 2280
97 2033
121 2280

Proposed Rules:

71 (2 documents) 2085, 2088

16 CFR

13 (2 documents) 2034, 2035

17 CFR

250 2035

18 CFR

282 2036

20 CFR

Proposed Rules:

404 (2 documents) 2093
416 2093

23 CFR

655 2038
656 2039

Proposed Rules:

625 2093
655 2093
1221 2097

26 CFR

154 2042

30 CFR

Ch. VII 2043

33 CFR

117 2043

Proposed Rules:

117 2120

40 CFR

52 2043
87 2044
122 2045
401 2264

Proposed Rules:

7 2306
12 2306
123 2120

43 CFR

Public Land Orders:

1362 (Revoked by PLO 5799) 2047
2307 (Revoked by PLO 5798) 2046
3917 (Partially revoked by PLO 5802) 2047
4849 (Partially revoked by PLO 5804) 2047
5797 2046
5798 2046
5799 2047
5802 2047
5804 2047
5805 2048

44 CFR

10 2049

49 CFR

512 2049
525 2063
537 2063
555 2063
571 2064
1002 (3 documents) 2094, 2295
1003 2294
1011 2294
1100 2294
1136 2295
1137 2294
1207 2076
1331 2295

Proposed Rules:

172 (2 documents) 2121, 2126
173 (2 documents) 2121, 2126
175 2126
178 2126
179 2126
195 2130
571 (2 documents) 2132, 2136
1201 2146
1241 2146

50 CFR

26 2076
33 2078
296 2302
611 (2 documents) 2079, 2081

Proposed Rules:

216 2153
611 (2 documents) 2153, 2154
643 2153
672 2154

Federal Register
Vol. 46, No. 5
Thursday, January 8, 1981

Presidential Documents

Title 3—

The President

Executive Order 12261 of January 5, 1981

Gasohol in Federal Motor Vehicles

By the authority vested in me as President of the United States of America by Section 271 of the Energy Security Act (94 Stat. 710; Public Law 96-294; 42 U.S.C. 8871), in order to require Federal agencies which own or lease motor vehicles to use gasohol in those vehicles which are capable of operating on gasohol where it is available at reasonable prices and in reasonable quantities, it is hereby ordered as follows:

1-101. In procurement actions for unleaded gasoline motor fuel, Federal agencies shall, whenever feasible, specify that gasohol is an acceptable substitute motor fuel. In such procurements there shall be a preference for the purchase of gasohol.

1-102. Agencies may procure the components of gasohol and do their own blending.

1-103. In determining the feasibility of specifying gasohol as a substitute motor fuel in procurement actions for unleaded gasoline, agencies shall include in their considerations such factors as the availability of storage facilities for bulk purchases and the number of vehicles capable of operating on gasohol.

1-104. Agencies shall designate those vehicles which are capable of using gasohol, consistent with overall agency needs and sound vehicle management practices. Agencies shall specify the conditions governing the use of gasohol, including when gasohol shall be purchased from normal retail outlets by vehicle operators.

1-105. The use of gasohol by the Department of Defense pursuant to this Order shall be in accordance with Section 815 of the Department of Defense Authorization Act, 1980 (93 Stat. 817; Public Law 96-107; 10 U.S.C. 2388 note) which provides for the use of gasohol to the maximum extent feasible and consistent with overall defense needs and sound vehicle management practices, as determined by the Secretary of Defense.

1-106. Vehicles used in experimental programs to test fuels other than gasohol are excepted from this Order.

1-107. The authority vested in the President by Section 271(b) of the Energy Security Act (42 U.S.C. 8871(b)) is delegated to the Secretary of Defense with respect to gasohol use by the Department of Defense, and delegated to the Administrator of General Services with respect to gasohol use by other agencies.

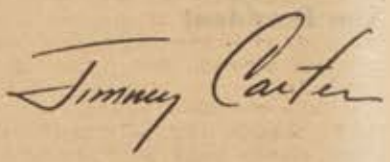
1-108. Federal agencies shall make available to the Department of Energy, upon request, relevant data or information they possess concerning agency gasohol usage.

1-109. For purposes of this Order "Gasohol" means a motor fuel which has an octane rating of not less than 87 (R+M)/2 and which consists of approximately 90 percent unleaded gasoline and approximately 10 percent anhydrous (199 proof or above) ethyl alcohol derived from biomass, as defined in Section 203(2)(A) of the Energy Security Act (94 Stat. 683; Public Law 96-294; 42 U.S.C. 8802(2)(A)).

1-110. (a) The Secretary of Defense with respect to gasohol use by the Department of Defense, and the Administrator of General Services with

respect to gasohol use by other agencies, shall issue such guidelines for the implementation of this Order as they deem appropriate.

(b) Such guidelines shall provide for a determination of reasonable prices and reasonable quantities based on the local prevailing price of unleaded gasolines, the octane requirements for vehicles in the Federal fleet, local market availability of gasohol or its components, and other such factors, as may be appropriate.



THE WHITE HOUSE,
January 5, 1981.

[FR Doc. 81-832
Filed 1-6-81; 3:39 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 46, No. 5
Thursday, January 8, 1981

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 907

[Navel Orange Reg. 504]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period January 9, 1981–January 15, 1981. Such action is needed to provide for orderly marketing of fresh navel oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: January 9, 1981.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1980–81 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on October 14, 1980. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on January 6, 1981 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navels deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges is good on size 88's and larger and easier on smaller sizes.

It is further found that there is insufficient time between the date when information became available upon which this regulation is based and when the action must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

1. Section 907.804 is added as follows:

§ 907.804 Navel Orange Regulation 504.

Order. (a) The quantities of navel oranges grown in Arizona and California which may be handled during the period January 9, 1981, through January 15, 1981, are established as follows:

(1) District 1: 776,000 cartons;
(2) District 2: 54,509 cartons;
(3) District 3: unlimited cartons;
(4) District 4: 24,000 cartons;

(b) As used in this section, "handled," "District 1", "District 2", "District 3", "District 4", and "carton" mean the same as defined in the marketing order.

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

Dated: January 7, 1981

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 81-959 Filed 1-7-81; 2:55 pm]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 292

Representation and Appearances: Clarifying Right to Representation

Correction

In FR Doc. 80–38648 appearing at page 81732 in the issue for Friday, December 12, 1980, make the following correction:

On page 81733, § 292.5(b), in the second column, in the second line, the words "tht nothing is" should have read "that nothing in".

BILLING CODE 1505-01-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 73

Physical Protection of Plants and Materials; Clarifying and Corrective Amendments

AGENCY: Nuclear Regulatory Commission.

ACTION: Clarifying and corrective amendments.

SUMMARY: The Nuclear Regulatory Commission is issuing certain clarifying and correcting amendments that refer to documents incorporated by reference in Part 73, Physical Protection of Plants and Materials. These amendments do not modify current practices or application of the regulations.

EFFECTIVE DATE: January 8, 1981.

FOR FURTHER INFORMATION CONTACT: Patricia D. Anderson, (301) 492–7297.

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission is amending two sections of 10 CFR Part 73, "Physical Protection of Plants and Materials" to clarify the citations to materials incorporated by reference into two sections within Part 73. The citations as corrected appear below.

PART 73—PHYSICAL PROTECTION OF MATERIALS

1. Section 73.26(l)(1) is revised to read as follows:

§ 73.26 [Amended]

* * * * *

(l) *Shipment by sea.* (1) Shipments shall be made only on container-ships. The strategic special nuclear material container(s) shall be loaded into exclusive use cargo containers conforming to American National Standards Institute (ANSI) Standard MH5.1—"Basic Requirements for Cargo Containers" (1971) or International Standards Organization (ISO) 1496, "General Cargo Containers" (1978) Locks and seals shall be inspected by the escorts whenever access is possible.

* * * * *

2. Part 73, Appendix B.I.B.1.b(2)(a) is revised to read as follows:

* * * * *

(2) Hearing: (a) Individuals shall have no hearing loss in the better ear greater than 30 decibels average at 500 Hz, 1,000 Hz, and 2,000 Hz, with no level greater than 40 decibels at any one frequency (by ISO 389 "Standard Reference Zero for the Calibration of Purtone Audiometer" (1975) or ANSI S3.6—1969 (R 1973) "Specifications for Audiometers")

* * * * *

Dated at Bethesda, Maryland this 29th day of December, 1980.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 81-527 Filed 1-7-81; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL RESERVE SYSTEM

12 CFR Parts 208 and 225

[Regulations H and Y; Docket No. R-0338]

Amendment to Requirements for Updating Transfer Agent Registration Information

December 30, 1980.

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System has amended its Regulations H (12 CFR Part 208) and Y (12 CFR Part 225) to eliminate the requirement that registered transfer agents file amendments to their registration statement on Form TA–1 to reflect changes in previously filed information listing securities for which the institutions act as transfer agents. These amendments anticipate future action by the Board, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation and the Securities and Exchange Commission to substantially reduce information required by Form TA–1. It is anticipated that the revised Form TA–1 will not require the detailed information concerning individual issues which is presently required and thus no amendment requirement will be necessary. The Board has determined that it is appropriate to eliminate the amendment requirement at this time in order to reduce the burden on those transfer agents that would otherwise be required to file an amendment by January 30, 1981.

EFFECTIVE DATE: January 7, 1981.

FOR FURTHER INFORMATION CONTACT: Donald R. Vinnedge, Manager, Trust Activities Program, (202) 452–2717, or Walter R. McEwen, Attorney, (202) 452–2521, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Regulation H (12 CFR 208.8(f)(2)) and Regulation Y (12 CFR 225.5(c)(2)) state in pertinent part that:

> Within thirty calendar days following the close of any calendar year * * * during which the information required by Item 7 of Form TA–1 becomes inaccurate, misleading or incomplete, the [registered transfer agent] shall file an amendment to Form TA–1 correcting the inaccurate, misleading or incomplete information.

The information required by Item 7 of Form TA–1 is shown on Schedule B of that form. Schedule B presently requires detailed information for each security issue serviced by the registrant as transfer agent, co-transfer agent, registrar, or co-registrar. This information consists of the name of the security, the type of security and class or series, the CUSIP number and the capacity in which the registrant acts on that issue. Schedule B also requires similar information for issues previously listed on Schedule B but no longer serviced by the registrant and for those situations in which the name of the issuer has changed or the capacity in which the registrant acts for the issuer has changed.

Staff of the Board, the SEC and the other Federal bank regulatory agencies have agreed that the information presently required on Schedule B is too detailed. Staff of the agencies are near agreement on a revised Form TA–1 which would require only aggregate statistical information. It is expected that in early 1981 the SEC and the Federal bank regulatory agencies will adopt a revised Form TA–1 that will substantially reduce the information presently required.

The Board has concluded that failure to revise 12 CFR 208.8(f)(2) and 12 CFR 225.5(c)(2) would result in an undue burden upon those State member bank transfer agents that would be required to file amended Form TA–1 at a time when the Board believes that the furnished information is unnecessary. Accordingly the Board is amending Regulation H and Y to eliminate the requirement to amend Form TA–1 within 30 calendar days of December 31 in order to update information presently required on Schedule B. Effective with this action, transfer agents may disregard the instruction on Form TA–1 that relates to the filing of this information (Instruction III–15).

The Board is also acting to amend Regulations H and Y by deleting 12 CFR 208.8(f)(4) and 12 CFR 25.5(c)(4) which were adopted in December, 1977 as temporary exemptive rules to permit registered transfer agents for which the Board is the appropriate regulatory agency to delay filing Schedule B which otherwise would have been due on January 30, 1978. The purpose of the extension was to provide registrants with sufficient time to accomodate their data processing systems to a new format required by a revision of Form TA–1. The purpose of the temporary exemptive rules has been met and the rules are presently unnecessary. Accordingly, the Board is acting to amend Regulations H and Y to delete the language of the temporary exemptive rules.

Because this action facilitates the reduction of a reporting burden, the Board for good cause finds that the notice and public procedure provisions of 5 U.S.C. 553 are unnecessary and that immediate implementation is in the public interest.

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

Pursuant to Section 17A of the Securities Exchange Act of 1934 (15 U.S.C. 78q–1) and Sections 9 and 11 of the Federal Reserve Act (12 U.S.C. 321, 248), the Board hereby adopts the following amendments to Regulation H (12 CFR Part 208) and Regulation Y (12 CFR Part 225):

1. The second sentence in 12 CFR 208.8(f)(2) is deleted.

2. 12 CFR 208.8(f)(4) is deleted in its entirety.

3. The second sentence in 12 CFR 225.5(c)(2) is deleted.

4. 12 CFR 225.5(c)(4) is deleted in its entirety.

By order of the Board of Governors, December 30, 1980.

Theodore Allison,

Secretary of the Board.

[FR Doc. 81-589 Filed 1-7-81; 8:45 am]

BILLING CODE 6210-01-M

---

12 CFR Parts 211 and 265

Rules Regarding Delegation of Authority

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board has amended § 211.5(c)(2) of its Regulation K to allow the Board to waive the 60 days' prior notification period for those proposals that qualify for the Board's prior notification procedure but must be consummated in less than 60 days, and section 265.2(c) of its Rules Regarding Delegation of Authority to give the Director of the Division of Banking Supervision and Regulation authority to exercise this waiver.

EFFECTIVE DATE: December 30, 1980.

FOR FURTHER INFORMATION CONTACT: C. Keefe Hurley, Jr., Senior Counsel (202/452-3269), or James S. Keller, Senior Attorney (202/452-3582), Legal Division, Board of Governors of the Federal Reserve System.

SUPPLEMENTARY INFORMATION: Section 211.5(c)(2) of the Board's Regulation K (12 CFR 211.5(c)(2)) provides that certain investments may be made after the investor has given 60 days' prior written notice to the Board. In several instances, proposals that would otherwise qualify for this notification procedure have had to be processed pursuant to the specific consent procedures of § 211.5(c)(3) of Regulation K (12 CFR 211.5(c)(3)) because the investor had to be able to consummate the transaction on an expedited basis (e.g., a proposal to bid on a failing foreign bank).

Since the purpose of the prior notification process is to simplify procedures for both the investor and the Board, it seems inconsistent with the consent procedures of Regulation K that a proposal qualifying for the prior notification procedure and requiring expedited treatment must be processed under the specific consent procedure to allow consummation in less than 60 days. Accordingly, the Board has amended Regulation K to allow the Board to waive the 60 days' prior notification period in certain circumstances. The Board has also delegated to the Director of the Division of Banking Supervision and Regulation authority to waive this notification period on behalf of the Board.

The provisions of 5 U.S.C. 553 relating to notice and public participation are not followed in connection with adoption of these amendments because the Board finds for good cause that notice and public participation are unnecessary since the amendment to Regulation K relaxes a restriction previously imposed, while the amendment to the Rules of Delegation of Authority is procedural in nature and does not constitute a substantive rule subject to the requirements of that section.

PART 211—INTERNATIONAL BANKING OPERATIONS

(1) Pursuant to its authority under the Federal Reserve Act (12 U.S.C. 211 *et seq.*), the Board amends the first sentence of § 211.5(c)(2) of Regulation K (12 CFR 211.5(c)(2)) as follows:

§ 211.5 Investments in other organizations.

* * * * *

(c) Investments procedures. * * *

* * * * *

(2) Prior notification. An investment in a subsidiary * * * notice to the Board, unless the Board waives such period because it finds immediate action by the investor is required by the circumstances presented, if the total amount * * *.

PART 265—RULES REGARDING DELEGATION OF AUTHORITY

(2) Pursuant to its authority under section 11(k) of the Federal Reserve Act (12 U.S.C. 248(k)), the Board amends its Rules Regarding Delegation of Authority (12 CFR Part 265) by adding paragraph (c)(27) as follows:

§ 265.2 Specific functions delegated to Board employees and to the Federal Reserve Banks.

* * * * *

(c) The Director of the Division of Banking Supervision and Regulation (or, in the Director's absence, the Acting Director) is authorized:

* * * * *

(27) Under section 25 and 25(a) of the Federal Reserve Act and Part 211 of this chapter (Regulation K), to waive the 60 days' prior notice period for an investment that qualifies for the prior notification procedures set forth in § 211.5(c)(2) of Regulation K (12 CFR 211.5(c)(2)).

By order of the Board of Governors of the Federal Reserve System, December 30, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 81-694 Filed 1-7-81; 8:45 am]

BILLING CODE 6210-01-M

---

12 CFR Part 265

Rules Regarding Delegation of Authority

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: In acting upon applications and requests pursuant to the Board's Regulation K as revised on June 17, 1979, the Board has found that a number of administrative actions that currently must be taken by the Board are of a ministerial nature and could be more expeditiously handled by the Reserve Banks. Accordingly, the Board has delegated certain authority under Regulation K to the Director of the Division of Banking Supervision and Regulation and the Federal Reserve Banks.

EFFECTIVE DATE: December 30, 1980.

FOR FURTHER INFORMATION CONTACT: C. Keefe Hurley, Senior Counsel (202/452-3269), James S. Keller, Senior Attorney (202/452-3582), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Since passage of the Board's revised Regulation K (12 CFR Part 211) on June 14, 1979, the Board has acted upon numerous applications regarding the establishment of Edge Corporations and the foreign activities of U.S. investors. As a result of its experience with the revised regulation, the Board believes that a number of Board actions required by Regulation K should be delegated to the Reserve Banks in order to permit more expeditious action on matters that do not affect the Board's overall policy regarding Regulation K. Accordingly, the Board has determined that the following powers are to be delegated to the Reserve Banks and, in one instance, to the Director of the Division of Banking Supervision and Regulation:

1. *The issuance of a final permit to an Edge Corporation to commence business.* Under § 211.4(a)(2) of the Board's Regulation K, an Edge Corporation that has received a preliminary permit from the Board may elect officers and otherwise complete its organization, invest in obligations of the

United States Government and maintain deposits with banks, but it may not exercise any other powers until the Board has issued a final permit to commence business. The issuance of the final permit is generally routine once the Edge Corporation's president, treasurer and secretary and at least three directors certify that at least 25 per cent of the issued and subscribed stock specified in the articles of association has been paid in and that each shareholder has individually paid in at least 25 per cent of his stock subscription. Accordingly, the Board has delegated to the Reserve Banks the authority to issue the final permit to the Edge Corporation to commence business.

Section 211.4(a)(2) also states that "[n]o amendment to the articles of association [of an Edge Corporation] shall become effective until approved by the Board." A number of proposed amendments that are received by the Board could be more efficiently acted upon by the Reserve Banks. Accordingly, the Board has delegated to the Reserve Banks authority to take action on an Edge Corporation's request to amend its articles of association for the purposes of changing its name and permitting non-U.S. citizens to become directors or majority stockholders of the Edge Corporation.

2. *Extension of the time within which interests acquired in satisfaction of a debt previously contracted must be disposed of by a investor.* Pursuant to section 211.5(e) of the Board's Regulation K, shares or other evidences of ownership acquired to prevent a loss upon a debt previously contracted in good faith must be disposed of promptly, but in no event later than two years after their acquisition, unless the Board authorizes retention for a longer period. In a delegation of authority pursuant to the Bank Holding Company Act and the Board's Regulation Y, the Board has previously delegated to the Reserve Banks the authority to extend the time limit for disposing of interests in a nonbanking organization acquired by a bank holding company in satisfaction of a debt previously contracted. 12 CFR 265.2(f)(12). The Board has delegated to the Reserve Banks the authority to grant extensions of time for such acquisitions of interests in foreign companies.

3. *Extension of time for a bank holding company to accomplish a purchase of stock authorized by section 4(c)(13) of the Bank Holding Company Act and Regulation K.* The Board has previously delegated to the Reserve Banks the authority to extend the time within which an Edge or Agreement Corporation or a member bank may purchase stock that has been authorized by the Board pursuant to section 25 or 25(a) of the Federal Reserve Act if no material change has occurred in the general condition of the corporation or the member bank since such authorization. (12 CFR 265.2(f)(45)). Since a bank holding company may also be an "investor" under Regulation K, the Board believes it consistent to authorize the Reserve Banks to extend the time within which a bank holding company may accomplish a purchase of stock that has been authorized by the Board pursuant to section 4(c)(13) of the Bank Holding Company Act.

4. *Conversion of an Edge Corporation to a branch of an affiliated Edge Corporation.* Pursuant to Regulation K, an Edge Corporation may, with prior Board approval, establish branches in the United States. In acting on an application to establish a branch, the Board considers the financial condition and history of the Edge Corporation, the general character of its management, the convenience and needs of the community to be served with respect to international banking and financing services, and the effects of the establishment of the branch on competition. The establishment of an Edge Corporation branch through the conversion of an existing Edge Corporation does not usually raise issues under the above factors. The Board has delegated the approval of the establishment of such branches to the Reserve Banks.

5. *Requirement that an application for specific consent be filed with the Board.* Under Section 211.5(c)(2) of the Board's Regulation K, certain investments may be made after the investor has given 60 days' prior written notice to the Board. During the notification period the Board may disapprove the investment, suspend the period or require that an application be filed by the investor for the Board's specific consent. Certain investments qualifying for the prior notification procedure might nevertheless raise issues that clearly warrant the Board's attention. Accordingly, the Board has delegated to the Director of the Division of Banking Supervision and Regulation and the Reserve Banks the authority to require that an application be filed for the Board's specific consent.

6. *Investment by a U.S. investor in its first subsidiary, joint venture, and portfolio investment where general consent provisions are not exceeded.* Pursuant to section 211.5(c) of the Board's Regulation K, an investor must receive prior specific consent before making an investment in its first subsidiary, its first joint venture and its first portfolio investment, unless an affiliate has made such an investment. Where such an investment could be made under the general consent provisions of section 211.5(c)(1)(i) but for its being the initial investment of a particular class, the investment is unlikely to raise a significant issue. The Board has delegated the authority to approve such investments to the Reserve Banks.

The provisions of 5 U.S.C. 553 relating to notice, public participation and deferred effective date are not followed in connection with the adoption of these amendments because the changes involved are procedural in nature and do not constitute substantive rules subject to the requirements of that section.

Pursuant to its authority under the International Banking Act of 1978 (12 U.S.C. 3101 *et seq.*), the Federal Reserve Act (12 U.S.C. 226 *et seq.*) and the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841 *et seq.*), the Board amend its Rules Regarding Delegation of Authority (12 CFR Part 265) in § 265.2 by adding paragraphs (c)(28), (f)(18) (iv) and (v), (f) (50), (51) and (52), and by revising paragraphs (f) (27) and (45) to read as follows:

§ 265.2 Specific function delegated to Bank employees and to Federal Reserve Banks.

* * * * *

(c) The Director of the Division of Banking Supervision and Regulation (or, in the Director's absence, the Acting Director) is authorized:

* * * * *

(28) Pursuant to § 211.5(c)(2) of this Chapter (Regulation K), to require that an investor file an application for the Board's specific consent.

* * * * *

(f) *Each Federal Reserve Bank* is authorized as to a member bank or other indicated organization for which the Reserve Bank is responsible for receiving application or registration statements; as to its officers under paragraph (f)(23) of this section; and as to its own facilities under paragraph (f)(26) of this section:

* * * * *

(18) Under the provisions of the second paragraph of section 25(a) of the Federal Reserve Act (12 U.S.C. 612) and § 211.4(a)(2) of this chapter (Regulation K), to issue to an Edge Corporation a final permit to commence business and to approve amendments to the Articles of Association of any "Edge Corporation" to reflect the following:

* * * * *

(iv) Any change in the name of such corporation; and

(v) Deletion of the requirement that all directors and shareholders of such corporation must be U.S. citizens.

* * * * *

(27) Under § 211.5(e) of this chapter (Regulation K), to extend the time within which an investor must divest itself of interests in a foreign portfolio investment, joint venture or subsidiary acquired in satisfaction of a debt previously contracted.

* * * * *

(45) To extend the time within which an Edge or Agreement Corporation or a member bank or a bank holding company may accomplish a purchase of stock pursuant to section 25 or 25(a) of the Federal Reserve Act or section 4(c)(13) of the Bank Holding Company Act if no material change has occurred in the general condition of the corporation, the member bank or the bank holding company since such authorization.

* * * * *

(50) Pursuant to § 211.4(c)(2) of this Chapter (Regulation K), to approve an Edge Corporation application to establish a branch that represents the conversion of an Edge Corporation to a branch of another Edge Corporation with the same parent.

(51) Pursuant to § 211.5(c) of this Chapter (Regulation K), to grant prior specific consent to an investor for an investment in its first subsidiary, its first joint venture, and its first portfolio investment, where such investment does not exceed the general consent limitations of § 211.5(c)(1)(i) of this Chapter.

(52) Pursuant to § 211.5(c)(2) of this Chapter (Regulation K), to require that an investor file an application for the Board's specific consent.

By order of the Board of Governors of the Federal Reserve System, December 30, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 81-452 Filed 1-7-81; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 523

Liquidity of Member Banks

Dated: December 31, 1980.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final regulation.

SUMMARY: These amendments implement recent statutory authority by permitting member institutions of the Federal Home Loan Bank System to invest in certain highly rated corporate debt obligations and commercial paper for the purpose of satisfying their liquidity requirements.

EFFECTIVE DATE: December 31, 1980.

FOR FURTHER INFORMATION CONTACT: David J. Bristol, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW, Washington, D.C. 20552, telephone number 202-377-6461.

SUPPLEMENTARY INFORMATION: Section 325 of the Housing and Community Development Act of 1980 (Pub. L. 96-399, 94 Stat. 132 (1980)) provides that, subject to Federal Home Loan Bank Board approval, liquid assets held by Federal Home Loan Bank member institutions may include highly rated corporate debt obligations with a period of three years or less remaining until maturity and highly rated commercial paper with a period of 270 days or less remaining until maturity. In addition, the Act provides that the Board may approve as liquid assets unpledged deposits in the Savings Bank Trust Company, New York, New York.

Section 5A of the Federal Home Loan Bank Act, as amended (12 U.S.C. 1425a), imposes upon the Board the responsibility of maintaining the liquidity of member institutions to ensure "sound mortgage credit and a more stable supply of such credit," and to enable institutions "to meet withdrawals or to pay obligations" in an emergency. In order to provide that a reliable reserve always exists for such purposes, the Board has limited liquidity investments to debt obligations that are both liquid and stable. The requirement that such an investment be liquid is to ensure that cash will be readily available to serve the purposes of Section 5A of the Act. The requirement of stability is necessary so that the liquidity reserve is not eroded by a decline in market value. On the basis of these standards, the Board has limited liquidity investments to assets that may be readily converted to cash, and that are subject to only limited changes in market value.

To implement the recent statutory changes, the Board is amending Part 523 of the regulations for the Federal Home Loan Bank System to allow member institutions to invest for liquidity purposes an amount not to exceed one percent of assets in the following instruments of one issuer: (1) non-convertable corporate debt obligations rated in one of the four highest ratings by the most recently published rating of such obligations by a nationally recognized investment rating service, and having a remaining period to maturity of three years or less; and (2) commercial paper rated in one of the two highest ratings by the most recently published rating of such paper by a nationally recognized investment rating service, and having a period remaining to maturity of 270 days or less. To preserve the liquidity and stability of these corporate instruments, the Board is requiring that eligible corporate debt obligations and commercial paper must be denominated in dollars, and that the issuers of such instruments must be domiciled in the United States. Further, since the presence of a provision in a corporate debt obligation allowing the conversion of such obligation to common stock would reduce the stability of the market value of such instruments, the Board believes it prudent to exclude from liquidity any corporate debt obligation containing a convertibility feature.

In adopting as appropriate the three-year maximum maturity for corporate debt obligations prescribed in this statute, the Board notes that such corporate obligations, while less liquid than U.S. Treasury obligations for which five-year maturities are authorized by this Part, are somewhat more liquid than local government securities for which only two-year maturities are authorized. Further, except for the three-year maximum maturity, the exclusion of convertible obligations, and the requirement that such instruments continue to be highly rated, the eligibility requirements that corporate debt obligations and commercial paper must satisfy for liquidity are substantially identical to the requirements for investment by Federal associations as set forth in new § 545.9-4 adopted by the Board on November 10, 1980 (Board Resolution No. 80-701; 45 FR 76104, published on November 18, 1980).

The Board is also amending paragraph (h) of § 523.10 to provide that corporate debt obligation and commerical paper qualifying under paragraph (g) having a period remaining to maturity of six months or less are eligible as short-term liquid assets. The six-month maturity requirement for these instruments was chosen because the Board believes that corporate debt obligations and commercial paper, like time deposits, bankers' acceptances, and state and local government issues, are less consistently liquid and stable than eligible United States Treasury and Federal agency securities for which maturities of up to one year are authorized by paragraph (h).

The Board is also amending Part 523 to allow member institutions to invest for liquidity purposes in time deposits in the Savings Bank Trust Company, New York, New York.

Since the Board believes that there is a current need to expand investment powers under the liquidity regulations to enable member institutions to cope with rapidly changing market conditions, and because these amendments directly implement a statutory mandate and relieve prior restriction, the Board finds that observance of the notice and comment provisions of 12 CFR 508.11 and 5 U.S.C. 553(b) and the 30-day delay of effective date provision of 12 CFR 508.14 and 5 U.S.C. 553(d) are unnecessary and contrary to the public interest.

Accordingly, the Board hereby amends Part 523 of Subchapter B, Chapter V of Title 12, *Code of Federal Regulations*, as set forth below.

1. Amend § 523.10(g) by amending subparagraph (1); removing the word "and" at the end of subparagraph (6) thereof; removing the period at the end of subparagraph (7) thereof, and replacing it with a semicolon; redesignating subparagraph (7) as subparagraph (8) and inserting new subparagraph (7) thereto; and amend § 523.10(h) by removing the word "and" at the end of subparagraph (5) thereof; removing the period at the end of subparagraph (6) thereof, and replacing it with a semicolon; redesignating subparagraph (6) as subparagraph (7); and inserting new subparagraph (6) thereto; to read as follows:

§ 523.10 Definitions for the purposes of this section and §§ 523.11 and 523.12.

* * * * *

(g) *Liquid assets.*

(1) Time deposits in a Bank, the Bank for Savings and Loan Associations, Chicago, Illinois, or the Savings Bank Trust Company, New York, New York;

* * * * *

(7) Corporate debt obligations and commercial paper denominated in dollars and issued by a corporation domiciled in the United States, if: (i) such corporate debt obligations (*a*) continue to be rated in one of the four highest grades by the most recently published rating of such obligations by a nationally recognized investment rating service, (*b*) will mature in 3 years or less, and (*c*) are not convertible to common stock;

(ii) Such commercial paper (*a*) continues to be rated in one of the two highest grades by the most recently published rating of such paper by a nationally recognized investment rating service, and (*b*) will mature within 270 days or less;

Provided, that an amount not in excess of 1 percent of such institution's assets invested in eligible corporate debt obligations or commercial paper of a single issuer shall be counted as a liquid asset;

* * * * *

(h) *Short-term liquid assets.*

* * * * *

(6) Corporate debt obligations and commercial paper specified in paragraph (g)(7) of this section which will mature in 6 months or less;

* * * * *

(Sec. 25, 94 Stat. 1649, Pub. L. 96-339; 12 U.S.C. 1437, Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1947 Supp.)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 81-680 Filed 1-7-81; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 80-EA-74; Amdt. 39-4016]

Airworthiness Directives; AVCO Lycoming O-235 Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment issues a new airworthiness directive, applicable to Lycoming O-235 type aircraft engines and requires repetitive inspections of the push rods P/N 73806 for loose ball ends, bulging, splitting, proper length, and proper tappet clearance. This results from findings of damaged push rods which have led to eventual failure of the rods resulting in rough engine operation and power loss.

EFFECTIVE DATE: January 13, 1981. Compliance is required as set forth in the AD.

ADDRESSES: AVCO Lycoming Service Bulletins may be acquired from the manufacturer at Williamsport, Pennsylvania 17701.

FOR FURTHER INFORMATION CONTACT: I. Mankuta, Propulsion Section, AEA-214, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212-995-2894.

SUPPLEMENTARY INFORMATION: There have been reports of improperly manufactured push rods, P/N 73806, installed in certain O-235 series aircraft engines. The deficiency has caused the rod to compress in service resulting in engine roughness and power loss. Lacking visible evidence of damage, the deficiency can also be determined by improper tappet clearance. As a result of an accident which had not been determined to result from the deficiency involving one of the engines, the FAA determined nevertheless to issue AD 80-25-02 which was transmitted to all known operators and owners of the engines by air mail letter under date of November 25, 1980. Since a situation still exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

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

80-25-02 Avco Lycoming: Applies to O-235 series engines with Serial Numbers L-12500-15 thru L-20676-15 inclusive, all remanufactured O-235 series engines, regardless of serial number, shipped between December 10, 1976, and November 8, 1979, and all O-235 series engines regardless of serial number that had pushrods replaced between December 10, 1976, and November 24, 1980.

Model O-235 series engines are installed in but not limited to, Piper PA-38-112, Cessna 152, Gulfstream American AA1C, Beech 77, and Bellanca 7ECA aircraft.

This AD does not apply to O-235 series engines incorporating eight pushrods P/N 73806, identified by revision letter K or subsequent revision letter, or by code T-T, -85 or the symbol # as described in Lycoming Service Bulletin No. 453 or a subsequent approved revision.

Compliance with this AD is also required by the following engine serial numbers which were previously exempt by Emergency Airworthiness Directive 80-25-02 RI:

L-15619-15	L-19028-15
L-16333-15	L-19029-15
L-17291-15	L-19030-15
L-17644-15	L-19031-15
L-18054-15	L-19145-15
L-18055-15	L-19146-15
L-18073-15	L-19147-15
L-18074-15	L-19148-15
L-18141-15	L-19149-15
L-18142-15	L-19766-15
L-18207-15	L-19767-15
L-18208-15	L-19768-15
L-18502-15	L-19990-15
L-18503-15	L-19991-15
L-18601-15	L-19992-15
L-18948-15	L-19993-15
L-18949-15	L-19994-15
L-18950-15	L-19995-15
L-18951-15	L-19996-15

L-19997-15	L-20386-15
L-19999-15	L-20387-15
L-20155-15	L-20388-15
L-20156-15	L-20389-15
L-20157-15	L-20428-15
L-20158-15	L-20429-15
L-20172-15	L-20430-15
L-20173-15	L-20431-15
L-20174-15	L-20432-15
L-20175-15	L-20460-15
L-20176-15	L-20461-15
L-20242-15	L-20462-15
L-20243-15	L-20463-15
L-20244-15	L-20464-15
L-20245-15	L-20523-15
L-20246-15	L-20524-15
L-20323-15	L-20525-15
L-20324-15	L-20526-15
L-20325-15	L-20527-15
L-20326-15	L-20609-15
L-20327-15	L-20610-15
L-20384-15	L-20611-15
L-20385-15	L-20612-15

Compliance required as indicated:

In order to prevent failures of engine pushrods which can cause rough engine operation and power loss, accomplish the following:

1. Prior to further flight, remove all eight pushrods and inspect for loose ball ends and evidence of bulging and splitting of the pushrod tubing. Measure the length of the pushrod assembly. The overall length shall not be less than 11 $^{11}/_{32}$ inches. If all these conditions are satisfactory set valve clearances in accordance with Paragraph 8 of Lycoming Service Instructions Nos. 1388A dated January 25, 1980, and 1068A dated September 1, 1978. If any pushrod is found damaged or is less than the specified dimension noted above, replace with a serviceable part prior to further flight.

2. With 25 hours in service after the effective date of this AD and every 25 hours thereafter, measure and record valve tappet clearances in accordance with Lycoming Service Instructions 1388A and 1068A. If any valve clearance increases more than .015 inch since the last 25 hour inspection, remove the pushrod and inspect for damage and shortening in accordance with Item 1 above.

3. The 25 hour repetitive inspection described in Paragraph 2 above may be discontinued upon installation of P/N 73806 pushrods which have been identified by one of the codes specified in this AD.

4. A special flight permit may be issued in accordance with FAR 21.197 to fly the aircraft to a base where the above inspections may be accomplished.

5. Equivalent methods of compliance must be approved by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

(Beech Aircraft Corp. Executive Airplane Service Communique No. 52 dated December 16, 1980, pertains to this subject)

This Amendment becomes effective Jan. 13, 1981, to all persons except those to whom it was made effective by airmail letters dated November 25, 1980, November 28, 1980, and December 3, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, 1423, and 1431(b); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c) and 14 CFR 11.89)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044 as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). A copy of the final regulatory 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 Jamaica, New York, on December 29, 1980.

Irving Mark,

Acting Director, Eastern Region.

[FR Doc. 81-565 Filed 1-7-81; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 80-NW-63-AD; Amdt. 39-4013]

Airworthiness Directive; Lockheed-California Company Model L-1011 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness Directive (AD) which requires inspection to detect a possible loose rudder servo plate on Lockheed L-1011 series airplanes, and corrective action where necessary. This Airworthiness Directive is prompted by reports of a loose rudder servo retainer plate in service, which in one instance resulted in a jammed rudder during a training flight.

DATES: Effective date January 18, 1981. Compliance schedule—as prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from: Lockheed-California Company, Post Office Box 551, Burbank, California 91520, Attention: Commercial Support Contracts, Dept. 63-11, U-33, B-1.

Also, a copy of the service information may be reviewed at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108; or 15000 Aviation Blvd., Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT: Harvey Chimerine, Aerospace Engineer, Airframe Branch, ANW-120L, Los Angeles Area Aircraft Certification Office, Federal Aviation Administration, Northwest Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009, telephone (213) 536-6359.

SUPPLEMENTARY INFORMATION: There have been reports of looseness of rudder retainer plate P/N 1559161-102 which, in one case, came loose and fell between bungee P/N 1604162-107 and servo valve brace assembly P/N 1519240-101, jamming the rudder on a Lockheed L-1011-385 series airplane. Since this condition is likely to exist or develop in other airplanes of the same type design, an Airworthiness Directive is being issued which requires inspection for looseness, rebonding, and retainer clip installation on rudder servo retainer plate P/N 1559161-101/-102 in a manner approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Region. Accomplishment of Lockheed L-1011 Service Bulletin 093-27-231 has been approved as a means of compliance with this Airworthiness Directive.

It is estimated that 70 aircraft will be affected by this Airworthiness Directive, that it will take approximately 2.0 manhours per aircraft to accomplish the required actions, and that the average labor cost per manhour will be $35. Based on these figures, the total cost impact of this AD is estimated to be $6,370.

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 Amendment

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

Lockheed-California: Applies to all Model L-1011 series airplanes certificated in all categories. Compliance required as indicated unless already accomplished. To prevent possible rudder jamming, accomplish the following:

A. Inspect all aircraft within 300 hours time in service after the effective date of this Airworthiness Directive in accordance with the following:

(1) Visually inspect the rudder servo retainer plates, P/N 1559161-101/-102, in a manner approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Region.

Note.—Accomplishment of Lockheed L-1011 Service Bulletin 093-27-231, dated November 25, 1980, has been approved as a means of compliance with this requirement.

(2) If rudder servo plates, P/N 1559161-101/-102, are found loose, repair and install retainer clips in a manner approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Region.

Note.—Accomplishment of Lockheed L-1011 Service Bulletin 093-27-231, dated November 25, 1980, has been approved as a means of compliance with this requirement.

(3) Within the next 1,500 hours time-in-service after the effective date of this Airworthiness Directive, install retainer clips in a manner approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Region.

Note.—Accomplishment of Lockheed L-1011 Service Bulletin 093-27-231, dated November 25, 1980, has been approved as a means of compliance with this requirement.

(4) If a retainer clip has been installed in a manner approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Region, no further action is required.

(5) Alternative inspections, modifications, or other actions which provide an equivalent level of safety may be used when approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Region.

This amendment becomes effective January 18, 1981.

(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 provision of Executive Order 12004 and as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Seattle, Washington, on December 29, 1980.

Jonathan Howe,

Acting Director, Northwest Region.

[FR Doc. 81-506 Filed 1-7-81; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 80-ANW-15]

Designation of Control Zone, Oak Harbor, Wash.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes a control zone at Oak Harbor, Washington, to provide controlled airspace to protect aircraft executing instrument operations at Oak Harbor Airport. Weather observation and reporting is now available at Oak Harbor Airport and complete the criteria needed for control zone establishment.

EFFECTIVE DATE: February 19, 1981.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, Airspace Specialist (ANW-534), Operations, Procedures, and Airspace Branch, Air Traffic Division, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Washington 98108; telephone (206) 767-2610.

SUPPLEMENTARY INFORMATION:

History

On September 4, 1980, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a part-time control zone at Oak Harbor, Washington (45 FR 60920). Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal. This is the same amendment as that proposed in the notice. § 71.171 of Part 71 was republished in the **Federal Register** on January 2, 1980 (45 FR 356).

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 356) is amended, effective 0901 GMT, February 19, 1981, by adding a control zone at Oak Harbor, Washington, to read as follows:

Oak Harbor, Washington

Within a 5-mile radius of the Oak Harbor Air Park Airport (latitude 48°15'06"N, longitude 122°40'40"W), excluding the portion within the Whidbey Island, Washington, Control Zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

(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(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 Seattle, Washington, December 24, 1980.

Jonathan Howe,

Acting Director, Northwest Region.

[FR Doc. 81-458 Filed 1-7-81; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 80-AWA-24]

Facility Name Change; Port of Columbus (Ohio) International Airport, Grandview LOM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The name of the Grandview LOM (Outer Marker Compass Locator) at the Port of Columbus International Airport, has been changed to "SHOWE". "SHOWE" is currently depicted on the instrument approach procedure charts. This amendment substitutes the name "SHOWE" in the description of the Columbus, Ohio, Control Zone where Grandview appears; thereby updating the control zone description and eliminating the possibility of confusion.

EFFECTIVE DATE: February 19, 1981.

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

SUPPLEMENTARY INFORMATION: The purpose of this amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to amend the description of the Columbus, Ohio (Port Columbus International Airport), control zone by substituting the name "SHOWE" where Grandview appears in the text. The name of the Grandview LOM (Outer Marker Compass Locator) has been changed to "SHOWE". Since this amendment is editorial in nature, it is a minor matter on which the public would have no particular desire to comment. Therefore, notice and public procedure thereon are unnecessary. Section 71.171 of Part 71 was republished in the **Federal Register** on January 2, 1981 (46 FR 353).

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 353) is amended, effective 0901 GMT, February 19, 1981, as follows:

Under Columbus, Ohio (Port Columbus International Airport) "within 2 miles each side of the 094° bearing from the Grandview LOM, extending from the 6-mile radius zone to 2 miles east of the Grandview LOM" is deleted and "within 2 miles each side of the 094° bearing from the SHOWE LOM, extending from the 6-mile radius zone to 2

miles east of the SHOWE LOM" is substituted therefor.

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

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

Issued in Washington, D.C., on January 2, 1981.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 81-507 Filed 1-7-81; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 97

[Docket No. 21244; Amdt. No. 1181]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment 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: Donald K. Funai, 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 February 19, 1981*

Dothan, AL—Wheelless, VOR-B, Amdt. 4
Barrow, AK—Wiley Post-Will Rogers Memorial, VOR Rwy 24, Amdt. 1
Yakutat, AK—Yakutat, VOR Rwy 11, Amdt. 11
Yakutat, AK—Yakutat, VOR Rwy 29, Amdt. 3
Yakutat, AK—Yakutat, VOR/DME Rwy 2, Original
Kamuela, HI—Waimea-Kohala, VOR Rwy 4, Amdt. 8
Kamuela, HI—Waimea-Kohala, VOR-A, Amdt. 6
Peoria, IL—Greater Peoria, VOR Rwy 12 (TAC), Amdt. 17
Ironwood, MI—Gogebic County, VOR Rwy 9, Amdt. 10
Ironwood, MI—Gogebic County, VOR/DME Rwy 27, Amdt. 6

Columbus-West Point-Starkville, MS—Golden Triangle Regional, VOR-D, Amdt. 3
Columbus-West Point-Starkville, MS—Golden Triangle Regional, VOR/DME-E, Amdt. 3
Poughkeepsie, NY—Dutchess County, VOR-A, Amdt. 10
Poughkeepsie, NY—Dutchess County, VOR/DME Rwy 6, Amdt. 3
Poughkeepsie, NY—Dutchess County, VOR/DME or TACAN Rwy 24, Amdt. 3
Quakertown, PA—Quakertown, VOR Rwy 11, Amdt. 3, cancelled
North Kingstown, RI—Quonset State, VOR-A, Original

** * * Effective December 16, 1980*

Washington, DC—Washington National, VOR/DME Rwy 18, Amdt. 6

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

** * * Effective February 19, 1981*

Barrow, AK—Wiley Post-Will Rogers Memorial, LOC/DME BC Rwy 24, Original
Columbus-West Point-Starkville, MS—Golden Triangle Regional, LOC/DME BC Rwy 36, Amdt. 3
Niagara Falls, NY—Niagara Falls Intl, LOC (BC) Rwy 10L, Amdt. 3

** * * Effective January 22, 1981*

Oakland, CA—Metropolitan Oakland Intl, LOC Rwy 11, Amdt. 1, cancelled
Atlanta, GA—DeKalb-Peachtree, LOC Rwy 20L, Amdt. 3, cancelled

** * * Effective December 24, 1980*

Jamestown, ND—Jamestown Muni, LOC/DME BC Rwy 12, Amdt. 4
Bismarck, ND—Bismarck Muni, LOC/DME BC Rwy 13, Amdt. 6
Watertown, SD—Watertown Muni, LOC/DME BC Rwy 17, Amdt. 4
Huron, SD—Huron Regional, LOC/DME BC Rwy 30, Amdt. 6

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

** * * Effective February 19, 1981*

Barrow, AK—Wiley Post-Will Rogers Memorial, NDB Rwy 6, Amdt. 4
Barrow, AK—Wiley Post-Will Rogers Memorial, NDB Rwy 24, Amdt. 4
Port Heiden, AK—Port Heiden, NDB Rwy 5, Amdt. 2
Port Heiden, AK—Port Heiden, NDB Rwy 13, Amdt. 2
Sand Point, AK—Sand Point, NDB/DME-A, Amdt. 1
Yakutat, AK—Yakutat, NDB Rwy 11, Amdt. 1
Niagara Falls, NY—Niagara Falls Intl, NDB Rwy 28R, Amdt. 13
Hillsboro, OH—Highland County, NDB Rwy 5, Amdt. 1
Hillsboro, OH—Highland County, NDB Rwy 23, Amdt. 1
Sheridan, WY—Sheridan County, NDB Rwy 31, Original
Ft. Scott, KS—Ft. Scott Muni, NDB Rwy 17, Amdt. 5

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

** * * Effective February 19, 1981*

Yakutat, AK—Yakutat, ILS Rwy 11, Amdt. 3
Columbus-West Point-Starkville, MS—Golden Triangle Regional, ILS Rwy 18, Amdt. 3
Niagara Falls, NY—Niagara Falls Intl, ILS Rwy 28R, Amdt. 18
Poughkeepsie, NY—Dutchess County, ILS Rwy 6, Amdt. 2

** * * Effective January 22, 1981*

Oakland, CA—Metropolitan Oakland Int'l, ILS Rwy 11, Original
Atlanta, GA—DeKalb-Peachtree, ILS Rwy 20L, Original

** * * Effective December 29, 1980*

Coeur d'Alene, ID—Coeur d'Alene Air Terminal, ILS Rwy 5, Amdt. 1

** * * Effective December 25, 1980*

Marysville, CA—Yuba County, ILS Rwy 14, Amdt. 1

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

** * * Effective February 19, 1981*

Peoria, IL—Greater Peoria, RADAR-1, Amdt. 6

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

** * * Effective February 19, 1981*

Peoria, IL—Greater Peoria, RNAV Rwy 12, Amdt. 1
Poughkeepsie, NY—Dutchess County, RNAV Rwy 6, 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 January 2, 1981.

John S. Kern,

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. 81-598 Filed 1-7-81; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket C-3052]

Farnam Companies, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a Phoenix, Ariz. firm and its corporate officer, engaged in the manufacture, advertising, sale and distribution of pesticide products, to cease representing, through print and broadcast advertising or otherwise, that their pesticide products are absolutely or unqualifiedly safe, non-toxic or free of hazard to humans, pets, wildlife or the environment; or making any representation that is inconsistent or which detracts from the effectiveness of required warnings or directions for use set forth on pesticide product labels. The firm is further prohibited, for a period of three years, from disseminating advertising or promotional material which fails to include a warning statement as designated in the order.

DATES: Complaint and order issued December 11, 1980.*

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

SUPPLEMENTARY INFORMATION: On Tuesday, Sept. 30, 1980, there was published in the **Federal Register**, 45 FR 64596, a proposed consent agreement with analysis In the Matter of Farnam Companies, Inc., a corporation, and Russell W. McCalley, individually and as an officer of said corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

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

* Copies of the Complaint and the Decision and Order filed with the original document.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Advertising Falsely or Misleadingly: § 13.85 Government approval, action, connection or standards; § 13.160 Promotional sales plans; § 13.170 Qualities or properties of product or service; § 13.195 Safety; 13.195–60 Product. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533–20 Disclosures; 13.533–40 Furnishing information to media. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1740 Scientific or other relevant facts. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1885 Qualities or properties; § 13.1890 Safety; § 13.1895 Scientific or other relevant facts.

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

Carol M. Thomas,

Secretary.

[FR Doc. 81-652 Filed 1-7-81; 8:45 am]

BILLING CODE 6750-01-M

---

16 CFR Part 13

[Docket No. C-3053]

Murata Manufacturing Co., Ltd.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, "Murata," a Japanese manufacturer and seller of electronic components, including various types of ceramic capacitors, to divest itself of the Arizona Division of Erie Technological Products, Ltd. (ETP), to a Commission-approved buyer within nine months from the effective date of the order. Should Murata fail to divest ETP's Arizona Division in the specified time, it must divest the entire company to an eligible party within the four months following the initial divestiture period. Respondent is further required to hold ETP's business and assets completely separate and apart from its business and assets pending divestiture, and barred from acquiring, without prior Commission approval, certain firms engaged in the manufacture or sale of ceramic capacitors.

DATES: Complaint and order issued December 16, 1980.*

FOR FURTHER INFORMATION CONTACT: FTC/C, E. Perry Johnson, Washington, D.C. (202) 523–3601.

SUPPLEMENTARY INFORMATION: On Thursday, October 2, 1980, there was published in the **Federal Register**, 45 FR 65252, a proposed consent agreement with analysis in the Matter of Murata Manufacturing Co., Ltd., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

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

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Acquiring Corporate Stock or Assets: § 13.5 Acquiring corporate stock or assets; 13.5–20 F.T.C. Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Carol M. Thomas,

Secretary.

[FR Doc. 81-649 Filed 1-7-81; 8:45 am]

BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 250

[Release No. 35-21863; File No. S7-846]

Statements of Beneficial Ownership of Securities of Registered Holding Companies and Their Subsidiaries

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission ("Commission") is amending Rule 72(b) to clarify that rules adopted under section 16 (a) and (b) of the Securities Exchange Act of 1934 ("1934 Act"), including exemptive rules, shall apply equally to any reporting requirements or liability imposed by section 17 (a) and (b) of the Public Utility Holding Company Act of 1935 ("1935") with respect to a transaction involving any security of a registered holding company or subsidiary thereof. The amendment resolves a conflict in the coverage of sections 16 and 17 that has resulted in questions about the applicability of the Commission's rules under section 16 (a) and (b) to transactions involving the securities of registered holding companies and their subsidiaries.

EFFECTIVE DATE: January 8, 1981.

FOR FURTHER INFORMATION CONTACT: Grant G. Guthrie, Associate Director, Division of Corporate Regulation, (202) 523–5156, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission today announces the adoption of an amendment to Rule 72(b) under the 1935 Act which will eliminate an unnecessary distinction between the application of existing rules, including exemptions, under section 16 (a) and (b) of the 1934 Act regarding the filing of statements of beneficial ownership and the liability for short-swing profits by certain corporate insiders to the parallel reporting and liability provisions of section 17 (a) and (b) of the 1935 Act. As amended, Rule 72(b) provides that all rules adopted under section 16 (a) and (b) of the 1934 Act shall apply equally to transactions involving any security of a registered holding company or any subsidiary thereof, to the extent that any such rule would be pertinent.

The amendment resolves a statutory conflict between section 16 of the 1934 Act and section 17 of the 1935 Act that left in doubt the legality of certain transactions involving securities, other than the equity securities, of registered holding companies and their subsidiaries. Section 16 (a) and (b) of the 1934 Act, and the rules thereunder, apply only to transactions in equity securities registered under section 12 of the 1934 Act, while section 17 (a) and (b) apply to transactions involving all of the securities of registered holding companies and their subsidiaries. Paragraph (b) of Rule 72, adopted March 9, 1961 (HCAR No. 14383), eliminated the duplication in reporting requirements of section 16(a) of the 1934 Act and section 17(a) of the 1935 Act by applying the rules under section 16(a) to the statements of beneficial ownership required by section 17(a) and Rule 72(a) thereunder, but did not expressly apply the Commission's rules exempting certain transactions from liability for short-swing profits under section 16(b) to transactions which are subject to

*Copies of the Complaint and Decision and Order filed with the original document.

potential liability under section 17(b).

The Commission has concluded that insider trading in the securities of registered holding companies and their subsidiaries involves no greater opportunity for abuse than insider trading in the securities of other issuers, and that it would be in the public interest to eliminate the unnecessary distinction which now exists in the Commission's rules under sections 16 and 17.

The proposed amendment to Rule 72(b) was published for comment in HCAR No. 21662 (July 22, 1980) (45 FR 49957). The Commission received six letters in response to its invitation for comments, all recommending adoption of the amendment as published. No changes in the text of the amendment are considered necessary.

Statutory Basis and Text of the Amendment

The Securities and Exchange Commission hereby amends Title 17, Chapter II of the Code of Federal Regulations, pursuant to its authority under the Public Utility Holding Company Act of 1935 [15 U.S.C. 79a et seq.], and particularly sections 17 (a) and (b) and 20(a) thereof [15 U.S.C. 79q (a) and (b) and 79t(a)]], by amending paragraph (b) of § 250.72 to read as set forth below. This action is effective immediately pursuant to the Administrative Procedure Act [5 U.S.C. 553(d)(1)].

PART 250—GENERAL RULES AND REGULATIONS, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

Paragraph (b) of § 250.72 is revised to read as follows:

§ 250.72 Filing of statements pursuant to section 17(a).

* * * * *

(b) The rules under section 16 (a) and (b) of the Securities Exchange Act of 1934, including any rules which exempt a transaction from the duties or liabilities of section 16 (a) or (b), shall apply to any duty or liability imposed with respect to a transaction involving any security of a registered holding company or subsidiary thereof under section 17 (a) or (b) of the Act.

By the Commission.

George A. Fitzsimmons,

Secretary.

December 31, 1980.

[FR Doc. 81-461 Filed 1-7-81; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 282

[Docket No. RM81-9]

Incremental Pricing; Rule Adopting Revised Alternative Fuel Price Ceilings for the State of Kentucky

Issued December 24, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Interim rule.

SUMMARY: This rule amends § 282.404(a) of the Commission's regulations implementing the Natural Gas Policy Act of 1978. Specifically, the amendment provides that the alternative fuel price ceilings applicable to the State of Kentucky for December 1980 and January 1981 are the ceilings set forth in § 282.404(a)(3), rather than the ceilings previously published by the Energy Information Administration (EIA). The Commission is taking this action on the basis of its finding that the substantial differential between the price ceilings in Kentucky and those in the neighboring state of Ohio should be reduced, on an interim basis, until such time as the Commission acts in the generic rulemaking (Notice of Inquiry, Docket No. RM79-21, 45 FR 74505, November 10, 1980) dealing with alternative fuel ceiling prices.

The Commission is also directing the EIA to publish the Region D ceiling price, rather than the state price, for Kentucky for the months following January 1981, until the Commission acts in Docket No. RM79-21.

DATES: Interim Rule effective December 24, 1980, Comments due: January 23, 1981. Public Hearing: January 19, 1981.

ADDRESSES: All comments and requests to participate to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426. Public Hearing to be held at: Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426 (Room to be announced).

FOR FURTHER INFORMATION CONTACT: Thomas Gross, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, (202) 357-8077 (or) Colette Bohatch, Office of the General Counsel, (202) 357-8140.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is amending, on an interim basis, its regulations on incremental pricing (18 CFR Part 282) under Title II of the Natural Gas Policy Act of 1978 (NGPA) (15 U.S.C. 3301-3432). Specifically, § 282.404(a) is amended to provide that the alternative fuel price ceilings for Kentucky, for the months of December 1980 and January 1981, are the ceilings set forth in § 282.404(a)(3), rather than the ceilings previously published by the Energy Information Administration (EIA) of the Department of Energy. Further, the Commission is directing the EIA to publish the regional alternative fuel price ceiling for Region D as the alternative fuel price ceiling for Kentucky for months following January 1981, until the Commission takes final action on the generic rulemaking in Docket No. RM79-21.

II. Background

Title II of the NGPA requires the Commission to prescribe and make effective a program of incremental pricing of natural gas used as industrial boiler fuel. Section 204(e) of the NGPA directs the Commission to establish ceilings on gas prices charged to incrementally priced users, based on the cost of alternative fuel oils in each region designated by the Commission.

Under the Commission's regulations implementing section 204(e), alternative fuel price ceilings for each month are published in the **Federal Register** on, or before, the twentieth day of the month preceding their effective date. The ceiling for each region is calculated by a formula which uses the price of high-sulfur No. 6 fuel oil observed in that region during a previous period. The collection of data, the application of the formula, and the publication of the ceilings are performed by the EIA, in accordance with its statutory responsibilities. (Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Department of Energy Delegation Order No. 0204-3, October 1, 1977.)

In its initial regulations implementing the incremental pricing program (Docket No. RM79-21, Order No. 50, issued September 28, 1979, 44 FR 57754, October 5, 1979), the Commission implemented two sets of designated regions: (1) 48 regions, each region being one of the 48 continental states; and (2) eight multistate regions, labeled Regions A through H. The 48 state regions are to be used for purposes of calculating the regional alternative fuel price ceilings. However, if available data for a particular state are insufficient to permit calculation of a price ceiling for that state, the price ceiling for that state is the price ceiling calculated for the

multistate region in which the state is located.

Due, in part, to its recognition that, in some cases, alternative fuel price ceilings vary significantly in neighboring states, raising questions of inequity and possible fuel switching, the Commission recently instituted a rulemaking proceeding in Docket No. RM79-21 for the purpose of re-examining both the designation of incremental pricing regions and the methodology for calculating the price ceilings in those regions. On November 4, 1980, the Commission issued a Notice of Inquiry (Notice) in that docket (45 FR 74505, November 10, 1980), requesting public comment on possible revisions suggested in the Notice.

In other dockets, several persons filed documents with the Commission, stating that the published alternative fuel price ceilings for Kentucky are inequitably and substantially higher than the price ceilings in neighboring states. These persons have urged the Commission to eliminate the inequity by substituting the price ceiling calculated for the multistate region in which Kentucky is located (Region D) for the price ceiling calculated for Kentucky. The substance of these filings is discussed below.

III. Discussion

On October 7, 1980, Armco, Inc. (Armco) filed with the Commission, in Docket No. SA81-1-000, an application for a staff adjustment pursuant to section 502(c) of the NGPA and § 1.41 of the Commission's regulations. Armco stated that under the incremental pricing provisions of Title II of the NGPA and under the Commission's regulations, Armco has been required to pay incremental pricing surcharges that have raised the price it pays for natural gas substantially above both the national average and the average in its neighboring state of Ohio. Armco requested that the Commission:

> Substitute for the posted price in the State of Kentucky the regional average price, notwithstanding that there may have been technically sufficient sales in each of the test months to trigger the operation of the methodology contained in Order Nos. 50 and 51 rather than substituting the regional average.[1]

Similarly, on November 26, 1980, the Commission received an application for a staff adjustment pursuant to section 502(c) of the NGPA from Louisville Gas and Electric Company (Louisville), in Docket No. SA81-9-000, stating that the price ceiling for Kentucky has consistently exceeded the alternative fuel price ceilings for each of the remaining Region D states by a substantial margin. Louisville requested the Commission to issue a clarifying amendment to Order No. 50 requiring the EIA to use regional sales data when statistically valid price data are unavailable for the state region.

On November 5, 1980, the Commission received a letter from the Office of the Secretary, the Kentucky Department of Energy (KDOE) stating, among other things, that the price ceiling in the State of Kentucky is not based on a valid statistical sample. KDOE urged that the Commission "place the Kentucky incremental natural gas ceiling price at the regional price and that the action be made retroactive to August 1, 1980."

On December 10, 1980, the Associated Industries of Kentucky and Dow Corning Corporation (collectively Petitioners) filed with the Commission, in Docket No. RM79-21, a petition for an Interim Rule for the State of Kentucky pursuant to section 501(a) of the NGPA and § 1.7(b) of the Commission's regulations.[2] In their application, Petitioners state that Kentucky's price ceiling is unfairly and unreasonably high due to the EIA methodology and will result in fuel switching. Petitioners requested the Commission to issue an interim rule for the State of Kentucky which will use the sales of high-sulfur No. 6 fuel oil in a multistate region[3] for computing the price ceiling for Kentucky.

The Commission notes that there has been a recurring substantial price differential between the published price ceilings for the States of Kentucky and Ohio as the following list indicates:

	Kentucky (MMBtu)	Ohio (MMBtu)
September, 1980	3.51	2.20
October, 1980	3.53	2.14
November, 1980	3.49	2.11
December, 1980	3.41	2.29
January, 1981	4.35	2.87

As discussed above, the Commission is analyzing, in the context of the generic rulemaking in Docket No. RM79-21, the differences in the alternative fuel price ceilings among nearby states and the possibility of undesirable and unnecessary fuel switching or inequities among competing companies. The Commission has accorded a high priority to this rulemaking and is currently considering alternative methodologies for computing the price ceilings. However, comments submitted at informal public conferences conducted in connection with that rulemaking proceeding have urged the Commission to devote additional study to potential revisions before formulating a generic rule revising the current methodology. The Commission agrees, but recognizes that the time required for additional study will preclude, in the interim, providing to incrementally priced end-users in Kentucky relief that might result from the generic rulemaking revising the methods for computing alternative fuel price ceilings.

The Commission has investigated the oil and gas transactions in Kentucky and Ohio and the manner in which the alternative fuel price ceilings reflect those transactions. The Commission is persuaded that until such time as the substantial price differential between these states is addressed in the generic rulemaking in Docket No. RM79-21, good cause exists to reduce this differential on an interim basis.

When this matter is taken up in the context of the generic rulemaking, the differences between the Ohio and Kentucky ceilings may, in fact, be found to be warranted. However, because the Commission has decided to proceed with further study before acting on a generic rule, it believes the public interest requires interim action to prevent any disadvantage or inequity to incrementally priced users in Kentucky.

Accordingly, the Commission believes that good cause exists to direct the EIA to use the Region D price ceiling as the price ceiling for Kentucky, pending final action in Docket No. RM79-21.

Because any incremental pricing surcharges incurred in December 1980 will not be billed until the beginning of January 1981, the regional methodology is made effective for the billing month of December 1980. The Commission denies the request of KDOE to make the rulemaking retroactive to August 1, 1980, because surcharges incurred before December, 1980 have already been billed. The administrative burdens to interstate pipelines and local distribution companies of making adjustments to those surcharges at this time outweigh any benefit to be gained.

In order to effect application of this regional methodology with respect to the months of December 1980 and January 1981, this rulemaking adds § 282.404(a)(3) to the Commission's incremental pricing regulations. The new section establishes that the Region D price ceilings for December 1980 and January 1981 supersede the alternative

[1] Armco's Supplemental Application for a Staff Adjustment, Docket No. SA81-1-000 filed October 14, 1980.

[2] The issuance of this interim rule will serve as notice of petitioner's application for an interim rule.

[3] Petitioner states that the Commission could use either the multistate regional grouping originally suggested in Order No. 50 [Region D], or the revised grouping suggested in the Commission's Notice of Inquiry issued November 4, 1980, Docket No. RM79-21.

fuel price ceilings for Kentucky previously published by the EIA. Based on data provided by the EIA, the Region D price ceiling is $2.70/MMBtu for December 1980 and is $3.28/MMBtu for January 1981.

In order to effect application of the regional methodology with respect to months following January 1981, until the time the generic rulemaking is completed, the Commission is requesting the Executive Director of the Commission to send an amended Data Services Request (DSR) to the EIA. The DSR will direct the EIA to publish the regional average price ceiling for Region D as the price ceiling for Kentucky, until the Commission takes final action on the generic rulemaking in Docket No. RM79–21. The interim rule amends Appendix I to Subpart D of Part 282 to conform to this change.

IV. Effective Date

The Commission believes that because it has decided to proceed with further study before acting on a generic rule, failure to grant immediate relief to incrementally priced end-users in Kentucky would be contrary to the public interest. Accordingly, the Commission finds that good cause exists in accordance with 5 U.S.C. 553(b) and (d) to make this rule effective immediately as an interim rule, applicable to the price ceilings for Kentucky for December 1980 and thereafter until the Commission takes final action on the generic rule in Docket No. RM79–21. The Commission will afford an opportunity for interested persons to present views and comments, as set forth below, before the rule is adopted in final form.

V. Comment Procedures

A. Written Comments

Interested persons are invited to submit written comments, data, views, or arguments with respect to this interim rule. Comments should be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, and should reference Docket No. RM81–9. An original and 14 copies should be filed. All comments received prior to 4:30 p.m. EST, January 23, 1981, will be considered by the Commission prior to promulgation of final regulations. All written submissions will be placed in the public file which has been established in this docket and which is available for public inspection through the Commission's Division of Public Information, Room 100, 825 North Capitol Street NE., Washington, D.C., during regular business hours.

B. Public Hearing

Interested persons may request the opportunity for an oral presentation of their views at a public hearing. Requests for an oral hearing should be submitted no later than January 7, 1981, to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, and should reference Docket No. RM81–9. If any requests are received by that time, the hearing will be held on January 19, 1981, at the above address, and will be announced by January 12, 1981.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301 *et seq.*; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; E.O. 12009, 3 CFR 142 (1978))

In consideration of the foregoing, the Commission amends Subpart D, Part 282, Subchapter I, of Chapter I, Title 18 of the *Code of Federal Regulations*, on an interim basis, as provided below, effective immediately.

By the Commission.

Kenneth F. Plumb,

Secretary.

1. Section 282.404(a) is amended by adding subparagraph (3) to read as follows:

§ 282.404 Alternative fuel price ceilings.

(a) *General rule.*

* * * * *

(3) for the months of December 1980 and January 1981, the alternative fuel price ceilings for Kentucky are $2.70 per million Btu's and $3.28 per million Btu's, respectively. The alternative fuel price ceilings set forth in this subparagraph supersede those price ceilings published previously.

2. Appendix I to Subpart D of Part 282 is amended by revising the paragraph following the list of 31 metropolitan regions to read as follows:

The following are multistate regions which may be used by the Commission in deriving alternative fuel price ceilings for state incremental pricing regions (1) for which statistically valid samples of oil prices may be unavailable, or (2) where the Commission determines that the public interest requires use of the regional ceiling in place of the state ceiling.

[FR Doc. 81-525 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-85-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 655

Traffic Control Devices on Federal-Aid and Other Streets and Highways

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: This document revises and consolidates the existing regulation which prescribes procedures for obtaining basic uniformity of traffic control devices on all streets and highways as prescribed in the Manual on Uniform Traffic Control Devices (MUTCD).

EFFECTIVE DATE: January 30, 1981.

FOR FURTHER INFORMATION CONTACT: Donald P. Ryan, Chief, Signs and Markings Branch, Office of Traffic Operations, 202–426–0411, or Lee J. Burstyn, Office of the Chief Counsel, 202–426–0761. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The MUTCD[1] has been approved by the Federal Highway Administrator as the national standard for all streets and highways open to public travel in accordance with 23 U.S.C. 109(d) and 402(a). The MUTCD has been also specifically approved by the FHWA for application on all Federal-aid highway projects (23 CFR 625.3(c)(1)).

The exisiting regulation on the MUTCD appears as Subpart F of Part 655 of title 23, Code of Federal Regulations (23 CFR Part 655F).

A notice of Proposed Rulemaking (NPRM) was published on September 27, 1979, under FHWA Docket No. 79–17 (44 FR 55598). The NPRM proposed to amend the existing regulation for traffic control devices on Federal-aid and other streets and highways to eliminate redundant and inapplicable material and to reorganize and consolidate the remaining provisions.

Based upon a review of comments received in response to the NPRM, the FHWA is making final revisions to the existing regulation. The revisions delete information pertaining to movable bridges, trail markers, and wrong-way traffic controls, since standards and guidelines for these devices have been incorporated into the MUTCD. Much of the material on project procedures,

[1] May be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (GPO Stock Number 050-001-81001-8). It is available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D.

funding, and target dates which is no longer pertinent to the regulation has been deleted. Color specifications for sign materials which provide a method for determining the color of retroreflective sign materials is added in an Appendix. References to standards for specific information signs, traffic control plans, and needs inventories are outlined, as well as provisions for the use of higher cost materials on Federal-aid projects.

The availability of funds under Chapter 1 (Federal-Aid Highways) or Chapter 4 (Highway Safety) of 23 U.S.C. is not affected by the revision of this regulation.

Discussion of Major Comments

All comments received were submitted by State highway agencies. These comments were reviewed and analyzed by the FHWA and resulted in several substantive changes in the regulation. Some comments resulted in editorial changes and other suggested changes were considered inappropriate for inclusion in the regulation.

The proposed requirement for mandatory compliance with official MUTCD changes within 2 years has been deleted in response to the majority of comments received. Section 655.603(b) provides that the States shall adopt the changes within 2 years of issuance by the FHWA. Section 655.603(d)(4) provides that the FHWA may establish target dates for compliance of traffic control device installations.

Two comments concerned the requirement for States to have a program for upgrading substandard devices and installing needed devices. Section 655.603(d)(1) was changed to show clearly that the requirement for such a program previously existed and is still a provision of 23 CFR 1204.4, Highway Safety Program Standard 13, Traffic Engineering Services.

The requirement in § 655.604(a) that upgrading programs be based on inventories made in accordance with 23 CFR 1204.4, Highway Safety Program Standards, was changed to a recommendation since a mandatory provision would be inconsistent with the basic regulation, 23 CFR 1204.4.

The proposed 23 CFR 655.606, Higher Cost Materials, has been rewritten in response to comments on the ambiguous and redundant nature of the proposed wording.

Note.—The Federal Highway Administration has determined that this document does not contain a significant regulation according to the criteria established by the Department of Transportation pursuant to Executive Order 12044. A regulatory evaluation is available for inspection in the public docket and may be obtained by contacting Donald P. Ryan, Office of Traffic Operations, at the address specified above.

In consideration of the foregoing and under the authority of 23 U.S.C. 101(e), 109(d), 114(a), 217, 315, 402(a); 23 CFR 1204.4; and 49 CFR 1.48(b), the Federal Highway Administration hereby amends 23 CFR Part 655, by revising Subpart F to read as set forth below.

(Catalogue 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: December 30, 1980.

John S. Hassell, Jr.,

Federal Highway Administrator.

PART 655—TRAFFIC OPERATIONS

* * * * *

Subpart F—Traffic Control Devices on Federal-Aid and Other Streets and Highways

Sec.

655.601 Purpose.
655.602 Definitions.
655.603 Standards.
655.604 Achieving basic uniformity.
655.605 Project procedures.
655.606 Higher cost materials.
655.607 Funding.

Appendix—Alternate method of determining the color of retroreflective sign materials.

Authority: 23 U.S.C. 109(d), 114(a), 217, 315, 402(a); 23 CFR 1204.4; and 49 CFR 1.48(b).

§ 655.601 Purpose.

To prescribe the policies and procedures of the Federal Highway Administration (FHWA) to obtain basic uniformity of traffic control devices on all streets and highways in accordance with the Manual on Uniform Traffic Control Devices (MUTCD).[1]

§ 655.602 Definitions.

The terms used herein are defined in accordance with definitions and usages contained in the MUTCD and 23 U.S.C. 101(a).

§ 655.603 Standards.

(a) *National MUTCD.* All traffic control devices installed on any street, highway or bicycle trail open to public travel shall conform to the standards contained in the MUTCD.

(b) *State MUTCD.* Where State MUTCDs or supplements are required, they shall be in substantial conformance with the national MUTCD. Changes in national standards issued by the FHWA shall be adopted by the States within 2 years of issuance to maintain conformance. The FHWA Regional Administrator has been delegated the authority to approve State MUTCDs and supplements. States are encouraged to adopt the national MUTCD as their official manual on uniform traffic control devices.

(c) *Color specifications.* Color determinations and specifications of sign and pavement marking materials shall conform to requirements of the FHWA Color Tolerance Charts.[2] An alternate method of determining the color of retroreflective sign materials is provided in the Appendix.

(d) *Compliance.* (1) *Existing highways.* Each State, in cooperation with its political subdivisions, shall have a program as required by Highway Safety Program Standard 13, Traffic Engineering Services (23 CFR 1204.4) which shall include provisions for the systematic upgrading of substandard traffic control devices and for the installation of needed devices to achieve conformity with the MUTCD.

(2) *New or reconstructed highways.* Newly constructed or reconstructed streets and highways shall not be opened to the public for unrestricted use until all appropriate traffic control devices, either interim or permanent, are installed and functioning properly. When interim devices are used, they shall conform to the MUTCD.

(3) *Construction area activities.* All traffic control devices installed in construction areas shall conform to the MUTCD. Traffic control plans for handling traffic and pedestrians in construction zones and for protection of workers shall conform to the requirements of 23 CFR Part 630, Subpart J, Traffic Safety in Highway and Street Work Zones.

(4) *MUTCD changes.* The FHWA may establish target dates for achieving compliance with changes in the MUTCD.

(e) *Specific information signs.* Standards for specific information signs are contained in 23 CFR Part 655, Subpart C, National Standards for Specific Information Signs.

§ 655.604 Achieving basic uniformity.

(a) *Programs.* Programs for the orderly and systematic upgrading of existing

[1] The MUTCD, Federal Highway Administration 1978 may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (GPO Stock No. 050-001-81001-8). It is available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D.

[2] Available for inspection and copying from the Office of Traffic Operations, Federal Highway Administration, 400 Seventh St., SW., Washington, D.C. 20590.

traffic control devices or the installation of needed traffic control devices on or off the Federal-aid system should be based on inventories made in accordance with 23 CFR 1204.4, Highway Safety Program Standards. These inventories provide the necessary information for programming upgrading projects.

(b) *Inventory.* An inventory of all traffic control devices is required by Highway Safety Program Standard 13, Traffic Engineering Services (23 CFR 1204.4). Highway planning and research funds and highway related safety grant program funds may be used in statewide or systemwide studies. Also, metropolitan planning (PL) funds and Urban System funds may be used in urbanized areas provided the activity is included in an approved unified work program.

§ 655.605 Project procedures.

(a) *Federal-aid highways.* Federal-aid projects involving the installation of traffic control devices shall follow normal procedures as established in 23 CFR Part 630, Subpart A, Federal-Aid Programs Approval and Project Authorization. Simplified and timesaving procedures are to be used to the extent permitted by existing policy.

(b) *Off-system highways.* Certain federally funded programs are available for installation of traffic control devices on streets and highways that are not on the Federal-aid system. The procedures used in these programs may vary from project to project, but essentially, the guidelines as set forth herein should be used.

§ 655.606 Higher cost materials.

The use of signing, pavement marking, and signal materials (or equipment) having distinctive performance characteristics but costing more than other materials (or equipment) commonly used may be approved by the FHWA Division Administrator when the specific use proposed is considered to be in the public interest.

§ 655.607 Funding.

(a) *Federal-aid highways.* Funds apportioned under 23 U.S.C. 104(b) are eligible to participate in projects to install traffic control devices in accordance with the MUTCD on newly constructed or reconstructed highways, or on existing highways to achieve basic conformity with the MUTCD, when this work is not construed to be maintenance. Funds apportioned by other sections of 23 U.S.C. are eligible for participation in improvements conforming to the MUTCD in accordance with the provisions of applicable program regulations and directives.

(b) *Off-system highways.* Federal-aid highway funds are eligible to participate in traffic control device improvement projects on off-system highways that will directly facilitate and control traffic flow on any Federal-aid highway.

Appendix.—Alternate Method of Determining the Color of Retroreflective Sign Materials

1. The FHWA Color Tolerance Charts provide that conventional color measuring instruments such as spectrophotometers and tristimulus photoelectric colorimeters should not be used for measurement of retroreflective material colors and that such materials should be evaluated visually using the Color Tolerance Charts and paying strict attention to prescribed illumination and viewing conditions.

2. As an alternate to visual testing, the diffuse day color of retroreflective sign material may be determined in accordance with ASTM E 97, "Standard Method of Test for 45-Degree, 0-Degree Directional Reflectance of Opaque Specimens by Filter Photometry." Geometric characteristics must be confined to illumination incident within 10 degrees of, and centered about, a direction 45 degrees from the perpendicular to the test surface; viewing is within 15 degrees of, and centered about, the perpendicular to the test surface. Conditions of illumination and observation must not be interchanged.

3. Standards to be used for reference are the Munsell Papers designated in Table I or Table II, attached. The papers must be recently calibrated on a spectrophotometer. Acceptable test instruments are:

a. Gardner Multipurpose Reflectometer or Model XL 20 Color Difference Meter,

b. Gardner Model AC-2a or XL 30 Color Difference Meter,

c. Meeco Model V Colormaster,

d. Hunterlab D25 Color Difference Meter, or

e. Approved equal.

4. Average performance sheeting is identified as Types I and II sheeting and high performance sheeting is identified as Types III and IV sheeting in Standard Specifications for Construction of Roads and Bridges on Federal Highway Projects[1] (FP-79, Section 633).

BILLING CODE 4910-22-M

[1] This document is available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D.

TABLE I

Color Specification Limits and Reference Standards
Types I and II Sheeting

Color	Chromaticity Coordinates* (Corner Points)								Reflectance Limits (%Y) Y		Reference*** Standard (Munsell Papers)
	1		2		3		4				
	x	y	x	y	x	y	x	y	Min.	Max.	
White**	.305	.290	.350	.342	.321	.361	.276	.308	35	--	6.3GY 6.77/0.8
Red	.602	.317	.664	.336	.644	.356	.575	.356	8	12	8.2R 3.78/14.0
Orange	.535	.375	.607	.393	.582	.417	.535	.399	18	30	2.5YR 5.5/14.0
Brown	.445	.353	.604	.396	.556	.443	.445	.386	4	9	5.0YR 3/6
Yellow	.482	.450	.532	.465	.505	.494	.475	.485	29	45	1.25Y 6/12
Green	.130	.369	.180	.391	.155	.460	.107	.439	3.5	9	0.65BG 2.84/8.45
Blue	.147	.075	.176	.091	.176	.151	.106	.113	1.0	4	5.8PB 1.32/6.8

*The four pairs of chromaticity coordinates determine the acceptable color in terms of the CIE 1931 standard colorimetric system measured with standard illumination source C.

**Silver white is an acceptable color designation.

***Available from Munsell Color Company, 2441 Calvert Street, Baltimore, Maryland 21218.

TABLE II

Color Specification Limits and Reference Standards
Types III and IV Sheeting

Color	Chromaticity Coordinates* (Corner Points)								Reflectance Limits (%Y) Y		Reference*** Standard (Munsell Papers)
	1		2		3		4				
	x	y	x	y	x	y	x	y	Min.	Max.	
White**	.303	.287	.368	.353	.340	.380	.274	.316	27	--	5.0PB 7/1
Red	.613	.297	.708	.292	.636	.364	.558	.352	2.5	11	7.5R 3/12
Orange	.550	.360	.630	.370	.581	.418	.516	.394	14	30	2.5YR 5.5/14
Yellow	.498	.412	.557	.442	.479	.520	.438	.472	15	40	1.25Y 6/12
Green	.030	.380	.166	.346	.286	.428	.201	.776	3	8	10G 3/8
Blue	.144	.030	.244	.202	.190	.247	.066	.208	1	10	5.8PB 1.32/6.8

*The four pairs of chromaticity coordinates determine the acceptable color in terms of the CIE 1931 standard colorimetric system measured with standard illumination source C.

**Silver white is an acceptable color designation.

***Available from Munsell Color Company, 2441 Calvert Street, Baltimore, Maryland 21218.

[FR Doc. 81-587 Filed 1-7-81; 8:45 am]
BILLING CODE 4910-22-C

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 154

[T.D. 7752]

Civil Aircraft Use Tax—Special Rules for the Period July 1, 1980 Through September 30, 1980

AGENCY: Internal Revenue Service, Treasury.

ACTION: Amendment of temporary regulations.

SUMMARY: This document amends temporary excise tax regulations that apply to the tax on the use of civil aircraft. Congress extended this tax for the period July 1 through September 30, 1980. These regulations prescribe the date for filing the return for this period and provide the public with other information necessary to comply with the law.

DATES: The amendment applies to civil aircraft use at any time during the taxable period July 1, 1980, through September 30, 1980. The deadline for filing returns for this period is set at February 2, 1981.

FOR FURTHER INFORMATION CONTACT: Raymond W. McKee of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, Attention: CC:LR:T (202–566–3458) not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

Section 4491 of the Code provides generally for an excise tax on the use of civil aircraft. This tax was due to expire on July 1, 1980. On that date, Congress extended the tax for three additional months in Pub. L. 96–298, 94 Stat. 829. That Act modifies the rates of the tax for that period and provides that the due date for any return for this tax for this period will be no earlier than October 31, 1980. It also provides that the three month period July 1 through September 30, 1980, is to be treated as one year for purposes of this tax.

Section 154.3–1 of the Excise Tax Regulations (temporary regulations on the tax on use of civil aircraft) provides generally that a return must be filed before the end of the month following the month in the taxable year in which the first use of the aircraft occurs. It also provides that a "taxable period" is a one-year period beginning on July 1 and ending the following June 30 during the period after June 30, 1970, and before July 1, 1980.

This amendment defines the period July 1, 1980, through September 30, 1980, as a taxable period and sets the due date for all returns for this period on February 2, 1981. It also provides for proration of the tax and states that the tax may not be paid in installments. The amendment brings the regulations into conformity with Pub. L. 96–298.

Drafting Information

The principal author of this regulation is Raymond W. McKee of the Legislation and Regulations 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.

Waiver of Certain Procedural Requirements of Final Treasury Directive

A determination has been made by William E. Williams, Acting Commissioner of Internal Revenue, that there is need for immediate guidance in order to make clear that under the amendment to section 4491 of the Code made by Pub. L. 96–298, returns for the period July 1, 1980, through September 30, 1980, which could have been due as early as October 31, 1980, are not due until February 2, 1981. Because of the immediate need for this regulation, compliance with the procedural requirements of paragraphs 8 through 14 of the final Treasury directive (43 FR 52121), relating to improving regulations, would be impractical, and, therefore, these requirements have not been followed.

Adoption of Amendments to the Regulations

Accordingly, Part 154 of 26 CFR is amended as follows:

A new § 154.3–2 is added immediately after § 154.3–1 to read as follows:

§ 154.3–2 Special rules with respect to the tax on civil aircraft for the period July 1, 1980, through September 30, 1980.

(a) *In general.* Public Law 96–298 (94 Stat. 829) amended section 4491 to extend the application of the tax on the use of taxable civil aircraft from July 1, 1980, through September 30, 1980. This section contains special rules for the determination, return, and payment of the tax for this period. Except as provided in this section, the rules in § 154.3–1 apply with respect to the tax on the use of taxable civil aircraft (as defined in section 4492 (a)) during the period July 1, 1980, through September 30, 1980.

(b) *Taxable period.* The period July 1, 1980, through September 30, 1980, is a taxable period.

(c) *Rate and computation of tax*—(1) *Rate.* For the taxable period specified in paragraph (b) of this section, the tax imposed on each taxable civil aircraft is $6.25 (the "basic charge") plus, in certain instances, a tax based on weight (the "poundage charge"). The poundage charge is (i) in the case of a turbine engine powered aircraft, ⅞ cent a pound for each pound of the maximum certificated takeoff weight of the aircraft, and (ii) in the case of a nonturbine engine powered aircraft with a maximum certificated takeoff weight of more than 2,500 pounds, ½ cent a pound for each pound of the maximum certificated takeoff weight of the aircraft in excess of 2,500 pounds.

(2) *Proration of tax.* If the first taxable use of a taxable civil aircraft is made in August, 1980, the poundage charge is two-thirds of the amount that would be due for the full taxable period specified in paragraph (b) of this section. If the first taxable use of a taxable civil aircraft is made in September, 1980, the poundage charge is one-third of the amount that would be due for that full taxable period.

(d) *Returns.* The return for the taxable period specified in paragraph (b) of this section shall be filed on or before February 2, 1981.

(e) *No installment payments of tax.* The tax imposed during the period specified in paragraph (b) of this section shall be paid on or before February 2, 1981. Section 6156 and § 154.3–1 (f) shall not apply, so that tax is not payable in installments. However, an extension of time for filing the return pursuant to § 154.3–1 (g) shall operate to extend the time for payment of the tax unless specified to the contrary in the extension.

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impractical to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in sections 6071 and 7805 of the Internal Revenue Code

of 1954 (68A Stat. 949, 26 U.S.C. 6071; 68A Stat. 917; 26 U.S.C. 7805).

William E. Williams,

Acting Commissioner of Internal Revenue.

Approved: December 19, 1980.

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 81-568 Filed 1-7-81; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Chapter VII

Surface Mining Reclamation and Enforcement Permanent Regulatory Program; Extension of Date for Submission of Information

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), United States Department of the Interior.

ACTION: Notice of extension of date for submission of information.

SUMMARY: OSM is extending the deadline for interested persons to respond to a request for information on the amount of time it takes coal operators to comply with the Permanent Regulatory Program's reporting and recordkeeping requirements.

DATES: Comments are due by September 10, 1981 for reporting under 30 CFR Part 707. Comments are due by October 10, 1981 for reporting under 30 CFR Parts 816, 817, 822 and 826. Comments are due by October 31, 1981 for all reporting under all other 30 CFR Parts.

ADDRESS: Assistant Director, Management and Budget, Office of Surface Mining Reclamation and Enforcement, Room 226, 1951 Constitution Avenue, NW, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Joan Shaw, 202-343-5447.

SUPPLEMENTARY INFORMATION: By notice confirming the recordkeeping and reporting requirements which appeared in the **Federal Register** on June 18, 1979 (44 FR 35192-93), OSM asked operators to inform it as to how long it takes them to comply with its Permanent Regulatory Program's reporting and recordkeeping requirements. The original deadline for such information was November 30, 1980. At the request of several industry members, OSM has decided to extend the deadlines in order to allow operators to report to OSM the time it is taking them to comply with requirements which, in many cases, are only becoming applicable in 1981. The dates selected by OSM correspond to deadlines by which OSM must submit its estimates of compliance time to the General Accounting Office.

Accordingly, the period is extended through October 31, 1981 for all information previously requested except for information relating to 30 CFR Parts 707, 816, 817, 822 and 826. The extension dates listed below have been established for comments on these Parts.

Comments are due by September 10, 1981 for:

30 CFR Part 707—Information to be maintained on site for extracting coal incident to government-financed highway or other construction.

Comments are due by October 10, 1981 for:

30 CFR Part 816—Permanent Program Performance Standards—Surface mining activities.

30 CFR Part 817—Permanent Program Performance Standards—Underground mining activities.

30 CFR Part 822—Special Permanent Program Performance Standards—Operations in alluvial valley floors.

30 CFR Part 826—Special Permanent Program Performance Standards—Operations on steep slopes.

The reader is referred to the June 18, 1979 **Federal Register** (44 FR 35192-93) for further information.

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

The Department of the Interior has determined that this document is not a major Federal action significantly affecting the quality of the human environment. Accordingly, no environmental impact statement has been prepared separately for this action.

Dated: December 30, 1980.

Walter N. Heine,

Director, OSM.

[FR Doc. 81-695 Filed 1-7-81; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 78-173]

Drawbridge Operation Regulations; Newark Bay, Passaic, and Hackensack Rivers, New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Final Rule Correction.

SUMMARY: This document corrects a final rule published at 45 FR 73653, November 6, 1980, relating to certain raiload drawbridges across the Passaic and Hackensack Rivers in New Jersey.

FOR FURTHER INFORMATION CONTACT: Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-NBR/14), Room 1414, Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593 (202-426-0942).

SUPPLEMENTARY INFORMATION: In FR Doc. 80-34518 appearing on page 73653 in the **Federal Register** of November 6, 1980 there were several typographical errors. These should be corrected as follows:

1. In paragraph (a)(5)(iv) of § 117.200 the word "Western" should be substituted for "Eastern," and the number "16.3" should be substituted for "10.3."

2. In paragraph (a)(5)(v) of § 117.200 the number "16.5" should be substituted for "10.5."

3. In the list of paragraphs deleted from § 117.225(f), the number "(1-e)" should substituted for "(1.3).

Dated: December 30, 1980.

R. A. Bauman,

Rear Admiral, U.S. Coast Guard Chief, Office of Navigation.

[FR Doc. 81-677 Filed 1-7-81; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-7-FRL 1722-3]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Receipt of Submittal to Satisfy Conditions of Plan Approval.

SUMMARY: In order to satisfy the requirements of Part D of the Clean Air Act, as amended, the State of Missouri revised its State Implementation Plan (SIP) in 1979 to include a permit program for new and modified major stationary sources of air pollutants. On May 9, 1980, EPA conditionally approved Missouri's permitting regulations. On December 22, 1980, the state submitted a draft revision to the regulations for the purpose of fulfilling one of these conditions.

The purpose of this notice is to advise the public that the state has

drafted a revision to the regulation to satisfy the condition. EPA is reviewing the material submitted and intends to issue a notice of final rulemaking if the state submits a final regulation which is substantially the same as the draft revisions. Until final action is published in the **Federal Register**, the conditional approval of the SIP is being continued.

ADDRESSES: Copies of the state submission are available for inspection during normal business hours at the following locations:

Environmental Protection Agency, Air, Noise and Radiation Branch, 324 East 11th Street, Kansas City, Missouri 64106.

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Room 2922, Washington, D.C. 20460

Missouri Department of Natural Resources, 2010 Missouri Boulevard, Jefferson City, Missouri 65101

FOR FURTHER INFORMATION CONTACT: Wayne G. Leidwanger at (816) 374–3791 (FTS) 758–3791.

SUPPLEMENTARY INFORMATION: On May 9, 1980, EPA conditionally approved certain elements of Missouri's SIP with regard to the requirements of Sections 172(b)(6), 172(b)(11)(A) and 173 of the Clean Air Act, as amended (45 FR 30626). These sections require states to establish in the SIP a permit program for new and modified sources of air pollutants in areas where the air quality is worse than the national standards. Missouli's program, as outlined in Rule 10 CSR 10–6.060 Permits Required and in Rule 10 CSR 10–6.020 Definitions, contained minor deficiencies resulting in EPA's conditional approval on May 9, 1980. The state agreed to correct these deficiencies by certain deadlines.

One of the conditions promulgated by EPA requires the state to change the requirements for permitting modifications to Class C sources (major sources in nonattainment areas) to be applicable both to a modification to a single course operation and to two or more sources operations which result in an increase in potential emissions greater than certain levels (de minimus) specified in the regulation. This change was to be submitted to EPA by January 1, 1981.

On December 1, 1980, the state published in the *Missouri Register* a proposed change to Rule 10 CSR 10–6.060 for the purpose of fulfilling this condition. This proposed revision was received by EPA on December 22, 1980. The Missouri Air Conservation Commission has scheduled a public hearing in regard to this matter on January 21, 1981. (The Commission did not meet in December.)

The public is advised that the state has submitted a draft revision to the regulations. EPA is reviewing the material to determine if it complies with the requirements of the Clean Air Act and the condition promulgated by EPA. EPA intends to issue a notice of final rulemaking if the state submits final revisions to the regulation which are substantially the same as the draft changes. EPA's conditional approval of the Missouri SIP is being continued until final action is published in the **Federal Register.**

Dated: January 2, 1981.

Kathleen Camin,

Regional Administrator.

[FR Doc. 81-676 Filed 1-7-81; 8:45 am]

BILLING CODE 6560-38-M

---

40 CFR Part 87

[EN-FRL 1721-1]

Control of Air Pollution From Aircraft and Aircraft Engines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: This final rule extends the applicability of the temporary exemption provision of the standards for smoke and fuel venting emissions from some in-use aircraft engines to include the JT3D engine smoke standard, for which partial compliance is required by January 1, 1981. This rule also delays the existing partial compliance date from January 1, 1981, until February 1, 1981.

The existing exemption provision is not applicable to JT3D engines and EPA is unable to exempt operators who have recently indicated that they cannot meet the January 1, 1981 compliance date. The one month delay of the compliance date will give EPA time to respond to the exemption requests it has received.

The rule will enable EPA to provide temporary relief to numerous operators of JT3D powered aircraft who are unable to obtain retrofit parts.

EFFECTIVE DATE: January 8, 1981. The EPA will, however, consider revisions based on comments it receives on or before February 9, 1981.

ADDRESS: Send written comments to: Director, Manufacturers Operations Division (EN–340), U.S. Environmental Protection Agency, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. John Guy, Manufacturers Operations Division (EN–340), U.S. Environmental Protection Agency, Washington, D.C. 20460 (202) 472–9413.

SUPPLEMENTARY INFORMATION: The aircraft engine exhaust emission standards were promulgated by EPA on July 17, 1973 (38 FR 19090). Several of the provisions of these standards required compliance of in-use aircraft gas turbine engines (JT8D) certified for operation within the United States with smoke and fuel venting requirements by January 1, 1974. Because the short time period between promulgation of the standards and that effective date was not sufficient for all operators to complete modifications on their aircraft to meet these requirements, the regulation was amended on December 21, 1973, to add a provision for temporary exemptions (38 FR 35000). This provision permitted temporary exemptions from the smoke and fuel venting requirements to accommodate problems encountered by several airlines in completing the necessary retrofit work by January 1, 1974.

At that time, it was not expected that similar problems would be encountered by operators of aircraft powered by JT3D engines in complying with the smoke standard applicable to that engine. This was because the effective date was considerably later (January 1, 1978) so as to allow sufficient lead time for development and certification of the necessary smoke reduction components, and it was not anticipated that any operators would incur serious delays in compliance.

Although the JT3D smoke retrofit program compliance date has been further delayed twice since 1973 (41 FR 54861; December 15, 1976, and 44 FR 64266; November 6, 1979), it nevertheless appears that there may be operators of JT3D powered aircraft who will experience difficulty in achieving the required compliance with the smoke standard by January 1, 1981. The reasons for these difficulties include small companies just entering the airline industry who were not aware of the requirement, the lead time necessary to purchase a retrofit kit and the cost of replacement engines or aircraft.

With due consideration to the foregoing, it has been determined that the applicability of the temporary exemption provisions of the aircraft engine emission standards should be extended to include smoke standards applicable to in-use JT3D engines. This action will provide the necessary authority to provide temporary exemptions for aircraft or aircraft engine owners or operators who apply for an exemption and who demonstrate that

they comply with the criteria provided in 40 CFR 87.101.

There are no significant air quality impacts to this amendment. FAA estimates that JT3D powered aircraft represent less than 10% of domestic operations. Because these engines are fuel inefficent, the major airlines have drastically curtailed their usage, so that operations involving them have been reduced by more than one-quarter since 1976. Further, most major airlines which use this equipment have either already retrofitted their engines or are on an FAA compliance plan.

The Agency finds that to propose this revision to the temporary exemption regulations prior to final rulemaking would be impracticable and contrary to the public interest. These revisions are critical to the activities of operators of JT3D powered aircraft and must be effective as soon as possible to permit these operators to apply for exemptions, given the smoke standard compliance date of January 1, 1981. Without these amendments, certain operators of these aircraft would be forced to ground their airplanes as of the January 1, 1981, effective date. Moreover, these amendments will not have a significant adverse effect upon air quality, as described above. The Agency finds further that there is good cause to make these revisions effective earlier than 30 days after their promulgation because they provide a means whereby aircraft operators may obtain temporary relief from restrictions in the present regulations.

EPA will act promptly on requests for temporary exemptions submitted in accordance with the procedures described in § 87.101. However, because there is insufficient time to enable aircraft operators to apply for exemptions and for EPA to act on those requests, the amendment to the regulations delays the effective date of the standards for one month, to enable aircraft operators to continue operations while they are submitting requests for temporary exemptions. Exemption requests, however, may be submitted at any time before or after February 1, 1981.

This rulemaking action does not constitute a regulation which will result in major economic impact. Accordingly, the Environmental Protection Agency has determined that this document does not contain a major proposal or a substantial revision requiring preparation of an economic impact analysis under Executive Orders 11821, 11949 and 12044, OMB Circular A-107, or Section 317 of the Clean Air Act.

Dated: December 31, 1980.

Douglas M. Costle,

Administrator.

Part 87, Chapter I of Title 40 of the Code of Federal Regulations, is amended as follows:

1. In section 87.101, all of paragraphs (a) and (b) which precede paragraphs (a)(1) and (b)(1) respectively are revised to read as follows:

§ 87.101 [Amended]

(a) The Administrator of the Environmental Protection Agency may grant to any aircraft or aircraft engine temporary exemption from any applicable standard under § 87.11(a), § 87.31(a), or § 87.31(c), provided that the owner or operator of such aircraft or aircraft engine demonstrates:

* * * * *

(b) Applications for temporary exemptions from the requirements of § 87.31(a) or § 87.31(c) shall be submitted in duplicate to the Administrator of the Environmental Protection Agency and shall contain the following information:

* * * * *

2. In § 87.102, paragraphs (c) and (d) are added to read as follows:

§ 87.102 Thirty-day suspension of fuel venting and smoke standards.

* * * * *

(c) The applicability of the standards of § 87.31(c) to aircraft subject to such standards is suspended until February 1, 1981.

(d) Application for temporary exemption from the standards of § 87.31(c) for aircraft which will not be in compliance by February 1, 1981, must be submitted in accordance with the procedures of § 87.101.

(Secs. 231, 301(a), Clean Air Act, as amended (42 U.S.C. 7571, 7601(a)))

[FR Doc. 81-650 Filed 1-7-81; 8:45 am]

BILLING CODE 6560-33-M

---

40 CFR Part 122

[EN-FRL 1710-7]

Consolidated Permit Regulations; NPDES Application Requirements for Coal Mines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Suspension of portion of final rule.

SUMMARY: This action suspends for the Coal Mining Point Source Category a portion of the requirements in EPA's consolidated permit regulations that certain testing data for organic toxic pollutants be submitted as part of the application for a National Pollution Discharge Elimination System (NPDES) permit. During the suspension, EPA will reconsider the appropriateness of this requirement in light of the coal industry's petition for reconsideration based upon newly presented data.

EFFECTIVE DATE: January 8, 1981.

FOR FURTHER INFORMATION CONTACT: Gail S. Goldberg, Office of Water Enforcement (EN-336), Washington, DC. 20460, (202) 426-7035.

SUPPLEMENTARY INFORMATION: On May 19, 1980, EPA issued final consolidated permit regulations and the NPDES permit application forms under the Clean Water Act (45 FR 33290). Included in those regulations and the NPDES permit application form is a requirement that applicants provide data obtained through sampling and analysis to characterize their process wastestreams for those pollutants specifically listed in Appendix A to Part 122. Applicants in the coal mining industry, which is listed as a primary industry in the Consent Decree issued in *NRDC* v. *Train*, 8 ERC 2120 (D.D.C. 1976), modified March 9, 1979, 12 ERC 1833, 1841, must test their process wastewater discharges for toxic pollutants.

The May 19 regulations, at 40 CFR Part 122.53(d)(7)(ii)(A), provide that:

(ii) Each applicant with processes in one or more primary industry category (see Appendix A to Part 122) contributing to a discharge must report quantitative data for the following pollutants in each outfall containing process wastewater:

(A) The organic toxic pollutants in the fractions designated in Table I of Appendix D for the applicant's industrial category or categories unless the applicant qualifies as a small business under paragraph (d)(8) of this section.

Table I of Appendix D, requires that applicants in the coal mining industry test and report data on all four organic pollutant fractions. Table II of Appendix D lists the organic toxic pollutants in each fraction.

Exempted from this testing requirement are coal mines whose average annual production is less than 100,000 tons of coal, and applicants whose outfalls were analyzed by EPA during EPA's industry sampling program, if the data is less than three years old and remains representative of the present discharge.

The National Coal Association (NCA) petitioned the Agency for reconsideration and stay of certain provisions of EPA's NPDES regulations and permit application form

requirements. NCA requested that EPA stay application of 40 CFR Part 122.53(d)(7)(ii)(A) and 40 CFR Part 122.53(d)(7)(ii)(B) (for total phenols only) as they relate to the coal mining point source category pending a determination or reconsideration. NCA argued that effluent data contained in the Agency's *Development Document for Proposed Effluent Limitations Guidelines, New Source Performance Standards for the Coal Mining Point Source Category*, July 1980, demonstrates that the 114 organic toxics and total phenols are not present in coal mine discharges in quantities or frequencies justifying these sampling and analytical requirements. Futhermore, they argued that when pollutants were detected, their presence was shown to be caused by contamination during sampling and analysis.

EPA has stated its willingness, at 45 FR 33528, to "continue to investigate existing data and add or delete requirements to ensure that waste streams be analyzed only for pollutants which may be discharged." We believe that NCA's petition raises sufficiently substantial questions about the testing requirement for coal mines to justify today's suspension of 40 CFR 122.53(d)(7)(ii)(A) pending further evaluation of this new presentation of data on organic toxic pollutants. This suspension of the requirement in 122.53(d)(7)(ii)(A) that coal mines sample and analyze for 114 organic toxic pollutants (and the parallel suspension of the requirement that applicants complete Item V-C of the NPDES application Form 2c, 45 FR 33563) will relieve the industry from the cost of meeting testing requirments that may prove unnecessary. When the Agency completes its analysis of the data from coal mines, we will change the requirement if appropriate or reinstate it, if not. During the suspension, however, coal mines will still be required under § 122.53(d)(7)(iii)(A), to sample and analyze their wastestreams for those organic pollutants which they know or have reason to believe exist in their discharge. In addition, as applicants in the primary industries listed in the NRDC Consent Decree, coal mines must report quantitative results for the 13 metals on the toxic pollutant list and for cyanide and total phenols. Items V-A, B, and D must still be completed, accordingly to the instructions in the NPDES application Form 2c and in accordance with § 122.53(d)(7)(i), (ii)(B) (iii), (iv) and (v).

We reject NCA's request that we change the requirement in 40 CFR 122.53(d)(7)(ii)(B) that all primary industries test for total phenols. These industries must continue to test and report results for total phenols in their process wastewater outfalls because phenols are a significant toxic pollutant. They have been commonly found in discharges from primary industries, and are more likely to be found in discharges from primary industries than from secondary industry outfalls. Further, information on total phenols indicates the possible presence of several phenolic compounds which are toxic pollutants. Reporting requirements for total phenols provide significant, useful information to the permit writer which outweigh the relatively minor cost associated with testing.

(Clean Water Act, 33, U.S.C. § 1251 et seq.)

Dated: December 31, 1980.

Douglas M. Costle,

Administrator.

§ 122.53 [Amended]

40 CFR § 122.53(d)(7)(ii)(A), as it applies to coal mines, is suspended until further notice.

[FR Doc. 81-655 Filed 1-7-81; 8:45 am]

BILLING CODE 6560-33-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 5797

[CA-275]

California; Partial Revocation of Reclamation Project Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes three Departmental Orders which withdrew land for the Klamath River Project. This action will restore 418.18 acres of said land to the operation of the public land laws generally, including the mining laws. This action is being taken because the Water and Power Resources Service (formerly the Bureau of Reclamation) no longer has need for the 418.18 acres.

EFFECTIVE DATE: February 3, 1981.

FOR FURTHER INFORMATION CONTACT: Marie Getsman, California State Office, 916-484-4431.

By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751 (43 U.S.C. 1714), it is ordered as follows:

1. The Departmental Orders of July 19, 1904, January 28, 1905, and February 28, 1921, withdrawing lands for the Klamath River Project are hereby revoked so far as they affect the following described lands:

Mount Diablo Meridian

T. 47 N., R. 3 E.,
Sec. 19, Lots 1, 2, 3, 4, and 5, and SE¼SE¼;
Sec. 20, Lots 1 and 2, fractional part of SW¼NE¼, E½NE¼, and NW¼SW¼.

The area described aggregates 418.18 acres in Siskiyou County. The land is located about 11 miles east of Tulelake, California. The primary use of these lands is grazing.

2. At 10 a.m. on February 3, 1981, the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on February 3, 1981, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The lands will be open to location under the United States mining laws at 10 a.m. on February 3, 1981. They have been open to applications and offers under the mineral and geothermal leasing laws.

Inquiries concerning the land shall be addressed to the Bureau of Land Management, Room E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Guy R. Martin,

Assistant Secretary of the Interior.

December 29, 1980.

[FR Doc. 81-591 Filed 1-7-81; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 5798

[N-050476]

Nevada; Revocation of Public Land Order No. 2307

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an administrative site withdrawal affecting 640 acres of public lands withdrawn for use by the National Park Service. This action will restore the lands to the operation of the mineral leasing laws. The lands will continue to be withdrawn from the public land laws and the mining laws pursuant to Pub. L. 88-639.

EFFECTIVE DATE: February 3, 1981.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, Nevada State Office, 702-784-5703.

By virtue of the authority contained in Section 204(a) of the Federal Land

Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order 2307 of March 21, 1961, which withdrew the following described public lands for use as a National Park Service administrative site is hereby revoked in its entirety:

Mount Diablo Meridian

T. 18 S., R. 67 E.,
Sec. 12, all.

The area described contains 640 acres in Clark County.

2. The public lands described above will be open to applications and offers under the mineral leasing laws at 10 a.m. on February 3, 1981.

3. The public lands described above will continue to be closed to the public land laws and the mining laws pursuant to P.L. 88-639 which established the Lake Mead National Recreation Area.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 12000, Reno, Nevada 89520.

Guy R. Martin,

Assistant Secretary of the Interior.

December 29, 1980.

[FR Doc. 81-592 Filed 1-7-81; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 5799

[ORE-04207]

Oregon; Revocation of Public Land Order No. 1362

AGENCY: Bureau of Land Mangement, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a public land order which withdrew 80 acres of lands as an administrative site for use by the Bureau of Land Management. This action will restore the lands to operation of the public land laws generally, including the mining laws

EFFECTIVE DATE: February 3, 1981.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204(a) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 1362 of November 13, 1956, which withdrew the following described lands for use by the Bureau of Land Management as an administrative site is hereby revoked in its entirety:

Willamette Meridian

Catlow Camp

T. 33 S., R. 32 E.,
Sec. 31, SE¼NE¼;
Sec. 32, SW¼NW¼.
The area described contains 80 acres in Harney County.

2. At 10 a.m., on February 3, 1981, the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m., on February 3, 1981, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10 a.m., on February 3, 1981, the lands will be open to location under the United States mining laws. The lands have been and continue to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of land Management, P.O. Box 2965, Portland, Oregon 97208.

Guy R. Martin,

Assistant Secretary of the Interior.

December 29, 1980.

[FR Doc. 81-511 Filed 1-7-81; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 5802

[ORE-015563]

Partial Revocation of Public Land Order No. 3917

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a public land order in part as to 160 acres of lands withdrawn as a material site for use by the Bureau of Land Management. This action will open the lands to location under the mining laws.

EFFECTIVE DATE: February 3, 1981.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

By virtue of the authority contained in Section 204(a) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 3917 of January 18, 1966, which withdrew certain lands for use by the Bureau of Land Management as material sites is hereby revoked so far as it affects the following described lands:

Willamette Meridian

Revested Oregon and California Railroad Grant Land

T. 19 S., R. 9 W.,
Sec. 13, SW¼.

The area described contains 160 acres in Douglas County, Oregon.

2. At 10 a.m., on February 3, 1981, the lands will be open to location under the United States mining laws. The lands have been and continue to be open to applications and offers under the mineral leasing laws and to such forms of disposition as may by law be made of revested Oregon and California Railroad Grant Land.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Guy R. Martin,

Assistant Secretary of the Interior.

December 29, 1980.

[FR Doc. 81-593 Filed 1-7-81; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 5804

[ORE 013237]

Oregon; Partial Revocation of Reclamation Project Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a public land order in part as to 690 acres of lands withdrawn for reclamation purposes. This action will restore the lands to operation of the public land laws, generally, including the mining laws.

EFFECTIVE DATE: February 3, 1981.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

By virtue of the authority contained in Section 204(a) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 4849 of June 18, 1970, which withdrew certain lands for use by the Water and Power Resources Service (formerly Bureau of Reclamation) for reclamation purposes in connection with the Burnt River Project is hereby revoked so far as it affects the following described lands:

Willamette Meridian

Burnt River Project

Dark Canyon and Reservoir Site

T. 12 S., R. 41 E.,
Sec. 3, W½SW¼ and SE¼SW¼;

Sec. 4, E½SE¼;
Sec. 9, NE¼NE¼, W½NE¼, S½NE¼SW¼, SE¼SW¼, and W½SE¼;
Sec. 16, N½NW¼NE¼, NE¼NW¼, W½NW¼, W½NW¼SW¼, and W½SW¼SW¼;
Sec. 20, N½NE¼NE¼;
Sec. 21, NW¼NW¼NW¼.

The area described contains 690 acres in Baker County, Oregon.

2. At 10 a.m., on February 3, 1981, the lands will be open to operation of the public lands laws generally subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m., on February 3, 1981, will be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10 a.m., on February 3, 1981, the lands will be open to location under the United States mining laws. The lands have been and continue to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Guy R. Martin,

Assistant Secretary of the Interior.

December 29, 1980

[FR Doc. 81-504 Filed 1-7-81; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 5805

[A-9152]

Arizona; Partial Revocation of Reclamation Withdrawals

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This document partially revokes the Departmental Orders of June 11, 1954 and May 18, 1956, affecting 43,307.09 acres of lands withdrawn for reclamation purposes by the Water and Power Resources Service. This action will restore 23,041.12 acres to operation of the public land laws generally including the mining laws. The remaining 20,265.97 acres will remain withdrawn for the Glen Canyon National Recreation Area under the jurisdiction of the National Park Service, pursuant to the Act of October 27, 1972 (86 Stat. 1311–1313) and the Paria Canyon Primitive Area under the jurisdiction of the Bureau of Land Management, pursuant to the Act of September 19, 1964 (78 Stat. 986; 43 U.S.C. 1411–1418).

EFFECTIVE DATE: February 3, 1981.

FOR FURTHER INFORMATION CONTACT: Mario L. Lopez, Arizona State Office, 602–261–4774.

By virtue of the authority contained in Section 204(a) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is ordered as follows:

1. The Departmental Orders of June 11, 1954 and May 18, 1956, withdrawing lands for the Colorado River Storage Project, are hereby revoked so far as they affect the following described lands:

Gila and Salt River Meridian

T. 41 N., R. 7 E.,
Secs. 1 through 16 inclusive;
Sec. 17, N½, SE¼;
Sec. 18, lots 1 and 2, E½NW¼, NE¼
Sec. 19, lots 3 and 4, E½SW¼;
Secs. 21 through 26 inclusive;
Sec. 27, N½ and SE¼;
Sec. 29, SW¼;
Secs. 30, 31, and 32;
Sec. 35, N½ and SE¼;
Sec. 36.
T. 42 N., R. 7 E.,
Secs. 31 through 36 inclusive.
T. 40 N., R. 8 E.,
Sec. 4, N½, SW¼, N½SE¼, SW¼SE¼;
Secs. 5 and 6;
Sec. 7, N½, SW¼, N½SE¼, SW¼SE¼;
Sec. 8, N½;
Sec. 9, NW¼NE¼, NW¼.
T. 41 N., R. 8 E.,
Secs. 2 through 10 inclusive;
Sec. 11, NE¼, W½, N½SE¼, SW¼SE¼;
Sec. 14, W½E½, W½;
Sec. 15;
Secs. 17 through 22 inclusive;
Sec. 23, NW¼NE¼, S½NE¼, NW¼, S½;
Sec. 26, N½, W½SW¼, NE¼SW¼, NW¼SE¼;
Secs. 27 through 31 inclusive;
Sec. 33;
Sec. 34, N½, W½SW¼, NE¼SW¼, N½SE¼;
Sec. 35, W½NW¼, NW¼SW¼.
T. 42 N., 8 E.,
Secs. 31 through 34 inclusive;
Sec. 35, lots 3 and 4, SW¼, W½SE¼, SE¼SE¼.

The areas described aggregate approximately 43,307.09 acres in Coconino County.

2. A portion of the lands, described in paragraph 1 of this order lies within the Glen Canyon National Recreation Area Established under authority of the Act of October 27, 1972 (86 Stat. 1311–1313) therefore, remains closed to location, and entry under the public land laws, including the mining laws. These lands will be administered by the National Park Service in accordance with the provisions of said Act. The lands remain open to mineral leasing under the Mineral Leasing Act of February 25, 1920, as amended, 30 U.S.C. 181 et seq., and the Acquired Lands Mineral Leasing Act of August 7, 1947, 30 U.S.C. 351 et seq.

3. A portion of the lands described in paragraph 1 of this order lies within the Paria Canyon Primitive Area and remains closed to location and entry under the public land laws, including the mining laws, but not the mineral leasing laws. This Primitive Area was established under the authority of the Act of September 19, 1964, 78 Stat. 986; 43 U.S.C. 1411–18, and is administered by the Bureau of Land Management.

4. The public lands under the jurisdiction of the Bureau of Land Management not including the Paria Primitive Area are described as follows:

Gila and Salt River Meridian

T. 41 N., R. 7 E.,
Secs. 1 through 6 inclusive;
Sec. 7, lots 1, 2, 3, 4, NE¼, E½W½;
Sec. 8, N½, N½SW¼, SE¼SW¼, and SE¼;
Secs. 9 through 16 inclusive;
Sec. 17, NE¼, NE¼SE¼;
Sec. 18, lot 1;
Sec. 21, NE¼, N½NW¼, SE¼NW¼, and E½SE¼;
Secs. 22 through 25 inclusive;
Sec. 26, N½, N½SW¼, SE¼SW¼, and SE¼;
Sec. 27, N½NE¼, SE¼NE¼, NE¼NW¼;
Sec. 30, lots 1, 2, 3, 4, SE¼SW¼;
Sec. 31, lots 1, 2, 3, 4, NW¼NE¼, S½NE¼, E½W½, and SE¼;
Sec. 32, W½SW¼, SE¼SW¼.
T. 41 N., R. 7 E.,
Sec. 35, NE¼, NE¼SE¼;
Sec. 36.
T. 42 N., R. 7 E.,
Secs. 31 through 35 inclusive.
T. 40 N., R. 8 E.,
Sec. 6.
T. 41 N., R. 8 E.,
Secs. 7 and 8;
Secs. 17 through 21 inclusive;
Secs. 28 through 31 inclusive.

Containing approximately 23,041.12 acres in Coconino County.

5. At 10 a.m. on February 3, 1981, the public lands described in paragraph 4 shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on February 3, 1981, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

6. At 10 a.m. on February 3, 1981, the public lands in paragraph 4 will be open to location under the U.S. mining laws. However, the location of mining claims on lands reserved for power purposes shall be subject to the provisions of the Act of August 11, 1955 (69 Stat. 682; 30 U.S.C. 621). The lands have been and continue to be open to applications and offers under the mineral leasing laws.

7. Any disposal of the public lands described in paragraph 4 that are

included in Power Project No. 2469, Waterpower Designation No. 7, Power Site Reserve Nos. 446 and 447, and Power Site Classification Nos. 320 and 429, including appropriation under the United States Mining Laws, shall be subject to the provisions of Section 24 of the Federal Power Act of June 10, 1920, 41 Stat. 1075; as amended, 16 U.S.C. 818.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, Valley Bank Center, Phoenix, Arizona 85073.

Guy R. Martin,

Assistant Secretary of the Interior.

December 29, 1980.

[FR Doc. 81-500 Filed 1-7-81; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 10

[Docket No. FEMA-GEN-10]

Environmental Considerations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Pursuant to 44 CFR 10.8(d), the Federal Emergency Management Agency is amending its regulation to categorically exclude the actions listed below from application of 44 CFR Part 10 of FEMA's regulations. That part implements the National Environmental Policy Act of 1969 and the regulations of the Council on Environmental Quality (40 CFR Parts 1500–1508).

EFFECTIVE DATE: February 9, 1981.

ADDRESS: Federal Emergency Management Agency, 1725 Eye Street NW., Washington, D.C. 20472.

FOR FURTHER INFORMATION CONTACT: John Scheibel, Assistant to the General Counsel for Environmental Quality and Hazard Mitigation, 1725 Eye Street, NW., Washington, D.C. 20472, telephone (202) 634–1990.

SUPPLEMENTARY INFORMATION: FEMA has determined that the actions listed below have no significant impact on the quality of the human environment and should be categorically excluded from the preparation of environmental impact statements and environmental assessments. Housing in existing resources and minimal home repairs are both performed under section 404 of the Disaster Relief Act of 1974 (Pub. L. 93–288), as amended, as assistance for temporary housing. By definition, housing in existing resources requires no new structures or infrastructure. Minimal home repairs average about $600 per structure and are intended only to make a damaged residence habitable. Neither action, individually or collectively, has the potential to have a significant impact on the quality of the human environment. The same can also be said for crisis counseling assistance and training performed under section 413 of the Disaster Relief Act of 1974, and administrative actions in support of maintaining normal day to day actions.

FEMA consulted with the Council on Environmental Quality. It issued a notice of proposed rulemaking on October 14, 1980 (45 FR 67686). No comments were received from outside the agency by the due date for comments.

Accordingly, section 10.8(c)(2) of Part 10, Chapter I, Subchapter A of Title 44 is amended by adding subparagraphs (K) through (M) to paragraph (vii), and adding paragraph (viii) as follows:

§ 10.8 Determination of Requirement for Environmental Review.

* * * * *

(c) Categorical Exclusions* * *

(2) List of Categorical Exclusions* * *

(vii)* * *

(K) Housing in existing resources (sec. 404):

(L) Minimal home repairs (sec. 404); and

(M) Crisis counseling assistance and training (sec. 413).

(viii) Administrative actions such as personnel actions, travel, procurement of supplies, etc., in support of maintaining normal day to day actions.

* * * * *

Dated: December 29, 1980.

John W. Macy, Jr.,

Director.

[FR Doc. 81-506 Filed 1-7-81; 8:45 am]

BILLING CODE 6718-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 512

[Docket No. 78-10; Notice 03]

Confidential Business Information

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Final rule.

SUMMARY: This notice establishes the procedures by which the National Highway Traffic Safety Administration (NHTSA) considers claims for the confidential treatment of business information. Proposed procedures were published May 25, 1978. This notice sets forth the procedures for asserting a claim for confidentiality and specifies the circumstances under which the agency may disclose information which is claimed to be confidential. The notice further establishes several presumptive class determinations relating to confidentiality. This notice clarifies and expedites the processing of confidentiality determinations and responds to the problems posed by the increasing number of confidentiality requests.

DATE: The regulation becomes effective April 9, 1981.

FOR FURTHER INFORMATION CONTACT: Roger Tilton, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590, 202–426–9511.

SUPPLEMENTARY INFORMATION: The NHTSA has determined that the increasing number of requests for confidentiality necessitate the publication of the procedures under which the agency will determine the confidentiality of business information. This regulation responds to that need by making public procedures for submitting requests for confidential treatment of business information. The regulation also details the content of the submissions that are required to substantiate a confidentiality request. This regulation imposes requirements upon the submitters of the information and upon the agency to respond to those requests in the time and manner established herein. Further, the regulation explains those limited instances in which confidential information will be released. Through this regulation, submitters of information will be better able to ensure that their confidentiality requests are properly substantiated, thus facilitating confidentiality determinations. This improvement of the existing handling of the requests will benefit both the agency and the submitter.

The notice proposing the confidential information regulation was published May 25, 1978, (43 FR 22412). In response to that notice, the agency received many comments from vehicle and equipment manufacturers, their representatives, and public interest groups.

I. General Comments

Several commenters objected to the provision in the confidentiality procedures requiring initial determinations relating to confidentiality to be made prior to an actual Freedom of Information Act (FOIA) request. These commenters alleged that the agency would be overburdened by the necessary review

of material to ascertain its confidentiality when, in fact, the information might never be required to be released. Commenters pointed with approval to the confidentiality regulations of the Environmental Protection Agency (EPA) which allow the determination of confidentiality to be made at the time of a FOIA request (40 CFR 2.205). These same commenters also cited the Congressional Report of the Committee on Government Operations concerning FOIA requests (FOIA Report) (H. Rept. No. 95–1382) as discouraging advance determinations of confidentiality. In summation, it was suggested that the agency assume the confidentiality of information submitted to it, when a claim for confidentiality is concurrently submitted, until such time as release of the information is requested or required for agency purposes.

The NHTSA disagrees with arguments indicating that the issuance of immediate determinations of confidentiality are burdensome and contrary to existing procedures in other agencies. In fact, the agency considers immediate determinations of confidentiality to be within accepted governmental practice and to be beneficial to both the submitter of the information and the agency. The commenters cited EPA regulations as indicative of a governmental reluctance toward the use of immediate determinations of confidentiality. However, the Securities and Exchange Commission (17 CFR 250.24b–2) and the Nuclear Regulatory Commission (10 CFR 2.790) both have procedures for the immediate determination of confidentiality. Therefore, government agencies have developed and are continuing to implement different approaches to the treatment of confidential information dependent upon the nature of the individual agency and its programs. The NHTSA considers the immediate determination approach to be, for the most part, the approach best suited to this agency given its function and need for information.

The submitter of confidential information will be aided by the policy of immediate determinations. A determination of confidentiality made upon receipt of information will automatically result in the protection of the confidential information. Confidential information will be clearly identified within the agency and will be accorded treatment designed to preserve its confidentiality. The agency believes that this should improve the ability of the NHTSA to maintain the confidentiality of information that merits such treatment. Without making an immediate determination, the agency might be deluged with information for which confidentiality determinations have been requested and which the submitter would have the NHTSA presume confidential. Such massive quantities of information are difficult to control and are more susceptible to accidental disclosure. The NHTSA is confident that the immediate determination procedure will reduce the amount of confidential information. With this more manageable amount of information, the agency can better ensure its protection.

The public is also benefited by immediate determinations of confidentiality. These determinations result in immediate public access to information that is not confidential. The public should not be denied access to information that is "presumed confidential", but which is in fact not confidential.

Commenters citing the FOIA Report have misinterpreted the recommendations of that report as it pertains to the immediate determination of confidential information. The Report indicates that it is the opinion of the Committee that immediate determinations of confidentiality might not be the most efficient way to handle confidential information. However, the FOIA Report at page 38 withholds comment on any recommendation with respect to this aspect of confidentiality procedures. In reviewing the proposed regulations of the FTC, the Committee indicated their intention to await the outcome of those new regulations before reaching a definitive recommendation with respect to the issue.

The FOIA Report should also be considered in its proper perspective. This Report is the preliminary thinking of the Congressional Committee. As such, the agency considers it a useful tool in the development of confidentiality regulations. However, this report is very preliminary and some of its recommendations could change before legislation, if any, can be produced affecting the status of confidential information. Therefore, the agency cannot rely entirely upon the Committee statements in this report for the development of confidentiality regulations and must exercise its own judgment given the statutory mandates under which it operates.

The allegations that immediate review will overload the agency with unnecessary work are unfounded. There are compelling reasons for making determinations upon receipt of information beyond those mentioned above. For the most part, information is submitted to the agency in connection with rulemaking or investigations, or is submitted under a reporting requirement. With respect to information furnished pursuant to rulemaking, the Administrative Procedure Act (5 U.S.C. 101 *et seq.*) requires that informal rulemaking be conducted in the notice and comment format. To provide adequate information upon which comments can be based, the agency must make public the information upon which a decision is made unless that information comes under some confidentiality provision. Accordingly, rulemaking is facilitated by making confidentiality determinations upon receipt of the information. This procedure has been used in the past, and this regulation merely incorporates an ongoing procedure. As such, it will not increase the work load of the agency.

Information submitted pursuant to an investigation or through required reports to the agency also can have confidential determinations made upon submission without overtaxing the resources of the agency. Information gathered pursuant to either of these devices is usually made public at some point. Accordingly, a confidentiality determination will be required at that time. This regulation merely requires that the determination be made upon receipt of the information.

The instances when immediate determinations are to be made were carefully selected on the basis of the eventual likelihood that the information would customarily be made public if not determined to be confidential. The agency concluded that it is more efficient to make these determinations when information is received. Further, immediate determinations result in early public access to information that is rightfully in the public domain. Information that is not likely to be made public in the future will not have an immediate determination made concerning its confidentiality (§ 512.6(d)). Accordingly, the agency concludes that the comments indicating that the NHTSA will be overburdened by confidentiality determinations are without merit and that the agency will, in fact, be making approximately the same number of determinations as are made under existing practices.

The Freedom of Information Clearinghouse stated that they supported the regulation but indicated that they considered it necessary to review information again when a FOIA request is submitted to ensure that information previously determined to be confidential still falls within the parameters defining confidential

information. The agency agrees that it will be necessary to briefly review the information at the time a FOIA request is submitted, but this review should be made significantly easier by the earlier confidentiality determination and would merely require updating a previous determination.

Several commenters disagreed with the NHTSA's policy relating to the use of confidential information. Volkswagen indicated that the agency's statutes require the agency to protect confidential information more than this regulation contemplates. Other commenters recommended that the agency return confidential information when it is through with it and return all voluntarily submitted information if the agency determines that it is not confidential.

In response to Volkswagen's comments on the statutory protection of confidential information, the agency agrees that the statutes do provide protection for confidential business information. The agency has recognized that protection in this regulation and intends by this regulation to achieve that statutory mandate. The statutes also provide, however, for limited disclosure of confidential information when such disclosure is in the public interest. This regulation balances a submitter's interest in the confidentiality of its information with the public's need for the information. It should be remembered that the agency has historically had the right to make confidentiality determinations, and to release confidential information as allowed by the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) and Titles I and V of the Motor Vehicle and Cost Savings Act (15 U.S.C. 1901 *et seq.*) (the Acts). The agency has exercised both of these rights in the past. The NHTSA has not routinely released confidential information. Release has occurred only when the public interest so demanded. This policy is unchanged by this regulation. The NHTSA fully intends to honor the confidentiality of appropriate information unless circumstances compel its disclosure. In such disclosure instances, all efforts will be made to make disclosure in a manner to minimize any adverse effects while still serving the public interest.

The commenters who suggested the return of confidential information after its use and the return of voluntarily submitted confidential information base this approach on the practices of some other agencies. The NHTSA considers it inappropriate to return information upon which agency decisions may have been based even if the agency is otherwise finished with that information. Agency decisions are subject to challenge and change as time passes, and frequently it is necessary to have all of the information upon which the initial decision was based either to support that decision or to aid in the justification of its change.

The suggested return of voluntarily submitted information that is determined not to be confidential presents another question. The NHTSA realizes that some agencies, the EPA is one, return such voluntarily submitted information after an adverse confidentiality determination. The agency notes, however, that the FOIA Report was skeptical about the advisability of this practice. That Report indicated that denial of FOIA requests for this information during presubmission review may be illegal. The NHTSA is concerned about the potential legal problems involved with presubmission review and concludes that this approach is not appropriate for the NHTSA.

Several commenters indicated that the agency would be hindered in obtaining voluntary information if it refuses to return it when the agency determines that it is not confidential. The NHTSA disagrees. Information is voluntarily submitted frequently because the submitter has something to gain through its submission. For example, a submitter might be requesting an exemption from a requirement or might be attempting to alter rulemaking in its favor by its submission. The agency has always received such information even though the NHTSA has never returned it. The existing procedure has had a negligible effect upon the ability of the agency to secure voluntary information. Moreover, the ability of the agency to secure much information through compulsory process acts as a final encouragement to the voluntary submission of information. Accordingly, the agency disagrees with arguments indicating that voluntarily submitted information should be returned to the submitter and will continue to retain this information.

Volkswagen indicated that the agency should consider the issuance of this regulation with the promulgation of the regulation on compulsory process. Their major argument was that the compulsory process regulation imposes very short time limits on the production of information pursuant to a subpoena or special order. The problems with a short response time, they argued, would be further exacerbated by requiring elaborate substantiation of confidentiality requests.

The agency acknowledges that its compulsory process devices are usually issued with a limited response time. Time limits may sometimes be short because the agency has an immediate need for information. The NHTSA concludes that there is sufficient time, however, to substantiate a confidentiality request. The amount of information required for that substantiation is significant, but not overwhelming as some commenters have argued. The specific requirements for substantiating confidentiality requests are discussed later in this preamble. In establishing the reasonable time period for responding to compulsory process orders, the agency considers the amount of time necessary to substantiate confidentiality requests.

The Motor and Equipment Manufacturers Association (MEMA) commented that the agency had not done a sufficient analysis of the costs resulting from this regulation. The agency has considered the potential costs of the regulation and concluded that they are so minimal as not to warrant a full evaluation.

Several equipment manufacturers indicated that the regulation does not address the problems of the equipment manufacturer. They indicated, for example, that the regulation developed classes of information that are presumed confidential but that those classes applied only to vehicle manufacturers. It is true that the existing classes of presumed confidential information do not apply to equipment manufacturers. This does not mean that as time goes by that such classes will not be developed. It simply means that at this time the agency has insufficient information upon which to base specific classes applicable to equipment manufacturers. Equipment manufacturers, nonetheless, can avail themselves of the processes existing in the remainder of the rule for confidentiality determinations. Further, equipment manufacturers are free to suggest additional classes they regard to be appropriate.

In a final general comment, it was suggested that the agency wait until the outcome of the Supreme Court decision in *Chrysler Corp.* v. *Schlesinger*, 565 F.2d 1172 (3rd Cir. 1977), which was being argued this term. The Supreme Court decided the *Chrysler* case on April 18, 1979 (*Chrysler* v. *Brown*). That decision has little impact upon the procedures established by the regulation, and to the extent it does affect this regulation, it confirms the agency's positions.

II. Information Supporting a Claim for Confidentiality

Several commenters complained generally about the amount of information that the agency requires to be filed in support of a request for confidential treatment of information. These commenters argued that the NHTSA's requirements go beyond the regulations of other agencies that require support for confidentiality requests and go beyond existing case law with respect to proving the confidentiality of information.

Suggestions were made that the NHTSA pattern its regulation after that of the U.S. International Trade Commission (USITC) (19 CFR 201.6(b)(3)). That regulation provides for the substantiation of confidentiality by specifying the provision of three pieces of information: (1) description of the confidential information, (2) justification for confidential treatment, and (3) a written certification under oath that the information is not available to the public. Although this regulation is less detailed than the NHTSA's, it essentially requires similar submissions. The NHTSA's regulation merely states in more detail the information that is required to justify confidential treatment. The agency has incorporated into its regulation the latest court test for substantiating confidentiality. Although the USITC regulation does not specifically refer to this test the NHTSA believes that it would be necessary for a submitter to make a similar showing to them in support of confidential treatment of information.

The Motor Vehicle Manufacturers Association (MVMA) alleged that the agency's regulation exceeded the requirement of existing judicial precedent that governs this area. It suggested that the information required by § 512.4(b) paragraphs (2), (3), and (4) requiring submitters to support the fact that they have not released information goes beyond the test *National Parks and Conservation Association* v. *Morton*, 498 F.2d 765 (D.C. Cir. 1974). *National Parks* requires, in part, that confidential information be that which is not customarily released. MVMA alleges that this does not require NHTSA to mandate by regulation that a company check every possible source of publication of information claimed to be confidential.

Although quoted in *National Parks*, the "customarily not released to the public" language is not the only test imposed by the Court in *National Parks*. That language is an excerpt of the Senate Report on the Freedom of Information Act (5 U.S.C. 552) (S. Rep. No. 813, 89th Cong. 1st Sess. 9 (1965)). The courts have attempted to use and further refine this Congressional language. The *National Parks* case in particular illustrates the courts dissatisfaction with the "customarily not released" test when it stated that a finding that information is not customarily released would not alone justify confidential treatment. Rather, the court imposed a two pronged test that measures the substantial competitive harm resulting from disclosure of information or the impairment of the Government's ability to obtain future information if similar information is released.

It is axiomatic that the "customarily not released" test in and of itself could never be conclusive of information's confidentiality absent other considerations. The fact that information is customarily not made public does not mean that the specific information for which confidentiality is requested has not been made public. If that information has in fact been made public, it does not merit confidential status under the *National Parks* test. Accordingly, some showing that information for which confidential treatment is requested has not been previously made public is a prerequisite to determining confidentiality.

Assuming the validity of the above requirements, the MVMA and others argue, nonetheless, that it is too burdensome, because it requires companies to investigate all possible instances where information may have been made public. They suggest that a submitter will be required to interview every employee to ensure that information has not been leaked.

The agency has imposed a reasonable burden upon a manufacturer to take some limited steps to check that its so-called confidential information has not been disclosed. As the preamble to the notice of proposed rulemaking indicated, it is not the intention of the agency that submitters ensure that information has never been accidentally disclosed. Rather, the agency demands that a submitter ensure that to its knowledge there have been no accidental or purposeful disclosures of the information. This requires only that a diligent effort be made by the submitter to take minimal steps ensuring that its information is actually confidential. The agency concludes that this is not a major burden upon a submitter of information.

With respect to the requirements of paragraph (2) and (3) of § 512.4(b), Wagner Electric Co. suggested that disclosures of information to parent companies or to wholly owned subsidiaries not fall within those groups to whom disclosures must be reported to the agency. The NHTSA disagrees with this position. The agency wants to know of such a disclosure, but a disclosure to a parent or wholly owned subsidiary does not necessarily mean that the information has been made public, which might deny the information confidential treatment. A submitter can explain, under the provisions of paragraph (3), that disclosure to a parent or subsidiary does not compromise the confidential nature of the information.

General Motors (GM) indicated that it considered overly burdensome the requirement that it indicate what steps had been taken to assure the confidentiality of the submitted information in its possession (§ 512.4(b)(2)). It argued that this requirement would require it to detail its plant security system or other security measures that could in turn jeopardize its future security.

The NHTSA has no interest in the specific internal security devices of any manufacturer's facilities. The NHTSA simply wants the manufacturer to briefly indicate, pursuant to paragraph (2), that proper precautions were taken to preserve the confidentiality of this information. The objective of this paragraph is to make sure that the submitter has treated this information differently from the ordinary information in its possession. If, on the other hand, the submitter has taken no measures to safeguard its own information, its claim for confidential treatment by the Government is somewhat diminished.

The MVMA asserted that the requirement of documenting every possible authorized and unauthorized disclosure of information would be burdensome. Such documentation, it argued, would require submitters to interview every person that might have access to the information to ascertain possible disclosures as well as monitor the press for possible unauthorized leaks.

The NHTSA does not consider it unreasonable to ask the submitter of information to list all of the recipients of information other than the submitter. In most instances, truly confidential information will not have been supplied to excessive numbers of individuals or entities beyond the submitter. The NHTSA concludes that information that is really confidential will be protected by the submitter. The agency is confident that any submitter with such information would know to whom, outside its organization, it has given that information. In fact, most submitters should have this information readily available. Any submitter that is

unaware of outside organizations in possession of its confidential information may have to do more extensive research, but the need for such research itself may be indicative of meager internal controls of so-called confidential information and may imply that the information is really not confidential.

As to the allegations that submitters must monitor all trade newspapers to discover possible unauthorized disclosures, these are exaggerations of the effects of this rule. Paragraph (4) of § 512.4(b) requires notification to the agency of *known* authorized and unauthorized public disclosures. Submitters are under no obligation to ensure that there have been no unauthorized releases of their information. Their duty is simply to report those instances of disclosure of which they are aware. The NHTSA believes that most unauthorized disclosures of confidential information that are subsequently reported in trade papers or newspapers are likely to be brought to the submitter's attention.

Several commenters complained about the requirement in paragraph (5) of § 512.4(b). That paragraph requires submitters of information to notify the agency of existing confidentiality determinations made by the NHTSA, other agencies, or the courts relating to the confidentiality of the information or similar information. Submitters of information complained that the NHTSA was in better position to canvass court decisions relating to confidentiality and to review all of the decisions of other agencies. They argued that it was overly burdensome for submitters to do all of this research.

These comments indicate a misunderstanding of the requirements of this section. The agency does not intend that the submitter of information provide the agency with the latest judicial and agency opinions regarding the confidentiality of similar information of other submitters. This paragraph simply requires the submitter of information to supply the NHTSA with determinations respecting the confidentiality of its own similar or identical information. A submitter of information should be aware of these determinations without need to do any research whatsoever. Accordingly, the burden of this requirement upon the submitter of information is minimal. To clarify the agency's intention with respect to this paragraph, the NHTSA is modifying the language somewhat to make it clear that a submitter is responsible only for determinations relating to its own information.

The Motor Vehicle Equipment Manufacturers Association (MEMA) suggested that paragraph (8) was unnecessary. That paragraph requires information as to the effect of a disclosure of voluntarily submitted confidential information upon the ability of the NHTSA to obtain future voluntary information. The MEMA indicated that it could see no reason to raise this inquiry since it is the manufacturers' interests in confidentiality that will be harmed by disclosure not necessarily the agency's. The paragraph (8) requirement was included to provide information as to the potential harm that disclosure might impose upon the ability of the NHTSA to obtain information through voluntary means. This inquiry is one of the two pronged tests employed in *National Parks, supra.* and is frequently cited as being the appropriate test for confidentiality of voluntarily submitted information. Therefore, the agency does not agree with the MEMA's comments that this information is unnecessary.

Paragraph (9) requires a submitter of information to indicate the amount of time for which confidentiality is requested. The MEMA complained that in the instance of trade secrets no time limit is appropriate. The agency does not agree that trade secrets are always permanently confidential. Some trade secrets may become common knowledge within a certain amount of time. Nonetheless, paragraph (9) permits a submitter of information to request and justify an indefinite time period for maintaining the confidentiality of its information.

Many commenters suggested that the information submitted in support of their confidentiality requests would in turn be confidential and, if released, could cause them competitive harm. They suggested that submitters might fear to support their claims for confidentiality since the support information could in some instances be even more harmful, if disclosed, than would the disclosure of the originally submitted information. Commenters, therefore, argued that the agency should at least return any information submitted in support of a confidentiality request if that request is subsequently denied.

The agency intends by this regulation to establish a procedure where specious requests for confidentiality are discouraged while those requests that are meritorious can be handled efficiently. The agency concludes that a submitter of information who believes that disclosure of its information will result in competitive harm will support its request with necessary information. Information submitted in support of a claim of confidentiality can also be requested for confidential treatment. Consequently, the agency does not expect that this provision will discourage appropriate confidentiality requests. For the reasons stated earlier in this preamble, the agency disagrees with arguments favoring the return of information submitted to the NHTSA and will not undertake such an approach.

Paragraph (h) of § 512.4 requires submitters to update their confidentiality requests if intervening events would change the confidentiality determination. Commenters objected to this requirement as being unnecessary and costly. For example, they argued that since decisions are made immediately with respect to confidentiality, updating the information is unnecessary.

Not all decisions respecting confidentiality are made immediately. As stated earlier, most confidential information that would otherwise subsequently be made public will have an immediate determination of confidentiality. However, information that is not customarily made public by the agency pursuant to one of the agency's established procedures will not have a confidentiality determination made with respect to it until such time as a FOIA request is received. For this reason, it is necessary that information submitted by manufacturers for which confidentiality is requested be updated when circumstances change that request. If, for example, a company voluntarily disclosed information in the interim before the agency determined confidentiality, the NHTSA should be made aware of this fact since the disclosure would make the confidentiality determination moot.

Updating of previous confidentiality requests also applies even after confidentiality has been granted. In certain instances, termination of confidentiality is conditioned upon the occurrence of a particular event. In such cases, the agency should be informed that the event has occurred so that the confidential status of the information can be discontinued. Moreover, there are times when information will become disclosed or other events will make its continued confidentiality unnecessary. In these instances, the agency should be informed of the disclosure in order to correct its determination. In conclusion, the agency does not agree that the updating provision is unnecessary.

The agency concludes that the updating provision will not be costly. The requirement merely states that a company shall inform the agency of any

changes pertaining to the information. The updating responsibility is triggered when the submitter *knows* that the initial submission is incorrect or the information given in that submission has changed. It is not required that a submitter constantly monitor all information submitted pursuant to a confidentiality determination as suggested by GM. A submitter is only charged with the responsibility of an update when it *knows* that the information previously submitted was erroneous. If by accident or mistake, the submitter does not know or realize the initial error or changed circumstances, there is no duty upon it to make the amendment. Therefore, the agency concludes that this is a reasonable burden to place upon the submitter of information.

Commenters objected to paragraph (i) of § 512.4 which states that a submitter may lose its claim of confidentiality through failure to comply with the requirements of paragraph (b). Paragraph (i) establishes times when a noncompliance *may* be deemed a waiver of the confidentiality claim and times when a noncompliance *will* waive the confidentiality request. The times when confidentiality will be lost are few: (1) failure to file the required certificate, (2) failure to request confidential treatement, and (3) failure to estabish the necessity for confidentiality. These failures will result in the loss of confidential treatment for the information. In other instances where technical insufficiencies in the required submissions exist, the agency may deem a claim of confidentiality to have been waived. On the other hand, the agency may allow the submitter to perfect its submission.

The discretionary waiver aspect of paragraph (i) allows the agency the necessary latitude to deal with all possible circumstances. For example, if a submitter is knowingly delaying or otherwise interfering with the determination process by failure to supply complete information, and the agency needs that information immediately, the NHTSA must have the authority to deny the claim of confidentiality. To do otherwise would jeopardize the public welfare while permitting submitters to avoid the agency's regulations. In most instances, however, where a submitter merely neglects to include a minor part of the required material and the oversight is not deemed to be intentional, the agency would normally grant the submitter additional time to substantiate its claim. The agency will exercise reasonable discretion in determining whether a submitter's confidentiality request has been waived.

Commenters disagreed with the regulation in section 512.4(i) to the extent that it allows the use of criminal and civil penalties for failure to amend confidentiality requests when the initial information has changed or an error has been discovered in the initial filing. These commenters challenged the authority and the wisdom of invoking either of these penalties.

The NHTSA has the authority to enforce it regulations through civil penalties (15 U.S.C., 1917, 1948, 1989, and 2008). This authority is necessary to encourage adherence to the agency's regulations. The NHTSA will retain the civil penalty provision of this paragraph. However, the agency has considered the comments submitted to it and concludes that the imposition of criminal penalties is unnecessary in the enforcement of this requirement.

III. Determining Confidentiality

The Automobile Importers Association (AIA) complained that § 512.5 was very complex and should be clarified. For example, the AIA indicated that the lengthy set of phrases connected by disjunctives and conjunctives was beyond easy comprehension. Further, the AIA indicated that the definition of "voluntarily submitted information" in this section should be amended. Currently, the section defines "voluntarily submitted information" as that information that could not be compelled by compulsory process. The AIA would have the agency define voluntarily submitted information as all information submitted to the agency voluntarily regardless of the fact that the information could have been compelled by the NHTSA.

Responding first to the comment that the language is confusing, the agency has concluded that the language of this provision is somewhat unclear. Proposed paragraphs (1) through (4) state that information is accorded confidential treatment if it is a trade secret or commercial or financial information that has not been previously disclosed and whose disclosure would likely result in substantial competitive harm to the submitter. Proposed paragraph (5) establishes a somewhat different test for voluntarily submitted information that is a trade secret or confidential business information. These two tests conform to the guidelines established by the *National Parks* case. The agency is amending this section by consolidating several of the paragraphs to clarify the tests for determining confidentiality.

The AIA also recommended that the agency adopt a different definition of "voluntarily submitted information." The purpose of proposed paragraph (a)(5) was to establish a test for preserving the confidentiality of information that the agency could not compel by compulsory process. If the agency were to release such information and such release were to discourage the submission of information that the agency could not otherwise obtain, then the NHTSA might be hindered in fulfilling its mandate. Accordingly, the agency needs to be sure that it does not discourage the flow of this information. The AIA suggestion would expand the category of voluntarily submitted information to include even that which could be produced by compulsory process but which a submitter has decided to submit voluntarily. The NHTSA disagrees with the AIA's suggestion. Since the NHTSA can compel much of the information currently submitted voluntarily, the real distinction in information submitted to the agency is whether or not it can be compelled. The agency continues to believe that information that can be compelled by it should not be subject to the same standards as that information which is freely given to the agency and which the agency could not compel.

The AIA objected to the requirements of § 512.6(d) that allow the NHTSA to delay confidentiality determinations for some information until 10 days after the receipt of a FOIA request. The AIA believed that this requirement would overly burden submitters of information since they would be required under § 512.4(h) to update their confidentiality requests if changes occur even though in these instances confidentiality determinations would not be made upon receipt of the information, but upon the receipt of a FOIA request. Earlier in this preamble, the agency stated that the burden of updating information for which confidentiality was requested is reasonable and necessary, particularly when responding to FOIA requests. It would be improper under the FOIA for the agency to withhold information that should be made available. If information previously determined to be confidential subsequently loses its confidentiality, that information might be subject to release under FOIA. Accordingly, the agency must require that submitters update this information when necessary to ensure full compliance with existing laws relating to the release of information. With respect to the other time periods for determining confidentiality, the agency is increasing them from 10 to 30 days as a result of

the increased volume of confidentiality requests.

The AIA complained that the provision in section 512.6(e) that permits the agency to extend the time periods applicable to making determinations under various sections of the regulation render those time limits meaningless. It suggested that the NHTSA only has to prove good cause to itself that an extension is warranted.

The purpose of this provision is to provide for those instances in which a determination cannot occur within the normally established time frame. It is the intention of the agency to conform to the time requirements imposed upon it unless unusual circumstances prohibit timely determinations.

For example, in certain rulemaking actions manufacturers wait until the last day before submitting comments. If many comments arrived simultaneously with confidentiality requests, the agency might be unable to make all the determinations with the specified time limits. Therefore, the agency needs some discretion to extend time limits. Paragraph (e) places a burden upon the agency to establish "good cause" for an extension. These reasons must be set out in writing and provided to the submitter. Therefore, the submitter will have the opportunity of contesting the agency's "good cause" determination. As a further safeguard against abuse of the extension provision, the agency has indicated in this section that the extension as it applies to FOIA requests will be done in compliance with 5 U.S.C. 552. The NHTSA has determined that these procedures will preserve the necessary latitude required by the agency to deal with all possible contingencies while preventing routine abuse of the extension provision.

Several commenters objected to paragraph (f) of § 512.6 which specifies that the NHTSA will notify a submitter of the determination respecting its confidentiality request. The regulation indicates that this notification will provide, in the case of denials, that the information will be made public not less than 10 working days after the submitter of the information has received notice. The provision further states that the 10-working day requirement can be modified if it is in the public interest that the information be made available earlier. Commenters objected to the 10-working day requirement, some indicating that foreign submitters are particularly disadvantaged by such a short time period.

The time periods provided for the release of information are short for a number of reasons. First, in the case of FOIA requests, the agency must respond to the request within a relatively short time frame. The agency cannot, as some commenters suggest, permit submitters of information extensive periods of time to react to the agency's determinations in FOIA cases. Second, information frequently will be needed for rulemaking or other agency needs that would otherwise be delayed by a lengthy interval between a confidentiality determination and release of the information. The agency also must have the authority to reduce the time periods even further if the circumstances indicate that the public interest demands the immediate release of this information. Even under emergency release conditions, however, a submitter will be given some notification of the pending release of its information even though such notice might be short. Within even an abbreviated time frame, a submitter would have the opportunity to seek whatever judicial remedy is available to it. Accordingly, the agency concludes that the time provisions of this section meet the needs of the agency for making information available in the shortest possible time while still permitting the submitter of the information to seek whatever recourse it chooses when its confidentiality request has been denied.

The AIA pointed out that nothing in paragraph (f) indicates that the notification of the determination will be made immediately. They were concerned that the NHTSA might make a determination in some instances and not notify a submitter for some time. To prevent this from occurring, the AIA suggested some modification in the language of the provision to ensure that the agency is required to give immediate notification of a determination. Since this has always been the intention of the NHTSA, the agency agrees with the modification suggested by the AIA and changes this provision accordingly.

General Motors stated that § 512.6(f)(2) was insufficient because, although it indicates that a submitter of information will receive notice of some sort, it does not indicate that the notice of denial will state the reasons for such a denial. The section states that the submitter will be notified in writing of the denial of its confidentiality request. The agency intends that this written notice will state the reasons for the denial. To clarify this, the NHTSA is modifying this section to indicate that a statement of the reasons for denial will be part of the written notice.

A few commenters were troubled by paragraph (g) of § 512.6. This paragraph allows submitters whose requests for confidentiality have been denied to petition for a reconsideration of that denial. Dunlop Tire and Rubber Co. indicated that a petition for reconsideration was a waste of effort since the same office would be making a determination of the reconsideration petition as had made the initial denial. Accordingly, Dunlop proposed that a submitter be permitted to go directly to court without recourse to the reconsideration process.

The NHTSA disagrees with the Dunlop position that reconsideration is a futile effort. A petition for reconsideration allows a submitter of information to further emphasize a portion of its request that it may feel has been insufficiently considered by the agency. The reconsideration process allows all parties the opportunity to discover and rectify possible errors without recourse to costly and time-consuming litigation. The agency notes that it has used petitions for reconsideration in the area of rulemaking for many years and those petitions have frequently resulted in amendments of agency rulemaking actions. Therefore, the NHTSA concludes that the reconsideration process is a meaningful check upon the agency's actions and will continue to allow it when making confidentiality determinations. However, the regulation states that a submitter may petition for reconsideration. A submitter is not required to file such a petition and may instead seek judicial review.

Volkswagen argued that the petition for reconsideration process was rendered meaningless since it was possible that the information for which confidentiality was claimed could be released pending a determination on the petition for reconsideration. The paragraph states that the Chief Counsel may postpone the release of information pending a decision on the petition for reconsideration. This implies, however, that release may not be postponed in some cases. It is contemplated that in the majority of instances material will not be released until a final determination on the issue of confidentiality is made. Therefore, material generally will not be made public during the reconsideration process. In exigent circumstances, however, the agency does retain the discretion to release information if the public interest so dictates. Even in these unusual circumstances, a submitter of the information would be informed of the pending release of the information and would be able to then seek an immediate judicial intervention prior to the release of the information.

The AIA suggested that the agency adopt a review procedure for the denials of requests for confidentiality that would allow a submitter to petition someone in the Office of the Secretary of the Department of Transportation for a review of the confidentiality request. The NHTSA has established its own internal review of denials through the petition for reconsideration process. A submitter that is still dissatisfied with the agency's action can seek a judicial remedy. Although the Secretary of the Department has authority over agency functions, that office does not review routine agency decisionmaking and does not have sufficient resources to act as a review board for every agency action. The NHTSA notes that the need for Secretarial review of these decisions is not apparent. Accordingly, the agency declines to adopt AIA's suggested modification.

General Motors objected to § 512.7(a)(2) which indicates that a confidentiality determination remains in effect until, among other things, a change occurs in applicable law. GM suggested that this was impermissibly vague. It stated that some remote lower court might make an adverse ruling on an issue of confidentiality while the Supreme Court may have decided otherwise in another case. It feared the NHTSA would follow the rule of the lower court.

The agency disagrees with GM that this provision is impermissibly vague. A change in applicable law might include a statutory change or a change in judicial interpretation of existing statutes. However, as GM must well know, the Supreme Court is the ultimate authority with respect to judicial interpretation of statutes. Accordingly, the agency would not terminate a confidentiality determination when a lower court issued a decision that might be in conflict with existing pronouncements from the Supreme Court. The agency does not consider every lower court decision to indicate a change in the applicable law, but it does consider the pronouncements of major courts as indicative of changes in the status of the law and may review confidentiality determinations in the light of those pronouncements. In any event, if the agency responded to a change in law by determining to reverse a previous finding of confidentiality, it would provide notice of that determination and the reason therefor before releasing the information in question.

IV. Disclosure of Confidential Information

Sections 512.8 and 512.10 of this regulation elicited many comments that were for the most part opposed to the release of information that has been determined to be confidential. Many commenters suggested that these two provisions be deleted entirely or, in the alternative, modified to limit severely the right of the agency to release confidential information. Commenters expressed the erroneous belief that these provisions would combine to undermine the confidentiality of information that is normally classified as confidential. The comments indicate a need for explanation of the agency's intentions, its statutory powers and limitations, and the judicial precedents that govern the area of discretionary release of information determined to be confidential.

In § 512.8, the agency established separate criteria for the release of different types of confidential information. These criteria are recitations of the various statutory sections which permit the agency to disclose such information. Section 113 of the National Traffic and Motor Vehicle Safety Act of 1966 (the Act) (15 U.S.C. 1401) states that "information received pursuant to Title I of the Act relating to trade secrets or other matters referred to in 18 U.S.C. 1905 shall be confidential but may be disclosed when relevant in any proceeding under this title". This statutory language is incorporated into § 512.8(a)(1).

Section 158(a)(2)(B) of the Act (15 U.S.C. 1419) specifies that confidential information obtained under Part B of the Act may be released if "necessary to carry out the purposes of this title." This language is adopted in § 512.8(a)(2). Finally, § 512.8(a)(3) permits the release of confidential information obtained under Parts I and V of the Motor Vehicle and Cost Savings Act (15 U.S.C. 1901 *et seq.*) if the information is relevant to any proceeding under the title under which the information was obtained. The authority for this release is found in 15 U.S.C. 1914 and 2005. Accordingly, comments to the agency that any release of confidential information is contrary to the agency's statutory authority are entirely without merit.

Commenters argued that regardless of any possible statutory authority granted to the agency in its various Acts to release confidential information, 18 U.S.C. 1905 states that information relating to trade secrets and other areas of business confidentiality cannot be released. This comment indicates a misunderstanding of section 1905. Section 1905 states that certain information should be confidential and not released. However, section 1905 further states that the information outlined in that section shall not be released "except as provided by law." Any release of confidential information made pursuant to the agency's validly enacted enabling Acts is a release provided by law and, therefore, permissible under section 1905. Therefore, the agency declines to delete the discretionary release provisions of the regulation that permit the release of information under the tests established by the Act and incorporated in § 512.8.

Some commenters argued that although the release of confidential information might be permissible under existing legal authority, the agency should not release the information. They suggested that such release will jeopardize future cooperation between the agency and the industry. Further, they argued release will invite litigation increasing the adversarial relationship between the agency and the industry.

When considering the consequences of the release of confidential information, the submitters of that information should examine existing agency practice. The agency for years has been operating under the statutory provisions permitting release of confidential information. This regulation simply formalizes the release procedures used by the agency but does not increase the existing authority of the agency to release information. During the time that the agency has operated with this authority, some releases of confidential information have been made when the agency determined such releases to fall within the parameters prescribed by the applicable statutory authority. However, for the most part, confidential information has not been released. The NHTSA does not intend by this regulation to alter this practice. The agency realizes the importance to the competitive process of maintaining the confidentiality of business information. Accordingly, the agency will not release confidential information unless the release of such information meets all of the statutory requirements for release and is deemed to be in the public interest.

Commenters suggested that when the release of confidential information is necessary it should be made in the least offensive form. For example, they suggested that aggregate information or unidentified information might sometimes meet the need for public release. The agency agrees with these comments and will try to release as little information as is necessary and will

attempt to do it in an inoffensive manner. The NHTSA believes that such an approach reflects existing judicial decisions such as *Pennzoil* v. *FPC*, 534 F.2d 627 (5th Cir. 1976) which indicated that agencies should examine alternative less damaging methods of public disclosure.

Most commenters suggested that the 10-working day discretionary release requirement was unnecessarily short. Many suggested longer time periods prior to release to permit the submitter time to take action to preserve the confidentiality of its information. Further, commenters objected to the provision that allows the administrator to waive the 10-day notice requirement if the public interest will be served by such waiver. At the least, they argued, a 10-day minimum is required. Some even suggested that any time period less than 10 days would violate due process.

The existing notice provision is in accordance with other notification provisions in this regulation. As stated earlier in this preamble, the agency has concluded that this time period provides an adequate opportunity for submitters of information to seek whatever recourse they feel may be necessary to preserve their rights. Accordingly, to prevent the possiblity of delay in the release of information that the agency considers necessary to its functions, the NHTSA will not amend the 10-day notification provision.

With respect to the Administrator's discretion to waive the notification provision when the public interest demands, the agency concludes that this discretion is necessary. The exigencies of the agency's regulatory activities may, on rare occasions, necessitate such waiver. For example, the Acts under which the agency operates grant the agency broad powers to protect the public safety. These powers include the right to act quickly to save lives. If the agency were to establish an inflexible minimum 10-day notice provision, it would be restricting its validly granted statutory authority.

This would undesirably limit our ability to meet our responsibilities to the public as stated in the Acts, and in their legislative histories. Accordingly, the agency will not to limit the Administrator's discretionary powers to respond to emergencies. Further, the agency notes that the courts and the FOIA Report substantiate the agency's position that minimum time limits must be flexible. The agency concludes that allegations of a due process violation when minimum time limits are not established are without merit and do not reflect current judicial thinking. The agency will always seek to provide 10 working days notification to the submitter of information. In those instances where this notice is not practicable the agency will provide sufficient time for the submitter to seek judicial recourse if it so desires.

The MVMA went so far as to suggest that prior to the release of confidential information the agency is required to have a formal adversarial hearing. For their support, they cited *Mathews v. Eldridge*, 424 U.S. 319 (1976). This case held only that some form of reasonable opportunity to be heard must be granted prior to the deprivation of a property right. The court, however, stated that full adversarial proceeding was unnecessary and that "[t]he judicial model of an evidentiary hearing is neither a required, nor even the most effective method of decisionmaking in all circumstances". (424 U.S. at 348). In fact, only in the rarest of circumstances have the courts required a full adversarial hearing prior to the termination of property rights. *Goldberg* v. *Kelly*, (397 U.S. 254 (1970)). In that case, the court required a hearing prior to the termination of welfare benefits since to do otherwise would impose an undue hardship upon the recipient which might, in fact, endanger the recipient's life. In many similar cases that are less life-threatening courts have not required formal pretermination hearings. Certainly the release of confidential information does not pose the danger to life itself that warranted the *Goldberg* approach, and accordingly, its release does not require formal hearings. The NHTSA concludes that its provision allowing the opportunity to comment prior to any release provides ample opportunity to be heard in compliance with existing judicial determinations.

The MVMA further argued that if the agency intends to continue with its informal procedures as outlined above it should at least indicate that it will consider the comments recieved and a written determination as to why the release is being made and upon what grounds the public interest is served. As stated earlier, the reasons for the release will be supplied in the first notice to the submitter. Responding to the MVMA's concern that the comments received may not be considered, all timely submitted comments will be considered prior to release of the information.

Volkswagen and several other commenters suggested that the agency better define the term "public interest". They suggested that the agency adopt a definition similar to that of the EPA (40 CFR 2.205(g)) which permits the EPA to act expeditiously when it determines that it "would be helpful in alleviating a situtation posing an imminent danger to public health or safety * * *."

The NHTSA considers that the existing wording of the regulation adequately details the necessary findings of the agency that permit the immediate disclosure of confidential information when it is in the public interest. The agency considers it unnecessary to further define by regulation what constitutes the public interest. Attempts to define terms such as public interest are usually unsuccessful, because these terms embrace very broad, diverse, and often-changing concepts. Public interest is something that can only be determined in the context of specific facts and their potential ramifications.

Although the agency will not define "public interest" in the regulation, submitters can be assured that the agency will release information only after making some showing that such release truly benefits the public. Existing case law clearly reflects the fact that certain findings must be made by an agency more than the mere recitation that the release of information is in the public interest. For example, in *Pennzoil v. FPC*, 534 F.2d 627 (5th Cir. 1976), the Court did not invalidate the public interest test, but stated that the FPC had not examined all of the relevant criteria that should go into the making of the public interest determination. The court suggested that the agency consider whether: (1) the disclosure would aid the agency, (2) the disclosure would harm the public, and (3) there are alternatives to disclosure that will work equally well (i.e., disclosure of aggregated or summarized information). Agency discretion exercised pursuant to a general public interest authority has been upheld in many other instances. *Administrator, FAA et. al. v. Robertson*, 422 U.S. 255 (1975); *Westinghouse Electric Corp. v. NRC*, 555 F.2d 82 (3rd Cir. 1977).

The AIA suggested that § 512.8(b) should specify more than just the reasons for the need for release of confidential information. They suggested that the agency require more specific information to be stated in the Administrator's notice to the submitter. The agency realizes that releases of confidential information may be contested by the submitter. Accordingly, the NHTSA will ensure that the record of the decisionmaking process and reasons for the final determination are fully established to facilitate judicial review. However, for purposes of this regulation, the agency concludes that it

is sufficient to indicate that the Administrator will clearly establish all of the reasons for releasing information.

Several commenters objected to the possible releases of information under § 512.10 of this regulation. As proposed, this section permitted the disclosure of confidential information (1) to the Congress or the Comptroller General, (2) pursuant to court order, (3) to the Office of Secretary of the Department of Transportation (DOT), (4) with the consent of the submitter, (5) to other Federal agencies in accordance with applicable law, and (6) to contractors if necessary.

The agency does not fully understand the theory on which the objectors to this provision base their claims. Generally, NHTSA does not authority to withhold information of any sort from the Congress, review or oversight offices within the Executive branch, or the courts pursuant to a court order. Nor can the NHTSA deny information to the Secretary of the DOT, since the agency derives its authority from that official. Further, the agency is not at liberty to interfere with any other law that would expressly or impliedly require the agency to yield information to another Federal agency. The only provisions of this section that the agency can really affect are those relating to the release of information with the consent of the submitter, with which the agency assumes no one argues, and to the submission of information to contractors. In the latter case, the agency has indicated in the regulation that the contractors will be required to maintain the confidentiality of the information or be responsible to the parties for the consequences of its release. Therefore, in this section of the regulation, the agency has merely indicated the two instances when it will release information and has indicated that there will be safeguards for the information in those instances. The other parts of this section indicate those occasions when the NHTSA is obliged to disclose information pursuant to higher authorities. With respect to the release of information to higher authorities, the NPRM neglected to include the release of information to offices in the Executive branch that have review or oversight authority. The regulation has been amended to correct this omission, and has been reorganized for clarity.

The MEMA argued that any release of information under this section should only be made as required by law. As stated previously, that is mostly what this section does. Further, the MEMA suggested that the agency impose regulations that would safeguard the secrecy of the information in the hand of another agency or the Congress that is the recipient of the information.

The agency can not impose requirements upon the Congress or other administrative agencies. The NHTSA cannot require the Congress, for example, to promise to keep information confidential. It is assumed that the Congress or any other agency will treat confidential information with the care that it deserves. The agency, however, attempts to safeguard the information to the extent possible by ensuring that the requests for confidential information are valid and authorized and by indicating to the recipient at the time the information is released that it is confidential and should be treated accordingly. Further, the agency typically obtains a written agreement from a requesting agency that it will release the information only if required by law to do so and will consult with NHTSA regarding any FOIA requests that the requesting agency receives for the information. The agency has amended this section of the regulation to effect some of these practices.

Some commenters criticized the provision in the regulation that permits the agency to supply confidential information obtained pursuant to the agency's compulsory process devices to other agencies that do not have such powers to compel information. These commenters indicated that they thought that such a transfer of information would be contrary to the rights of a submitter.

The NHTSA agrees that access by other agencies to such confidential information posssessed by the agency should be limited. However, some access to confidential information by other agencies is legitimate and necessary. When the agency is expressly or impliedly required to provide information pursuant to applicable law, the NHTSA must supply the information. Other requests for information will be closely scrutinized by the NHTSA. The NHTSA will only release information that it has received through compulsory process to agencies that can compel the information directly from the submitter or that are otherwise authorized by law to obtain it. The agency concludes that such a transfer of information is in the best interest of the government and the submitter. Through this sharing of information, a submitter is spared the expense of compiling and submitting information that is already available to the government. However, agencies that are not expressly or impliedly authorized to obtain information from the NHTSA and that cannot obtain information from the submitter directly will not be able to obtain information from the NHTSA that the agency has received through compulsory process. If Congress had intended those agencies to have the right to such information, it would have given them the right to receive it from other agencies or the power to obtain it.

The MEMA requested that a submitter be given notice of the government's release of information pursuant to this section. The agency cannot always give advance notice of releases in these circumstances because to do so could put the agency in the position of interfering with a valid and exigent investigation by the Congress, with a court proceeding, or with other Executive branch review or oversight of agency actions. The Congress has the authority, for example, to demand some information immediately. Accordingly, the agency might not be able to provide advance notice to a submitter that its information is being disclosed. In a recent case, *EXXON et al.* v. *FTC*, 589 F.2d 582 (D.C. Cir. 1978) the court indicated that a mandatory advance notice of release of confidential information to Congress was not required unless the agency promised to give such a notice. The agency concludes that this recent decision confirms its position that releases of information in these instances that are required by law and which do not constitute the public disclosure of information are not the type of releases requiring advance notification.

The NHTSA has reviewed the existing law with respect to the disclosure of information to other government agencies and contractors and concludes that the question of whether advance notice of such disclosures is required remains unsettled. The agency believes that providing advance notice to submitters in these cases is not presently required by law nor always in the best interest of the agency, but will do so where appropriate. In the case of contractors, the agency notes that information will not be released to contractors if it would result in a conflict of interest for that contractor.

The AIA in a general comment about the release of confidential information expressed their concern that such a release might be considered a taking of private property for public use entitling the submitter of the information to compensation. They base this argument on the Constitution's Fifth Amendment protection of property rights from uncompensated public takings. In support of their argument, AIA cited two

cases: *Continental Oil Company* v. *FPC*, 519 F.2d 31 (5th Cir. 1975), cert den'd sub nom. *Superior Oil* v. *FPC*, 425 U.S. 971 (1976); and *Westinghouse Electric Corp.* v. *Nuclear Regulatory Commission*, 555 F.2d 82 (3rd Cir. 1977), in which the issue of a compensable taking has been mentioned involving the release of confidential information. Unfortunately, neither of these judicial pronouncements have yet clarified this area of the law.

In *Continental Oil*, the court never reached the question of compensation, deciding the case on other issues. In *Westinghouse*, the court reached the issues of taking but determined that a taking could not occur where the information had been voluntarily given to the government. In dictum, the court indicated that a compelled production of confidential information which was subsequently released might result in a compensable taking. This issue was before the courts again in *Polaroid Corp. v. Costle*, (Civil Action No. 78–113–S) in the U.S. District Court of the District of Massachusetts. However, that case was settled prior to reaching the merits of this issue. Therefore, there is no legal precedent of which the NHTSA is aware indicating that such a release would constitute a taking, and the agency concludes that a taking will not occur as a result of such a release.

V. Miscellaneous Comments

A few commenters considered the affidavit requirement unnecessary. The MVMA alleged that it served no useful purpose and that its aim was to force people into compliance with the requirements. The MVMA further asserted that the requirement to state that the person has contacted those in authority to release confidential information and ascertained that the information had not been released necessitated the person's giving hearsay.

The above comments to this section are unwarranted by the relatively innocuous provisions of the affidavit. The affidavit simply requires a responsible official of the submitter of information to attest under oath to the accuracy of certain statements. First, the official attests to his authority. Second, the official attests to the confidentiality of the information. Since the submitter is asking the agency to make a confidentiality determination, it is proper to ask that the submitter attest to the fact that the information is confidential. Third, the authorized official must attest that he or she has contacted responsible officials who in the normal course of business may release information to determine whether the information has been released. This is the provision that the MVMA characterizes as requiring "useless hearsay." The purpose of this provision is not to prove conclusively that information was never released. This provision simply requires that the official attest to the fact that he or she has checked with the officials to discover any such disclosure. Since the provision goes to proving that the official checked with responsible personnel not to the truth of the statements of those personnel, it does not require hearsay. When the previous requirement is coupled with paragraph (4) of the affidavit, it is clear that the attesting official only attests to the fact that to the best of his knowledge information has not been released. In sum, the requirements of this provision are minimal and simply assure that the official has complied with the inquiry provisions of the regulation and has provided the agency with the information acquired through the inquiry.

The NHTSA received numerous comments suggesting additional classes of information that the industry would have the agency include within the classes of information presumed to be confidential. Almost every commenter suggested some classes for inclusion within the existing list. The effect of these comments, if adopted, would be to make almost every piece of information submitted to the agency presumptively confidential. Such an outcome would not serve the public interest nor would it comply with existing statutes granting the public access to governmental information.

The agency chose the existing classes because they were narrow enough to include only the information that the agency customarily finds confidential. The NHTSA concludes that such classes of information presumed to be confidential must be very limited and must not include information that is not normally considered confidential.

The NHTSA concludes that the existing list of classes of presumptively confidential information is sufficient for the present. The agency is experimenting with the class determination approach as a means to reduce the workload in making confidentiality determinations. At this time, however, the NHTSA does not have sufficient experience in the use of these classes to warrant an expansion of them. As soon as the agency becomes more familiar with this process, changes to the classes might be made increasing the information presumed to be confidential. This can only be done, however, after the agency evaluates the class determination procedure and further reviews the other types of information for which confidentiality is requested and which normally deserves confidential treatment. Accordingly, the agency declines to adopt the classes suggested by the manufacturers and other commenters at this time, but it will retain these comments for possible future inclusion within the regulation when experience indicates that such inclusion would be appropriate.

This regulation was reviewed under Executive Order 12044 and determined to be significant based upon the anticipated public comments on the proposed version of the regulation. However, voluntary implementation of the regulation during the past two years have demonstrated that initial concerns about having to submit significantly increased justification to support confidentiality requests and about increases in the release of confidential information have not been borne out. Further discussion of these issues is provided above in this notice. No regulatory analysis or evaluation has been prepared for this notice since it imposes little or no additional cost on persons making confidentiality claims. The primary effect of the regulation is to codify existing agency practices in implementing statutory and case law regarding confidential information.

The principal author of this regulation is Roger Tilton of the Office of Chief Counsel.

In consideration of the foregoing, Title 49 of the Code of Federal Regulations is amended by the addition of a new Part 512, *Confidential Business Information*, as set forth below.

(Sec. 9, Pub. L. 89–670, 80 Stat. 931 (49 U.S.C. 1657); sec. 112, Pub. L. 89–563, 80 Stat. 725, amended Pub. L. 91–265, 84 Stat. 262 (15 U.S.C. 1401); sec. 119, Pub. L. 89–563, 86 Stat. 950, (15 U.S.C. 1914); sec. 204, Pub. L. 92–513, 86 Stat. 957; (15 U.S.C. 1944); sec. 408, Pub. L. 92–513 as added Pub. L. 94–364, 90 Stat. 985 (15 U.S.C. 1990d), sec. 505 Pub. L. 94–163, 89 Stat. 908 (15 U.S.C. 2005), delegation of authority at 49 CFR 1.50)

Issued on December 30, 1980.

Joan Claybrook,

Administrator.

Sec.

512.1 Purpose and scope.
512.2 Applicability.
512.3 Definitions.
512.4 Asserting a claim for confidential treatment of information.
512.5 Substantive standards for affording confidential treatment.
512.6 Determination of confidential treatment.
512.7 Modification of determinations.
512.8 Discretionary release of confidential business information.
512.9 Class determinations.

512.10 Disclosure of information in certain circumstances.

Authority: Sec. 9, Pub. L. 89-670, 80 Stat. 931 (49 U.S.C. 1657); sec. 112, Pub. L. 89-563, 80 Stat. 725, amended Pub. L. 91-265, 84 Stat. 262 (15 U.S.C. 1401); sec. 119, Pub. L. 89-563, 80 Stat. 728, (15 U.S.C. 1407); sec. 104, Pub. L. 92-513, 86 Stat. 950, (15 U.S.C. 1914); sec. 204, Pub. L. 92-513, 86 Stat. 957; (15 U.S.C. 1944); sec. 408, Pub. L. 92-513 as added Pub. L. 94-364, 90 Stat. 985 (15 U.S.C. 1990d), sec. 505 Pub. L. 94-163, 89 Stat. 908 (15 U.S.C. 2005); delegation of authority at 49 CFR 1.50.

§ 512.1 Purpose and scope.

The purpose of this part is to establish the procedure by which the NHTSA will consider claims that information submitted to the NHTSA, or which the NHTSA otherwise obtains, is confidential business information, as described in 5 U.S.C. 552(b)(4).

§ 512.2 Applicability.

(a) This part applies, in accordance with its terms, to all information which is submitted to the NHTSA, or which the NHTSA otherwise obtains, except as provided in paragraph (b).

(b) Information received as part of the procurement process, is subject to the Federal Procurement Regulations, 41 CFR, Chapter 1, as well as this part. In any case of conflict between the Federal Procurement Regulations and this part, the provisions of the Federal Procurement Regulations prevail.

§ 512.3 Definitions.

"NHTSA" means the National Highway Traffic Safety Administration.

"Administrator" means the Administrator of the National Highway Traffic Safety Administration.

"Chief Counsel" means the Chief Counsel of the National Highway Traffic Safety Administration.

"Confidential business information" means information described in 5 U.S.C. 552(b)(4).

§ 512.4 Asserting a claim for confidential treatment of information.

(a) Any person submitting information to the NHTSA and requesting that it be withheld from public disclosure as confidential business information shall—

(1) Stamp or mark "confidential" or some other term which clearly indicates the presence of information claimed to be confidential, on the top of each page containing information claimed to be confidential.

(2) Mark each item of information which is claimed to be confidential and which appears on a page marked in accordance with paragraph (a)(1) of this section, with brackets "[]".

(3) If an entire page is claimed to be confidential, indicate clearly that the entire page is claimed to be confidential.

(4) Submit the documents containing allegedly confidential information directly to the Office of Chief Counsel, National Highway Traffic Safety Administration, Room 5219, 400 Seventh Street SW., Washington, D.C.

(5) In the case of a document containing information which is claimed to be confidential submitted in connection with a NHTSA activity for which there is a public file or docket, simultaneously submit to the NHTSA a copy of the document from which information claimed to be confidential is deleted, for placement in the public file or docket pending the determination of the claim for confidential treatment.

(6) Simultaneously submit to the NHTSA in writing the name, address, and telephone number of a representative for receipt of notice under this part.

(b) For each item of information marked confidential in accordance with paragraph (a) of this section, the submitter of the information shall submit information supporting the claim for confidential treatment to the NHTSA with the item. Such supporting information must show—

(1) That the information claimed to be confidential is a trade secret, or commercial or financial information.

(2) Measures taken by the submitter of the information to ensure that the information has not been disclosed or otherwise made available to any person, company, or organization other than the submitter of the information.

(3) Insofar as is known by the submitter of the information, the extent to which the information has been disclosed, or otherwise become available, to persons other than the submitter of the information, and why such disclosure or availability does not compromise the confidential nature of the information.

(4) Insofar as is known by the submitter of the information, the extent to which the information has appeared publicly, regardless of whether the submitter has authorized that appearance or confirmed the accuracy of the information (include citations to such public appearances, and an explanation of why such appearances do not compromise the confidential nature of the information).

(5) Prior determinations of the NHTSA or other Federal agencies or Federal courts relating to the confidentiality of the submitted information, or similar information possessed by the submitter, including class determinations under this part (include any written notice or decision connected with any such prior determination, or a citation to any such notice or decision, if published in the Federal Register).

(6) Except for information submitted to the agency in connection with the NHTSA's functions under Title V of the Motor Vehicle Information and Cost Savings Act, as amended, whether the submitter of the information asserts that disclosure would be likely to result in substantial competitive harm, what the harmful effects of disclosure would be, why the effects should be viewed as substantial, and the causal relationship between the effects and disclosure.

(7) For information submitted to the agency in connection with the NHTSA's functions under Title V of the Motor Vehicle Information and Cost Savings Act, whether the submitter of the information asserts that disclosure would result in significant competitive damage, what that damage would be, why that damage should be viewed as significant, and the causal relationship between the damage and disclosure.

(8) If information is voluntarily submitted, within the meaning of section 512.5(a)(2) of this part, why disclosure by the NHTSA would be likely to prevent the NHTSA from obtaining information in the future.

(9) The period of time for which confidentiality is claimed (permanently or until a certain date or the occurrence of a certain event) and why earlier disclosure would result in the harms set out in paragraphs (b), (6), (7), or (8) of this section as the case may be.

(c)(1) If any element of the showing to support a claim for confidentiality required under paragraph (b) of this section is presumptively established by a class determination affecting the information for which confidentiality is claimed, the submitter of information need not establish that element again under paragraph (b).

(2) If the Chief Counsel believes that information which a submitter of information asserts to be within a class of information set out in Appendix B is not within that class, the Chief Counsel—

(i) Notifies the submitter of the information that the information does not fall within the class as claimed, and briefly explains why the information does not fall within the class, and

(ii) Affords the submitter of the information a reasonable amount of time, not less than 10 working days, to comply fully with paragraph (b) of this section.

(d) Information in support of a claim for confidentiality submitted to the NHTSA under paragraph (b) of this section must consist of objective data to

the maximum extent possible. To the extent that opinions are given in support of a claim for confidential treatment of information, the submitter of the information shall submit in writing to the NHTSA the basis for the opinions, and the name, title, and credentials showing the expertise of the person supplying the opinion.

(e) The submitter of information for which confidential treatment is requested shall submit to the NHTSA with the request a certification in the form set out in Appendix A from the submitter, or an agent of the submitter, that a diligent inquiry has been made to determine that the information has not been disclosed, or otherwise appeared publicly, except as indicated in accordance with paragraph (b) (3) and (4) of this section.

(f) A single showing in support for a claim that information is confidential, in accordance with paragraph (b) of this section, may be used to support a claim for confidential treatment of more than one item of information claimed to be confidential. However, general or nonspecific assertions or analyses may be insufficient to form an adequate basis for the agency to find that information may be afforded confidential treatment, under section 512.3, and may result in the denial of a claim for confidentiality.

(g) Where confidentiality is claimed for information obtained by the submitter from a third party, such as a supplier, the submitter of the information is responsible for obtaining all information or certifications from the third party necessary to comply with paragraph (b).

(h) A submitter of information shall promptly amend supporting information provided under paragraph (b) if the submitter obtains information upon the basis of which the submitter knows that the supporting information was incorrect when provided, or that the supporting information, though correct when provided, is no longer correct and the circumstances are such that a failure to amend the supporting information is in substance a knowing concealment.

(i) Noncompliance with this section may result in a waiver or denial of a claim for confidential treatment of information. However, failure to provide the certification required in paragraph (e) of this section shall result in a denial of the claim. Noncompliance with paragraph (h) of this section may subject a submitter of information to civil penalties.

(1) If the provisions of paragraph (a) of this section are not complied with at the time the information is submitted to the NHTSA so that the NHTSA is not aware of a claim for confidentiality, or the scope of a claim for confidentiality, the claim for confidentiality is waived unless the agency is notified of the claim before the information is disclosed to the public. Placing the information in a public docket or file is disclosure to the public within the meaning of this part, and any claim for confidential treatment of information so disclosed is precluded.

(2) A request that information be afforded confidential treatment may be denied if the submitter of the information does not provide with the request all of the supporting information required in paragraph (b) of this section, and will be denied if the information provided is insufficient to establish that the information may be afforded confidential treatment under the substantive tests set out in section 512.3. The Chief Counsel may notify a submitter of information of inadequacies in the supporting information, and may allow the submitter additional time to supplement the showing, but is under no obligation to provide either notice or additional time to supplement the showing.

(j) Information received that is identified as confidential and whose claim for confidentiality is supported in accordance with this section will be kept confidential until a determination of its confidentiality is made under section 512.6 of this part. Information will not be publicly disclosed except in accordance with this part.

§ 512.5 Substantive standards for affording information confidential treatment.

(a) Information obtained by the NHTSA, except for information obtained by the NHTSA under Title V of the Motor Vehicle Information and Cost Savings Act, may be afforded confidential treatment if it is a trade secret, commercial, or financial information that is not already publicly available; and

(1) Which if disclosed, would be likely to result in substantial competitive harm to the submitter of the information, or

(2) Voluntarily submitted, and failure to afford the information confidential treatment would impair the ability of the NHTSA to obtain similar information in the future. Information whose production the NHTSA could not compel by compulsory process is voluntarily submitted information within the meaning of this part.

(b) Information obtained by the NHTSA under Title V of the Motor Vehicle Information and Cost Savings Act may be afforded confidential treatment if it is a trade secret, commercial or financial information that is not already publicly available and which, if disclosed, would result in significant competitive damage.

§ 512.6 Determination of confidentiality.

(a) The decision of whether an item of information may be afforded confidential treatment under this part is made by the Office of Chief Counsel.

(b) The determination of confidentiality is made within 30 working days of the Chief Counsel's receipt of the information and knowledge that the information is claimed to be confidential if—

(1) The information relates to a rulemaking proceeding for which a public docket has been established.

(2) The information relates to a petition before the NHTSA for which a public docket has been established.

(3) The information relates to a proceeding under Part B of Subchapter I of the National Traffic and Motor Vehicle Safety Act.

(4) The information relates to an investigation or proceeding by the NHTSA to enforce any regulation or standard, or

(5) The information is received under a reporting requirement established by the NHTSA.

(c) If information does not come under paragraph (b) of this section when received by the NHTSA, but is later determined to be information described in paragraph (b), the determination of confidentiality is made within 30 working days after it is determined that the information is information described in paragraph (b).

(d) For information not described under paragraph (b) of this section, the determination of confidentiality is made within ten working days after the NHTSA receives a request for that information under the Freedom of Information Act.

(e) The timing requirements prescribed in paragraphs (b), (c), and (d) of this section may be extended by the Chief Counsel for good cause shown on the Chief Counsel's own motion, or on request from any person. An extension of the timing requirement of paragraph (d) is made only in accordance with 5 U.S.C. 552. Any extension of time is accompanied by a written statement setting out the reasons for the extension.

(f) A person submitting information to the NHTSA with a request that the information be withheld from public disclosure as confidential business information is given immediate notice of the Chief Counsel's determination regarding the request.

(1) If a request for confidentiality is granted, the submitter of the information is notified in writing that the information is being kept confidential and the length

of time during which the information will be kept confidential.

(2) If a request for confidentiality is denied in whole or in part, the submitter of the information is notified in writing of that denial, and is informed that the information will be placed in a public docket on a specified date, which is no less than ten working days after the submitter of the information has received notice of the denial of the request for confidential treatment if practicable, or some earlier date if the Chief Counsel determines that the public interest requires that the information be placed in a public file on such earlier date. The written notification of a denial specifies the reasons for denying the request.

(g) A submitter of information whose request for confidential treatment is denied may petition for reconsideration of that denial only on the basis of information or arguments that were not available at the time the originial request for confidentiality was made. The Chief Counsel may postpone placing the information in a public file in order to allow additional time to consider the petition for reconsideration. Petitions for reconsideration under this section shall be addressed to the Chief Counsel.

(h) If information which has been a subject of a confidentiality determination under this section is requested under the Freedom of Information Act, the Office of Chief Counsel advises the office processing that request whether the information has been determined to be confidential.

§ 512.7 Modification of confidentiality determinations.

(a) A determination that information is confidential business information remains in effect in accordance with its terms, unless modified by a later determination based upon—

(1) Newly discovered or changed facts.

(2) A change in the applicable law,

(3) A class determination under section 512.9 of this part, or

(4) The initial determination's being clearly erroneous.

(b) If the NHTSA believes that an earlier determination of confidentiality should be reconsidered based on one or more of the factors listed in paragraphs (a) (1)–(4) of this section, the submitter of the information is notified in writing of the NHTSA's intention to reconsider that earlier determination, and the reasons for that reconsideration, and is given an opportunity to comment which is not less than ten working days from the receipt of notice under this paragraph.

§ 512.8 Discretionary release of confidential business information.

(a) Information that has been determined or claimed to be confidential business information under § 512.6 of this part may be disclosed to the public by the Administrator notwithstanding such determination or claim if disclosure would be in the public interest as follows:

(1) Information obtained under Part A, Subchapter I of the National Traffic and Motor Vehicle Safety Act, relating to the establishment, amendment, or modification of Federal motor vehicle safety standards, may be disclosed when relevant to a proceeding under that part.

(2) Information obtained under Part B Subchapter I of the National Traffic and Motor Vehicle Safety Act, relating to defects relating to motor vehicle safety, and failures to comply with applicable motor vehicle safety standards, may be disclosed if the Administrator determines that disclosure is necessary to carry out the purposes of that Act.

(3) Information obtained under Title I or V of the Motor Vehicle Information and Cost Savings Act may be disclosed when that information is relevant to a proceeding under the title under which the information was obtained.

(b) No information is disclosed under this section unless the submitter of the information is given written notice of the Administrator's intention to disclose information under this section. Written notice is given at least ten working days before the day of intended release, although the Administrator may provide shorter notice if the Administrator finds that such shorter notice is in the public interest. The notice under this paragraph includes a statement of the Administrator's reasons for considering the disclosure of information under this section, and affords the submitter of the information an opportunity to comment on the contemplated release of information. The Administration may also give notice of the contemplated release of information to other persons, and may allow such other persons the opportunity to comment. When a release of information is made pursuant to this section, the Administrator will consider ways to make the release with the least possible adverse effects to the submitter.

§ 512.9 Class determinations.

(a) The Chief Counsel may issue a class determination relating to confidentiality under this section if the Chief Counsel determines that one or more characteristics common to each item of information in that class will in most cases necessarily result in identical treatment of each item of information under this part, and that it is appropriate to treat all such items as a class for one or more purposes under this part. The Chief Counsel obtains the concurrence of the Office of the General Counsel, United States Department of Transportation, for any class determination that has the effect of raising the presumption that all information in that class is eligible for confidential treatment. Class determinations are published in the **Federal Register**.

(b) A class determination clearly identifies the class of information to which it pertains.

(c) A class determination may state that all of the information in the class—

(1) Is or is not governed by a particular section of this part, or by a particular set of substantive criteria under this part.

(2) Fails to satisfy one or more of the applicable substantive criteria, and is therefore ineligible for confidential treatment,

(3) Satisfies one or more of the applicable substantive criteria, or

(4) Satisfies one of the substantive criteria during a certain period, but will be ineligible for confidential treatment thereafter.

(d) Class determinations will have the effect of establishing rebuttable presumptions, and do not conclusively determine any of the factors set out in paragraph (c) of this section.

§ 512.10 Disclosure of information in certain circumstances.

(a) Notwithstanding any other provision of this part, information which has been determined to be confidential business information, or which has been claimed to be confidential business information, may be disclosed pursuant to a valid request—

(1) To Congress,

(2) Pursuant to court order,

(3) To the Office of the Secretary, United States Department of Transportation and other Executive branch offices or other Federal agencies in accordance with applicable laws,

(4) With the consent of the submitter of the information,

(5) To contractors, if necessary for the performance of a contract with the Administration. In such instances, the contract limits further release of the information to named employees of the contractor with a need to know and provides that unauthorized release constitutes a breach of the contract for which the contractor may be liable to third parties.

Appendix A

Affidavit in Support of Request for Confidentiality

I, ——————, being duly sworn, depose and say:

(1) That I am (official) and that I am authorized by (company) to execute documents on behalf of (company);

(2) That the information contained in *(pertinent document[s])* is confidential and proprietary data and is being submitted with the claim that it is entitled to confidential treatment under 5 U.S.C. 552(b)(4) [as incorporated by reference in and modified by § 505(d)(1) of Title 5 of the Motor Vehicle Information and Cost Savings Act.]

(3) That I have personally inquired of the responsible (company) personnel who have authority in the normal course of business to release the information for which a claim of confidentiality has been made to ascertain whether such information has ever been released outside *(company)*.

(4) That based upon such inquiries to the best of my knowledge the information for which (company) has claimed confidential treatment has never been released of become available outside the (company) except as hereinafter specified;

(5) That I make no representations beyond those contained in this affidavit and in particular I make no representations as to whether this information may become available outside (company) because of unauthorized or inadvertent disclosure except as stated in Paragraph 4; and

(6) That the information contained in the enumerated paragraphs of this affidavit is true and accurate to the best of my information, knowledge and belief.

——————

(Official)

Appendix B—Class Determinations

The Administration has determined that the following types of information would presumptively result in significant competitive damage or would be likely to result in substantial competitive harm if disclosed to the public—

(1) Blueprints and engineering drawings containing process of production data before the public availability, or within five years of the public availability, of the subject of the blueprints or engineering drawings, where the subject could not be manufactured without the blueprints or engineering drawings except after significant reverse engineering;

(2) Future model specific product plans, projected not more than three years into the future;

(3) Model specific projections of future sales mix, projected not more than three years into the future;

Appendix C—OMB Clearance

The OMB clearance number for this regulation is 2127–0025.

[FR Doc. 81-344 Filed 1-7-81; 8:45 am]

BILLING CODE 4910-59-M

49 CFR Parts 525, 537, and 555

[Docket Nos. FE 76-04, Notice 5; FE-77-03, Notice 4; 80-21, Notice 1]

Exemptions From Average Fuel Economy Standards; Automotive Fuel Economy Reports; Temporary Exemption From Motor Vehicle Safety Standards

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Final rule.

SUMMARY: This notice makes conforming amendments to several of the agency's regulations deleting specific requirements for confidentiality determinations. These conforming amendments are needed as a result of the publication today of a new agency regulation governing requests for confidentiality determinations (Part 512). Since that new regulation supercedes the confidentiality provisions existing in several of the agency's other regulations, these conforming amendments are being made without notice and opportunity for comments.

EFFECTIVE DATE: These amendments are effective April 9, 1981.

FOR FURTHER INFORMATION CONTACT: Roger Tilton, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–426–9511).

SUPPLEMENTARY INFORMATION: In accordance with the above, Title 49 of the Code of Federal Regulations is amended as follows.

PART 525—EXEMPTIONS FROM AVERAGE FUEL ECONOMY STANDARDS

Part 525, *Exemptions From Average Fuel Economy Standards*, is amended as follows:

§ 525.6 [Amended]

(1) Section 525.6(g) (1) and (2) are removed and replaced with the following:

* * * * *

(g) Specify and segregate any part of the information and data submitted under this part that the petitioner wishes to have withheld from public disclosure in accordance with Part 512 of this Chapter.

§ 525.13 [Removed]

(2) Section 525.13 is removed and § 525.12 is revised to read:

§ 525.12 Public inspection of information.

(a) Except as provided in paragraph (b), any person may inspect available information relevant to a petition under this Part, including the petition and any supporting data, memoranda of informal meetings with the petitioner or any other interested persons, and the notices regarding the petition, in the Docket Section of the National Highway Traffic Safety Administration. Any person may obtain copies of the information available for inspection under this paragraph in accordance with Part 7 of the regulations of the Office of the Secretary of Transportation (49 CFR Part 7).

(b) Except for the release of confidential information authorized by section 505 of the Act and Part 512 of this Chapter, information made available for public inspection does not include information for which confidentiality is requested under § 525.6(g) and is granted in accordance with Part 512 and sections 502 and 505 of the Act and section 552(b) of Title 5 of the United States Code.

PART 537—AUTOMOTIVE FUEL ECONOMY REPORTS

Part 537, *Automotive Fuel Economy Reports*, is amended as follows:

§ 537.5 [Amended]

(1) Section 537.5(c) (7) (i) and (ii) are removed and replaced with the following:

* * * * *

(c) * * *

(7) Specify any part of the information or data in the report that the manufacturer believes should be withheld from public disclosure as trade secret or other confidential business information in accordance with Part 512 of this Chapter.

§ 537.12 [Removed]

(2) Section 537.12 is removed and § 537.11 is revised to read:

§ 537.11 Public inspection of information.

(a) Except as provided in paragraph (b), any person may inspect the information and data submitted by a manufacturer under this part in the docket section of the National Highway Traffic Safety Administration. Any person may obtain copies of the information available for inspection under this section in accordance with the regulations of the Secretary of Transportation in Part 7 of this title.

(b) Except for the release of confidential information authorized by section 505 of the Act and Part 512 of this Chapter, information made available under paragraph (a) for public

inspection does not include information for which confidentiality is requested under § 537.5(c) (7) and is granted in accordance with Part 512 of this Chapter, section 505 of the Act, and section 552(b) of Title 5 of the United States Code.

PART 555—TEMPORARY EXEMPTION FROM MOTOR VEHICLE SAFETY STANDARDS

Part 555, *Temporary Exemption From Motor Vehicle Safety Standards*, is amended as follows:

§ 555.5 [Amended]

(1) Section 555.5(b) (6) is revised to read:

* * * * *

(b) * * *

(6) Specify any part of the information and data submitted which petitioner requests be withheld from public disclosure in accordance with Part 512 of this Chapter.

§ 555.10 [Amended]

(2) Section 555.10(b) is revised to read:

* * * * *

(b) Except for the release of confidential information authorized by Part 512 of this Chapter, information made available for inspection under paragraph (a) shall not include materials not relevant to the petition for which confidentiality is requested and granted in accordance with sections 112, 113, and 158 of the Act (15 U.S.C. 1401, 1402, and 1418) and section 552(b) of Title 5 of the United Stated Code.

(Sec. 9, Pub. L. 89-670, 80 Stat. 931 (49 U.S.C. 1657); sec. 301, Pub. L. 94-163, 89 Stat. 901 (15 U.S.C. 2005); sec 3, Pub. L. 92-548, 86 Stat. 1159; sec. 119, Pub. L. 89-563 (15 U.S.C. 1407 and 1410); delegation of authority at 49 CFR 1.50)

Issued on December 30, 1980.

Joan Claybrook,

Administrotor.

[FR Doc. 80-343 Filed 1-7-81; 8:45 am]

BILLING CODE 4910-59-M

---

49 CFR Part 571

[Docket No. 74-14; Notice 19]

Federal Motor Vehicle Safety Standards; Improvement of Seat Belt Assemblies

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Final rule.

SUMMARY: This notice amends Safety Standard No. 208, *Occupant Crash Protection*, to specify additional performance requirements for both manual and automatic safety belt assemblies installed in motor vehicles with a Gross Vehicle Weight Rating (GVWR) of 10,000 pounds or less. These performance requirements are specified in order to prevent the installation of particularly inconvenient and uncomfortable belt assemblies and to ensure that people are not discouraged from using belts because of their design or performance. This amendment does not include several provisions that were contained in the notice of proposed rulemaking preceding this rule. Based on comments received in response to the proposal, the agency has determined that only certain of the specifications should become mandatory at the present time. Considerations involving cost, leadtime and the encouragement of innovative seat belt designs have led the agency to conclude that the other provisions should be issued only as performance guidelines that manufacturers should follow where possible, or find alternative means to accomplish the same ends. The performance guidelines will be published in a separate **Federal Register** notice.

DATE: Effective date: September 1, 1982.

ADDRESS: Any petitions for reconsideration should refer to the docket number and notice number and be submitted to: National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Nelson, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, Washington, D.C. 20590 (202-426-2264).

SUPPLEMENTARY INFORMATION: Safety Standard No. 208, *Occupant Crash Protection* (49 CFR 571.208), currently requires most motor vehicles to be equipped with safety belts at each designated seating position. Beginning in September 1981, and phasing in over the following two years, new passenger cars will have to provide automatic occupant crash protection (i.e., occupant restraint that requires no action by occupants, such as fastening seat belts, to be effective). Many new automobiles will be equipped with automatic belts to comply with the automatic restraint requirements (automatic belts move into place around a vehicle occupant automatically when he or she enters the car and closes the door). The requirements specified in this amendment are designed to remove some of the most egregious disincentives to use of current belt designs to ensure that both the automatic belts and the manual belts installed in future vehicles will be comfortable and convenient to use.

The requirements specified in this notice are applicable to seat belt assemblies installed in all vehicles with a GVWR of 10,000 pounds or less, except for Type 2 manual belts (lap and shoulder combination belts) installed in front seating positions in passenger cars through the 1983 model year. As noted in the proposal preceding this amendment (44 FR 77210), Type 2 manual belts will be phased out in passenger cars when the automatic restraint requirements of Standard No. 208 become effective. Accordingly, the agency believes that manufacturers should be allowed to focus their efforts and resources regarding comfort and convenience on manual belts in vehicles other than passenger cars and on developing the Type 1 manual belts (lap belts) which will be installed in rear seats in passenger cars and in some front seats in conjunction with air bags and single diagonal automatic belts.

As stated in the notice of proposed rulemaking, the discomfort and inconvenience of current seat belt designs are among the most prominent factors resulting in the current low rate of safety belt use (approximately 11 percent). The proposal cited various studies which conclude that comfort and convenience play a determinative role in whether people continue to use the safety belts installed in their vehicles after they first try them (DOT HS-801-594; DOT HS-803-370). Some of the problems identified in these studies include: many belts are difficult to reach; many belts do not fit properly (e.g., they cross the occupant's neck); the pressure of many shoulder belts is felt to be excessive, particularly by women; many belts are difficult to buckle; and many belts become too tight after they have been worn for several minutes and their users have moved around.

In order to alleviate the most serious of these problems, the notice of proposed rulemaking sought to establish a variety of relatively simple, objective performance requirements that would improve the comfort and convenience of seat belt systems. Specifications involving the following performance areas were therefore proposed: torso belt occupant fit; belt retraction; adjustable buckles for certain belts; belt/seat cushion clearance; torso belt body contact pressure; automatic locking retractors (ALR's) were to be restricted; "comfort clips" were to be precluded; latchplate accessibility; webbing guides; convenience hooks for belt webbing; clearance between webbing and the occupant's head; and

specifications for motorized belt systems.

There were 38 comments in response to the proposal, from vehicle manufactures, seat belt assembly manufacturers, public interest groups and consumers. All comments were considered and the most significant are discussed in this notice. In response to those comments, and for reasons set forth more fully below, the agency has concluded that this amendment will only include specifications relating to: latchplate accessibility; seat belt guides; adjustable buckles for certain belts; shoulder belt pressure; convenience hooks; belt retraction; and comfort devices. The other provisions of the proposal will be issued to the public only as performance guidelines which manufacturers may voluntarily follow if they choose. Those guidelines will be issued in a separate **Federal Register** notice.

Proposed Provisions not Included in This Amendment

(The following section sets forth the major comments to the proposed provisions that are not being included in this amendment. A general discussion of the agency's response to these comments follows after the summary.)

There were nine comments to the proposed amendment from concerned citizens. Five of these consumers supported the proposed rulemaking and stated that they have experienced extreme comfort and convenience problems with their seat belt systems. Three citizens opposed the proposal on the basis that the rulemaking represents unwarranted government interference. Finally, one commenter objected to the technical nature of the proposal, stating that the specifications were difficult to understand.

Almost all vehicle manufacturers supported the concept of the proposal that seat belt assemblies should be convenient to use and comfortable to wear. However, most manufacturers disagreed with the agency's contention that there is a demonstrable relationship between seat belt comfort and convenience and belt usage rates and that improving comfort and convenience will improve those rates. Additionally, most manufacturers did not agree that the specifications proposed by the agency would lead to belt designs that are appreciably more comfortable and convenient. For example, Ford Motor Company stated that although it does not deny that there may be some correlation between comfort and convenience and wearing rates at the extremes (i.e., for very comfortable belts or belts that are particularly uncomfortable), there is no objective evidence that a measurable relationship exists between comfort and convenience and wearing rates. Ford also stated that certain of the proposed requirements would not accommodate a large number of vehicle occupants (e.g., Ford stated that the fit zone specified in the proposal would only ensure that belts properly fit 60 percent of the population. The proposal stated the agency's belief that the fit zone would ensure over 90 percent of the population had comfortable belts). The Motor Vehicle Manufacturers Association stated that experience has shown that the incorporation of features in belt systems to improve their comfort and convenience has not resulted in increased seat belt use, and that comfort and convenience are highly subjective concepts that are not readily quantifiable. Chrysler Corporation stated that comfort and convenience improvements alone will not result in a substantial increase in belt use. Chrysler stated that the only way to improve seat belt use is to enact mandatory seat belt use laws. Volkswagen of America stated that the proposed modifications would actually eliminate several of the most promising existing automatic seat belt designs because of design restrictions. General Motors Corporation cited a study conducted for it by MOR, Inc., which indicated that removal of all perception of discomfort and inconvenience in belt systems would result in only a 1.7 percent increase in seat belt usage. The NHTSA proposal indicated that usage could be increased about 8 percent, and took exception to the MOR study. General Motors argued that the NHTSA has not adequately demonstrated, however, why the conclusions in the MOR study are invalid. American Motors Corporation stated that manufacturers already incorporate adequate comfort and convenience features in their belt systems and that regulatory action is, therefore, not warranted in this case.

The American Seat Belt Council, Hamill Manufacturing Company and other commenters supported the rationale of the proposal totally. Hamill stated that comfort and convenience is of paramount importance to 75–80 percent of the non-user segment of the driver population, who already perceive that seat belts are effective in mitigating the risk of death and injury in vehicle crashes but are dissuaded from using the belts because of perceived inconvenience and discomfort. Volvo of America Corporation acknowledged that comfort and convenience is one factor that influences usage, but stated that the major reason for the low rates of seat belt use is lack of motivation on the part of the motoring public.

In addition to the general negative comments concerning the relationship between seat belt comfort and convenience and wearing rates, many commenters (vehicle manufacturers) argued that certain of the proposed specifications would adversely affect belt effectiveness in vehicle crashes. For example, several manufacturers argued that the comfort zone for belt webbing specified in the proposal would require belt anchorages in some vehicle models to be in locations that are not the optimum location for belt performance in restraining victims in a crash situation.

Torso Belt Occupant Fit (Manual and Automatic Belts)

To alleviate problems of torso belt fit such as rubbing of the occupant's neck, the proposal specified a zone in which the torso belt would have to lie on a test dummy placed in a vehicle. The zone was established to ensure that belts are installed so that the torso belt crosses the occupant's shoulder and chest approximately midway between the neck and shoulder tip, and crosses the sternum approximately midway between the breasts. The proposed requirements specified geometric criteria to describe the required chest-crossing envelope.

The motor vehicle manufacturers were unanimous in their opposition to the proposed torso belt fit requirement. Their objections were primarily related to: the location of the specified compliance zone on the Part 572 test dummy; the location of the test dummy in the vehicle; the width of the compliance zone on the Part 572 test dummy; and the test procedure to determine compliance.

Manufacturers argued that the test procedure is not objective and repeatable because of the complexities and variability associated with locating the dummy in a specific position in the vehicle. They also argued that the procedure for placing the belt around the test dummy (the "rocking" procedure) is not objectively stated. Most manufacturers argued that the 3-inch width of the fit zone specified in the proposal is too design restrictive. Additionally, Ford argued that its tests show that the 3-inch zone would only assure proper fit on approximately 60 percent of the driving population (the agency stated in the proposal that 90 percent of the population would have the proper fit with the proposed specifications). Ford did not substantiate how it arrived at this

conclusion, however. Manufacturers argued that the fit zone should be at least 3.6 inches wide and possibly as much as five inches wide in order to ensure repeatability of the compliance procedure. Manufacturers stated that the location of the compliance zone on the test dummy would not necessarily place the belt in the optimum position for effectiveness in crashes in certain vehicle models. They based this assumption on the fact that in certain current vehicle models both the belt anchorages would have to be moved to place the belt in the specified zone. The manufacturers argued that these new anchorage locations would degrade belt performance in some instances.

Clearance Between Webbing and Seat Cushion (Automatic Belts)

As noted in the notice of proposed rulemaking, the shift from manual to automatic belts may initially lead to confusion on the part of some persons. The lower end of many automatic shoulder belt designs is attached between the two front seating positions. The upper end is attached to the rear upper corner of the front door. If the lap belt or torso belt of an automatic belt system is designed so that it lies on the seat cushion or against the seatback cushion(s) when the belt system is reeled-out in its open-door position, some people are likely to be confused about how to get into the vehicle. Additionally, if the belt is lying on or hanging slightly above the seat cushion, it is likely to pull against clothing in an irritating fashion as the occupant tries to sit down. These factors led the agency to propose minimum specifications for webbing/seat clearance (three inches) so that people would not be encouraged to disconnect automatic belts because of the inconvenience.

Most manufacturers opposed the minimum specification for webbing/seat clearance. The comments stated that there is no safety rationale for the requirement because any misconception concerning the proper way to enter the vehicle would be removed after the occupant became familiar with the vehicle. Peugeot stated that experience has shown that the occupant can easily push the strap aside for a moment in order to enter the vehicle. The company argued that the proposed requirement is tantamount to requiring the installation of an automatic mechanism to move the belt system's top anchor's position. (Note: In response to this specific comment, the agency would not consider a belt system that had to be manually moved out of the way by the occupant to be an "automatic" system that would satisfy the requirements of the standard; see 39 FR 14594, April 25, 1974). Several manufacturers stated the minimum specification could degrade belt effectiveness in a crash. These manufacturers argued that the specification would preclude a belt, particularly a lap belt, from fitting securely around the occupant. This could result in the occupant "submarining" under the belt during a crash.

Motorized Track Systems—Webbing/Head Clearance

Some automatic belt designs rely on overhead, motorized track-puller systems instead of the opening of the door to move the webbing automatically out of the occupant's way when getting in and out of the vehicle. These systems pull the webbing toward the dashboard when the vehicle door is opened and then pull it toward the rear of the vehicle to deploy around the occupant after the door is closed. If such a system is used, the vehicle design should be such that the belt webbing does not pass too close to the occupant's head during its movement. Webbing that passes too close to or brushes the occupant's face or head could be annoying or disconcerting (perceived as hazardous by the intended user) and cause the occupant to defeat the automatic belt system (by unbuckling or cutting the belt, for example). The proposal specified a webbing/head clearance envelope that was intended to ensure that a moving torso belt would not come within a certain specified distance of an occupant's head and face.

Industry objected to this proposed requirement on the basis that many small vehicle models could not comply with the requirement without substantial changes to the vehicle structure (i.e., because of limited head room in these small cars). Toyota Motor Company stated that an automatic belt design it has already introduced in the market would have to be withdrawn if this proposed requirement were finalized because there is not sufficient room in its vehicle model to obtain the specified clearance. Volkswagen stated that any specification for webbing/head clearance should only specify that the webbing cannot touch the occupant's face while it is articulating, and that a minimum distance specification is too design restrictive. General Motors stated that the spherical zone specified in the proposal falls outside the vehicle on some GM body styles, and would thus preclude motorized belt systems in these vehicles.

Rate of Movement of Motorized Belts

The agency stated its belief in the proposal that motorized belt systems will be unacceptable to the public if the rate of belt movement is too slow, since the occupant would be delayed in exiting the vehicle. Systems that move too rapidly might also be unacceptable since they could be viewed by vehicle occupants as a possible hazard. Each of these problems could lead vehicle occupants to defeat the automatic belt system. Therefore, the proposal specified minimum and maximum times allowed for belts to move forward and backward on motorized track systems (between 1.5 and 1.9 seconds from start to stop).

Manufacturers stated that this proposed specification should be deleted because of the variation in performance of motorized systems due to environmental conditions. The comments pointed out that ambient temperature greatly affects motor speeds and battery conditions and that the movement time, therefore, could not be held stable. Several commenters argued that a single movement time is impractical because of the wide variety of vehicle sizes and the varying distances a belt system would have to move. The commenters stated that if such a requirement is retained it should be stated as a rate rather than total times allowed. In this way, the movement of all systems would be uniform even though it would take longer for the belt webbing to move down the track in a large vehicle than in a small vehicle.

Agency Response to Comments on Unadopted Proposals

The agency does not agree with the general negative response of most vehicle manufacturers regarding the relationship between seat belt comfort and convenience and belt use. Likewise, the agency believes that the specifications in the notice of proposed rulemaking would greatly improve the comfort and convenience of seat belt systems, particularly the new automatic belt systems that will be introduced in the future. Although the agency agrees that many factors influence belt use, it continues to believe that belts which are inconvenient to use and uncomfortable to wear will be used less regardless of these other factors. The research studies cited in the notice of proposed rulemaking clearly establish that there is a definite problem with many current seat belt designs, and that seat belt systems can be improved with relatively minor changes. Removing the most egregious problems with seat belt

designs will, at a minimum, remove an impediment that currently thwarts other programs designed to increase seat belt use. For example, seat belt education campaigns will have little effect if people attempt to wear the belts but find them inconvenient and uncomfortable.

The agency also does not agree with many of the comments regarding specific provisions included in the proposal. Proper torso belt fit is an extremely important aspect of ensuring that belts are comfortable to wear and do not cross the neck or face. The problems cited by the industry with the proposed specification and test procedure are problems the agency believes can be solved. While it is true that some vehicle models may require significant modifications to comply with the fit zone, the agency believes that this is due primarily to the fact that in the past vehicles have been designed with little attention given to how the belt system will fit when installed in the vehicle. Belt systems are typically added as an afterthought long after the vehicle's structural design has been completed, with no systematic effort to coordinate a particular belt design to a particular structural design.

The industry's comments that webbing/seat clearance for automatic belts will not be a problem after occupants learn how to get into the vehicle only address part of the problem. In the months since issuance of the proposal, the agency has observed many prototype and production automatic belt designs. These observations have demonstrated that webbing/seat clearance is extremely important to ensure that the belt webbing does not scrub across the occupant's clothing when entering the vehicle. Some of the designs that were observed had such minimal clearance that buttons and shirt pocket contents were snagged by the belt system as an occupant entered the vehicle. This is obviously a problem that would encourage disconnection of the belt system. In addition, if the webbing/seat clearance is so minimal that the person has to manually move the belt out of the way to enter the automobile, the system is not really "automatic" and would not satisfy the automatic restraint requirements of the standard. The agency has concluded that these problems outweigh the perception problem discussed in the proposal. Consequently, the agency believes that the 3-inch specification in the proposal is inadequate and a greater clearance is desirable. While it is true that greater clearance may require innovative designs, the agency believes these are problems that can and should be solved.

Although these basic disagreements do exist between the NHTSA and vehicle manufacturers, the agency does believe that many of the specific comments to the proposal have merit. Also, the agency is aware that many of the problems cited by the industry are legitimate concerns. The agency is cognizant of the fact that there are a multitude of vehicle configurations that would have to be dealt with in complying with all of the provisions included in the notice of proposed rulemaking. In certain situations it may be true that strict compliance with the provisions as originally specified might compromise belt effectiveness in crashes to a limited degree, if applied to existing, unchanged structural configurations. Most manufacturers stated that the injury criteria of the standard could be met under the specifications of the proposal, but that in some instances the margin of safety would not be as great. Obviously, the agency does not want belt system performance to be degraded in the attempt to make belts comfortable and convenient enough that they will be used. However, the agency does not believe that such a compromise is necessary if belt system design and vehicle structural design are coordinated at the outset.

The agency has also considered the numerous comments concerning the leadtime that would be necessary to implement the proposed requirements in certain vehicle models, as well as the costs associated with making the changes after design plans have already been completed.

These considerations and the factors mentioned below have led the agency to conclude that requirements for torso belt fit, webbing/seat clearance, webbing/head clearance, and motorized belt track speed should not be included in this final rule. The agency believes that manufacturers should be encouraged to rapidly develop innovative automatic belt designs that will coordinate belt comfort and convenience and belt effectiveness to the greatest extent possible. In some vehicle configurations, particularly in smaller cars, strict compliance with the proposed specifications mentioned earlier may hamper these efforts. While the agency believes that it is possible and desirable to design comfortable and convenient safety belts meeting all of the proposed specifications, it does not wish to retard the introduction of automatic restraints because of minor technical problems in particular vehicle configurations. If all of the proposed requirements were issued in this final rule, additional leadtime would have to be given because of the special problems in a few vehicle models. The agency believes it is preferable to encourage voluntary compliance with some of the proposed provisions so that a majority of vehicles can be introduced at an earlier date with the comfort and convenience features incorporated.

The agency also intends to continue development of the proposed specifications in order to refine comfort zones and test procedures. Although the provisions as proposed would represent an important improvement in seat belt comfort and convenience if incorporated in current vehicle designs, comments from the industry have led the agency to conclude that some modifications and adjustments in the specifications may be desirable. Instead of delaying the introduction of improvements in seat belt design while the agency continues this development work, it has been determined that it is wiser to urge voluntary compliance with the major provisions included in the proposal so that they may be introduced as soon as possible. As automatic belts are introduced in the market, valuable data will be received concerning consumer perception of comfort and convenience. These data will be helpful to both the agency and the industry in further improving the belt systems.

Another factor influencing the decision not to include the proposed specifications in this final rule is the fact that there are automatic belt designs currently in production that do not comply with all the provisions proposed. The agency does not wish to preclude the continual production of these designs because, for example, they are ¼ inch outside the torso belt fit zone. This is particularly true since the automatic belts currently on the road were introduced voluntarily by the manufacturers prior to the effective date of the standard.

As stated earlier, the agency does urge manufacturers to voluntarily incorporate the performance specifications that were proposed but that are not included in this final rule. The agency believes all of the provisions deal with seat belt design features that substantially affect the comfort and convenience of seat belt systems, and therefore help determine whether a particular belt system will be worn. The agency also believes that the provisions adequately specify performance criteria and that manufacturers can design systems that are in conformity with the specifications and that also optimize

belt effectiveness in crash situations. Although some variations may be required for specialized vehicle configurations, the great majority of the specifications should prove to be extremely helpful to manufacturers attempting to develop seat belt designs that are comfortable to wear and convenient to use.

In order to aid both seat belt manufacturers and vehicle manufacturers, the NHTSA will publish in a later Federal Register notice suggested performance guidelines for torso belt fit, belt/head clearance, belt/seat cushion clearance, and speed of motorized belt track systems. The agency will also include in that notice tabulation of all research reports, studies and other data concerning the improvement of seat belt comfort and convenience that are available at the National Highway Traffic Safety Administration. The agency urges all manufacturers to use the information that is available and to incorporate these performance guidelines so that vehicle occupants will not be discouraged from using seat belts because of their discomfort or inconvenience.

Provisions Included in This Amendment

In addition to the provisions discussed already, the notice of proposed rulemaking included specifications dealing with seat belt guides, torso belt pressure, latch plate accessibility, adjustable buckles for certain belts having emergency-locking retractors, convenience hooks for automatic belts, emergency-locking retractors in lap belts, belt retraction, and belt comfort devices. The proposed provisions relating to these topics were intended to alleviate some of the most serious problems with current seat belt designs. Most manufacturers agreed that there are problems in these areas, although there was not total agreement on all of the remedies specified in the proposal. After considering the comments, the agency has concluded that improvements in these areas can and should be made. The changes required by this amendment are not burdensome and can be accomplished rapidly. The major objections of the industry to the proposal related primarily to the proposed provisions that are not being included in this amendment (discussed earlier in this notice).

Seat Belt Guides

Seat belt webbing and buckles in motor vehicles often fall or are pushed down behind the seat. Consequently, occupants are discouraged or actually precluded from using the belts. Therefore, the proposal specified that belt webbing at any designated seating position shall pass through flexible stiffeners or other guides in the seat cushion to ensure that the belts are easily accessible to occupants. The provision also specified that belt buckles and latchplates are to remain above the rear cushions at all times, even in folding or tumbling seats, and that all buckles are to be "free-standing" to allow one-hand buckling. These provisions were included in response to a petition for rulemaking submitted some time ago by the Center for Auto Safety.

The American Seat Belt Council supported the proposed requirements for both seat belt guides and "free-standing" buckles. Vehicle manufacturers requested that several changes be made in the specification or that it be deleted altogether. Volkswagen stated that it would be difficult to comply with the requirement for seats that both fold and tumble and for seats designed to convert into beds. The agency believes that suitable designs can be developed to ensure that belts remain above seats that both fold and tumble. Two vehicles were furnished by Volkswagen which showed two different rear seat configurations. The agency determined that belts could be developed for either that would comply with the provision. However, one design configuration would require seat-mounted belts, with a considerable increase in cost for the belts and increased weight for the vehicle. Based on its consideration of available designs and their costs, NHTSA has concluded that the cost of requiring seats that both fold and tumble seats to comply with the requirement may not be justified. Therefore, this type of seat is not subject to this amendment.

Several manufacturers stated that the proposed requirement should not apply to fixed seats since the purpose of the requirement can be accomplished without guides or conduits for fixed seats. The agency disagrees. The problem addressed in this proposed requirement has been most prevalent with fixed seats. Latchplates and buckles that get lost behind fixed seat cushions are more difficult to retrieve than buckles behind movable seats. While it is true that fixed seats can be designed so that there is little clearance between seat backs and seat cushions, buckles and latchplates can still be forced down behind the seat when a person sits on the seat.

The proposal specified that the belt latchplate and buckle must remain in fixed positions in relation to the seat cushion and vehicle interior. Several manufacturers pointed out that the belt hardware could not remain in a "fixed" position with adjustable seats. The agency agrees that this aspect of the provision was inaccurately stated. The intent of the provision was only to require that the belt hardware pass through guides or conduits to maintain the location of the buckle and latchplate on top of the seat cushion. The provision is modified accordingly in this amendment.

Several manufacturers also objected to the specification for "free standing" buckles and "one-hand" buckling on the basis that the criteria is design restrictive and not stated in objective terms. The agency continues to believe that these provisions would increase the convenience of buckling a seat belt. Nevertheless, after considering the comments, the agency has decided that the specification would be difficult to enforce and may be too design restrictive in some instances. Additionally, a majority of vehicle manufacturers have already begun using stiffeners and other devices to make buckling of belts more simple. If this trend continues, a provision regarding this aspect of belt performance will not be necessary. Therefore, the agency is not including a requirement for "free standing" buckles in the amendment at this time. The agency does urge, however, manufacturers to voluntarily design their belt systems so that buckles are "free standing" or of some other design that facilitates easy buckling by consumers.

Torso Belt Body Contact Pressure (Manual and Automatic Belts)

NHTSA research indicates that occupants are likely to complain about belt pressure if the torso belt net contact force is greater than .7 pound. Therefore, the proposal specified that the torso portion of any belt system shall not create a contact pressure exceeding that of a belt with a total net contact force of .7 pound.

Most manufacturers objected to the belt contact force limitation. Many commenters stated that the agency has not adequately demonstrated that .7 pound of belt webbing force is the optimum upper limit in all seating configurations. In lieu of the proposed limitation, various manufacturers suggested force limitations ranging from 1 pound to 11 pounds. Manufacturers also argued that the .7-pound pressure does not allow for engineering tolerances. Ford stated that its tests using the proposed procedure indicate that test variability amounts to ±.3 pound. Other manufacturers stated that

the proposed force level is so low that it would be difficult to also meet the proposed requirement that belts retract completely when unbuckled by the vehicle occupant, i.e., the retractor forces would have to be too low to meet the "self stow" provisions. Chrysler Corporation and General Motors stated that a more precise test procedure for measuring belt contact force is needed. This comment was echoed by several foreign manufacturers.

The agency does not agree with most of these objections. In a detailed study conducted by Man Factors, Inc., webbing retractor forces were varied in an experimental belt system mounted in a production vehicle. A series of male and female test subjects experienced each force level during on-the-road driving tests and reported whether the pressure felt was satisfactory or too great. That study showed that belt pressure greater than 0.7 pound was unacceptable to more than 60 percent of the test subjects. Therefore, manufacturers' comments that belt pressure should be as high as 1 to 11 pounds have little, if any, credence. Regarding other comments, the study that was conducted to determine maximum tolerable belt pressure was not conducted for a myriad of seating configurations since a given belt pressure will likely be either acceptable or unacceptable to an occupant regardless of the seating configuration. In automobiles that presently meet this pressure requirment, retraction has not been found to be a problem. Their belts retract in compliance with the proposed retraction requirements. The agency believes that comments stating that a test procedure should be included in the standard to measure the belt pressure have merit. Therefore, this amendment specifies a .7-pound maximum pressure limitation and includes a procedure for measuring belt pressure.

Latch Plate Accessibility

As noted in the proposal, one of the most inconvenient aspects of using many current seat belt designs is the difficulty that seated occupants have in reaching back to grasp the belt latchplate when the belt is unbuckled and in its retracted position. The greater the difficulty in reaching the latchplate to buckle the belt, the more likely that belt usage will cease or never begin. Poor accessibility of latchplates results from two main factors: Location of the latchplate beyond the convenient reach of some seated vehicle occupants, and inadequate clearance between the seats and side of the vehicle to allow easy grasping of the latchplate. The proposal specified requirements to define limits on reach distance for latchplates and to prescribe minimum clearances for arm and hand access.

There were several comments from the vehicle manufacturers recommending changes in the proposed specifications. The proposed test procedures for this provision specified that the vehicle seat is to be placed in its forwardmost position when testing for compliance with the reach envelope (the position in which there would presumably be the most problems). Ford Motor Company stated that the requirement should be modified to specify that the seat be located in the mid-track position since a 50th percentile adult would not normally have the seat in the forwardmost position (the proposal specified that a 50th percentile dummy be used to test for compliance with the reach envelope). The NHTSA agrees that some difficulty may be encountered in placing the 50th percentile test dummy in the forwardmost seat adjustment position. If this occurs, there is nothing that would preclude manufacturers from removing the test dummy's legs, since legs are irrelevant to the arm reach envelope. However, the agency believes that the requirement should specify that the seat be in its forwardmost adjustment position since many current latchplates are blocked with the seat in this position although they are not when the seat is in its mid-position. Since a significant number of vehicle occupants will have the seat in the forwardmost position (particularly women), the agency believes that the latchplate should be within easy reach for these occupants or they will be discouraged from wearing the belt system.

One manufacturer stated that it is not clear from the proposal whether the latchplate access specifications would apply to all seats or to just the front outboard seating positions. The requirement applies only to the front outboard seats, and the specification is modified in this amendment to clarify this point. Several commenters stated that the size of the test block used to measure latchplate access should be modified and that the block should be designed to articulate to represent the forearm and wrist of a human being. The agency does not agree with this recommendation. This size of the test block was designed to account for the limitation of the human arm and hand as they would articulate through various openings (in this case, between the seat and vehicle structure). The dimension was based on a detailed study conducted by Man Factors (See DOT-HS-7-01617, December 1978). The agency also believes that the test apparatus would be unnecessarily complicated if specifications were included for articulation. For these reasons, the test block specification and test procedure is unchanged in this notice, except for minor technical changes in the string dimensions and the deletion of one illustration (Figure 3) that was included in the proposal. These minor technical changes are in response to comments and are included for clarification purposes.

Convenience Hooks for Automatic Belts

Some automatic belt designs might include a manual "convenience hook" located, for example, on the dashboard near the A-pillar, which would enable occupants to manually move the belt webbing totally out of the way as they are about to exit the vehicle. These devices would only be permitted as additional equipment since automatic belts must operate automatically, i.e., manual hooks could not be used as the sole means of moving the belt webbing out of the occupant's way. The proposal specified that if manufacturers install such "convenience hooks," the hook must automatically release the belt webbing so that it will deploy around the occupant prior to the vehicle being driven. The proposal specified that the hook would have to automatically release the webbing when

(a) The vehicle ignition switch is moved to the "on" or "start" position.

(b) The vehicle's drive train is engaged.

Manufacturers did not object to the proposed requirements for "convenience hooks," although there were several comments that the provision needs clarification. Jaguar Rover Triumph, Inc. stated that it is not clear from the proposal whether conditions (a) and (b) mentioned in the preceding paragraphs are sequential or alternatives. This notice modifies the language of the requirement to clarify that the "hook" must release the belt webbing when the ignition switch is in the "on" or "start" position *and* the vehicle's drive train is engaged at the same time (i.e., when both condition (a) and (b) exist at the same time). An optional condition "(c)" is added in response to a comment by American Honda Motor Co. to allow vehicles with manual transmissions to have the "hook" release the webbing when the ignition is on *and* the vehicle's parking brake is released at the same time.

Belt Retraction

Many persons find seat belts inconvenient because the belt webbing will not retract completely to its stowed

position when the system is unbuckled, so that the webbing is an obstacle when the occupant is trying to exist the vehicle. Therefore, the proposal included a specification to ensure that belts do retract completely and automatically when they are unbuckled. While there were no serious objections to the proposed requirement, several manufacturers requested changes in the test procedures. For example, it was requested that manufacturers be allowed to remove the arms on the test dummy during the compliance test since the belt webbing can get hung-up on the dummy's arms while retracting. The agency believes that this suggestion has merit since a human occupant can move his arm out of the way when a seat belt is retracting and that flexibility cannot be incorporated in the test dummies currently available. Manufacturers also requested that the test be conducted with the vehicle door open, since some systems are designed to automatically retract when the door latch is released (i.e., the retraction force is stronger in this mode). The agency agrees with this suggestion also, and it is incorporated in this notice.

Automatic Locking Retractors

Seat belts incorporating automatic locking retractors (ALR's) in the lap belt portion of the system have been identified as a major item of complaint by vehicle occupants because of the feature's discomfort and inconvenience. Many vehicle occupants report that belts incorporating the ALR's tighten excessively under normal driving conditions, making it necessary to unbuckle and refasten the lap belt to relieve pressure on the pelvis and abdomen. This discomfort causes many persons to stop using their belts.

Belt systems having ALR's have also been found very inconvenient to use, particularly if the ALR is incorporated as part of the latchplate assembly. During the process of putting the belt on, the occupant must extend the belt in a single continuous movement to a length sufficient to allow buckling. Otherwise, the retractor locks before sufficient webbing has been withdrawn to accomplish buckling, and the belt has to be fully retracted before the occupant can repeat the donning process. Many persons have found this characteristic of ALR's extremely irritating and consequently have avoided use of the belt. In addition, ALR's inhibit the driver's normal movement to pay tolls, reach the glove compartment, etc. With emergency locking retractors (ELR's) instead of automatic locking retractors, these problems would be alleviated.

Safety Standard No. 208 currently requires lap belts at outboard seating positions to be equipped with either automatic locking retractors or emergency locking retractors, in order to assure that belts are sufficiently tightened to be effective during a crash. However, this effectiveness feature can be achieved by ELR's without the concomitant discomfort and inconvenience associated with ALR's. Therefore, the proposal sought to eliminate ALR's as an alternative in the standard for front outboard designated seating positions.

The proposal also specified that emergency locking retractors for the lap belt portion of the belt system at the front outboard passenger's position shall be equipped with a manual locking device so that child restraint systems can be properly secured. Since emergency locking retractors allow some movement when the belt is fastened, the agency and some child safety experts were concerned that the child restraint system could slide out of position prior to a crash if the retractor cannot be manually locked.

Few manufacturers objected to the requirement that lap belts at front outboard designated seating positions be equipped with emergency locking retractors. However, nearly all manufacturers objected to the requirement that these emergency locking retractors be equipped with a manual locking device for securing child restraint systems. Ford Motor Company stated that the manual lock requirement is design restrictive and will preclude the installation of continuous loop manual belts and certain three-point automatic belts. Also, Ford stated that the proposed requirement is inconsistent with another proposal precluding any device that allows the introduction of slack in a belt system (e.g., comfort devices). Ford argued that the manual lock could be used to introduce excessive slack in the belt when worn by an adult. Toyota Motor Company stated that an emergency locking retractor is definitely superior to an automatic locking retractor from the standpoint of comfort and convenience. Toyota argued, however, that its tests with the GM child seat (braking, fast cornering, driving on rough roads) have demonstrated that the performance of emergency locking retractors in restraining this child seat is satisfactory without a manual locking device.

The Motor Vehicle Manufacturers Association pointed out that the Economic Commission of Europe (which sets international motor vehicle safety standards) does not even permit manual locking devices on emergency locking retractors. Volkswagen of America stated that the proposed requirement would impair the operation of these belts by allowing too much slack in the system, and argued that parents should be encouraged to place their child restraints in rear seating positions that have automatic locking retractors. General Motors argued that the agency's data is totally inconclusive in demonstrating that emergency locking retractors without locking devices cannot adequately secure child restraint systems. General Motors cited its own tests which it states demonstrated child restraints are adequately secured with emergency locking retractors. Finally, several manufacturers stated that the manual locking devices could pose a hazard in emergency situations if the emergency locking retractor is located on the vehicle door. These commenters pointed out that the vehicle door would be impossible to open from the outside if the retractor is locked.

After considering these comments, the agency has decided that while emergency locking retractors should be required for lap belts at front outboard designated seating positions, these retractors should not be required to have manual locking devices. The agency believes that the points raised in the comments represent legitimate concerns. Further, agency tests conducted after the issuance of the proposal indicate that there may not be a substantial problem with type 2 belts incorporating emergency locking retractors restraining child seats. However, the agency is planning to conduct further research regarding the use of type one belts with ELR's to secure child restraints. Additionally, the agency recently issued a proposal to amend Safety Standard No. 210, *Seat Belt Anchorages*, to require that lap belt anchorages be present at front outboard seating passenger positions that are not equipped with lap belts (e.g., vehicles equipped with a two-point, single diagonal automatic belt). Therefore, if that proposal is adopted, parents wishing to place child seats in front seating positions in the affected vehicles can purchase a lap belt having an automatic locking retractor or a manual webbing adjusting device. In light of these considerations, and the cost of installing manual locking devices on emergency locking retractors, the manual locking device of the proposal is not adopted.

The proposal also included a provision to allow manual adjustment devices on seat belt assemblies in rear seating positions that have emergency

locking retractors. Although automatic locking retractors are allowed in rear seating positions, some manufacturers are currently installing emergency locking retractors. These manufacturers have requested that manual webbing adjustment devices be allowed on these belt systems, specifically for facilitating the securement of child restraint systems. Nearly all commenters agreed with this provision and it is included in this amendment.

In summary, although manual locking devices are not being required on emergency locking retractors in front seating positions, these devices or manual webbing adjustment devices are being allowed in rear seating positions. The manual webbing adjustment device would not be permitted in front seating positions, but manufacturers would be permitted to voluntarily install manual locking devices on belts in front seating positions.

Devices That Introduce Slack in Belt Webbing

Some current seat belt designs include devices that are intended to relieve shoulder belt pressure. These "comfort clips," "window-shade" devices, or other tension-relieving devices can reduce the effectiveness of belts in crash situations if the occupant uses the device to put excessive slack in the belt webbing, i.e., so that the belt is not snugly against the occupant. Therefore, the proposal included a provision to prohibit any device, either manual or automatic, that would permit the introduction of slack in the upper torso restraint. The proposal stated that such devices would not be necessary to relieve the discomfort caused by excessive belt pressure since the proposal also included a limitation on belt pressure.

Several manufacturers objected to an outright ban on tension relieving devices. The American Seat Belt Council stated that an appropriate performance requirement should be developed that will allow a small, controlled amount of slack in belt systems. General Motors stated that its tension-relieving devices allow some slack but that this slack could not be introduced inadvertently. General Motors argued that such devices should be allowed provided the slack is cancelled when the vehicle door is opened, i.e., so that there is no slack at all when an occupant uses the belt on a subsequent occasion. The commenters argued that some persons do not like any belt pressure at all, not even the .7 pounds that would be the maximum allowed under the proposed belt pressure provisions.

The agency believes there is some merit to these arguments, particularly in regard to automatic belt systems that are required to comply with the injury criteria of Safety Standard No. 208. Therefore, tension-relieving devices are not prohibited in this amendment in automatic belt systems provided the belt system can comply with the injury criteria of the standard with the belt placed in any position to which it can be adjusted. This means that if six inches of slack can be introduced in the automatic belt system by means of the tension-relieving device, the belt must be able to comply with the injury criteria with the belt webbing in that position. Since manual seat belt systems are not required to comply with the injury criteria of the standard generally, they would also not be required to comply just because they include tension-relieving devices. The agency does urge manufacturers to voluntarily limit the amount of slack that can be introduced in their manual belt systems, however.

Seat Belt Warning System

The proposal included a provision for a new sequential seat belt warning system in all motor vehicles which are not passenger cars and which have a gross vehicle weight rating of 10,000 pounds or less.

Safety Standard No. 208 currently requires a visual and audible warning system to remind vehicle occupants to fasten their manual safety belts. The present standard requires a warning system which activates, for a period of 4 to 8 seconds, a reminder light each time the vehicle ignition is operated, and an audible warning if the driver's lap belt is not in use. Studies of manual seat belt usage in passenger vehicles have shown that a sequential logic system which incorporates a visible reminder light of continuous duration and a 4- to 8-second audible warning could produce usage rates significantly greater than those obtained with the warning systems currently required. The sequential logic warning system activates unless buckling of a person's belt occurred after the person sat down in his seat. Under the current 208 requirement, the warning system can be permanently defeated if the belt is buckled and pushed behind the seat cushion and left there during subsequent occasions on which the vehicle is used.

Only the American Seat Belt Council supported the requirement for a sequential warning system. The vehicle manufacturers uniformly objected to the requirement, stating that such a system would cost $25 to $35 per vehicle (this is much higher than the agency's estimated cost figure). Also, manufacturers disputed the agency's data and argued that there is no documentation demonstrating that a sequential warning system will substantially increase belt use in vehicles other than passenger cars.

The agency agrees that the data relied upon in the proposal dealt primarily with sequential warning systems in passenger cars (The Phoenix Study, DOT-HS-801-953). There is no conclusive evidence that such a system would also improve seat belt use in light trucks and vans to a comparable degree. Although the agency is convinced that an effective warning system similar to or like that proposed would result in some increased seat belt use in these other vehicles, the agency has concluded that manufacturers should be allowed to voluntarily install such systems under an implementation schedule suited to particular vehicle models in order to minimize costs. Therefore, the proposed requirement is not included in this amendment. Specifications for a sequential warning system will, however, be included in the voluntary performance guidelines that will be issued in the near future, however, for the benefit of manufacturers that are interested in such a system.

The proposal also included a specification for warning systems for automatic seat belts, to ensure that motorized systems are locked into place before the vehicle begins moving. If for some reason the motorized belt has not returned and locked into its protective mode, the occupant would be alerted by the continuous light and by a 4- to 8-second audible warning. Although several manufacturers objected to this requirement, again primarily because of cost, the agency believes such a requirement is essential for motorized automatic belt systems. It is therefore included in this amendment.

The proposal also included an illustration chart specifying the weights and dimensions of various human body sizes (e.g., 5th percentile female). The comments to the proposal indicated that some persons were confused about inclusion of the chart. Some commenters interpreted the figures in the chart to represent a change in the Part 572 dummy dimension. The chart was included in the proposal to be republished in the standard since it had been inadvertently deleted by the *Code of Federal Regulations* some time ago. The chart, however, was not intended to make any changes in the Part 572 test dummy.

In order to give manufacturers sufficient lead time to implement the

changes required by this notice, and to minimize the cost of such changes, the effective date of this amendment is September 1, 1982.

Note.—The agency has determined that this amendment does not qualify as a significant regulation under Executive Order 12221, "Improving Government Regulations", and the Departmental guidelines implementing that order. Therefore, a regulatory analysis is not required. A regulatory evaluation concerning the amendment has been prepared and placed in the public docket under the docket number and notice number of this Federal Register notice.

In consideration of the foregoing, Safety Standard No. 208, *Occupant Crash Protection* (49 CFR 571.208), is amended as set forth below.

§ 571.208 [Amended]

1. In section S7.1, new paragraphs "S7.1.1.3" and "S7.1.1.4" are added to read:

S7.1.1.3 A lap belt installed at any front outboard designated seating position in a vehicle manufactured on or after Setember 1, 1982, shall meet the requirements of this section by means of an emergency-locking retractor that conforms to Standard No. 209.

S7.1.1.4 Notwithstanding the other provisions of S7.1–S7.1.1.3, emergency-locking retractors on belt assemblies located in positions other than front outboard designated seating postions may be equipped with a manual webbing adjustment device capable of causing the retractor that adjusts the lap belt to lock when the belt is buckled.

2. A new section, "S7.4" is added to read as follows:

S7.4 *Seat belt comfort and convenience.* (a) Automatic seat belts installed in any vehicle with a GVWR of 10,000 pounds or less manufactured on or after September 1, 1982, shall meet the requirements of S7.4.1, S7.4.2, and S7.4.3.

(b) Manual seat belts, other than manual Type 2 belts in front seating positions in passenger cars, installed in any vehicle with a GVWR of 10,000 pounds or less manufactured on or after September 1, 1982, shall meet the requirements of S7.4.3, S7.4.4, S7.4.5, and S7.4.6.

S7.4.1 *Convenience hooks.* Any manual convenience hook or other device that is provided to stow seat belt webbing to facilitate entering and exiting the vehicle shall automatically release the webbing and shall remain in the released mode for as long as (a) exists simultaneously with (b), at the manufacturer's option where applicable, or for as long as (a) exists simultaneously with (c)—

(a) The vehicle ignition switch is moved to the "on" or "start" position;

(b) The vehicle's drive train is engaged;

(c) In the case of manual transmission vehicles, the vehicle's parking brake is in the released mode (not engaged).

S7.4.2 *Webbing tension-relieving device.* Any automatic seat belt assembly that includes either manual or automatic devices that permit the introduction of slack in the webbing of the upper torso restraint (e.g., "comfort clips" or "window-shade" devices) shall comply with the injury criteria of S5 of this standard with the belt webbing in any position to which it can be adjusted. Any belt slack that can be introduced into the belt system by means of any tension-relieving device or design shall be cancelled each time the adjacent vehicle door is opened.

S7.4.3 *Belt Contact Force.* When tested in accordance with S10.6, the upper torso webbing of any seat belt assembly shall not exert more than 0.7 pounds of contact force when measured normal to and one inch from the chest of an anthropomorphic test dummy, positioned in accordance with S8.1.11 in the seating position for which that assembly is provided, at the point where the centerline of the torso belt crosses the midsagittal line on the dummy's chest.

S7.4.4 *Latchplate Access.* The latchplate of any seat belt assembly shall be located within the outboard reach envelope of either the outboard arm or the inboard arm described in S10.5 and Figure 3 of this standard. There shall be sufficient clearance between the vehicle seat and the side of the vehicle interior to allow unhindered transit of the test block defined in Figure 4 of this standard to the latchplate or buckle.

S7.4.5 *Retraction.* When tested under the conditions of S8.1.2 and S8.1.3, with anthropomorphic test dummies whose arms have been removed positioned in the front outboard designated seating positions in accordance with S8.1.11, and restrained by the belt systems for those positions, the torso and lap belt webbing of any of those seat belt systems shall automatically retract to their completely stowed position when the latchplate is released from the buckle and the adjacent vehicle door is in the open position.

S7.4.6 *Seat Belt Guides and Hardware.*

S7.4.6.1 Except for rear seats that tumble, the webbing of a manual seat belt assembly that is designed to pass through the seat cushion or between the seat cushion and seat back shall pass either through guide openings in the surface of the seat cushion or through flexible conduits between the seat cushion and seat back to maintain the location of the seat belt latchplate and buckle on the seat cushion.

S7.4.6.2 The buckle and latchplate of a manual seat belt assembly subject to S7.4.6.1 shall not pass through the guides or conduits provided for in S7.4.6.1 and fall behind the seat when the events listed below occur in the order specified: (a) the belt is completely retracted or, if the belt is nonretractable, the belt is unlatched; (b) the seat is moved to any position to which it is designed to be adjusted; and (c) the seat back, if foldable, is folded forward as far as possible and then moved backward into position. The inboard receptacle end of a seat belt assembly installed at a front outboard designated seating position shall be accessible with the center arm rest in any position to which it can be adjusted (without having to move the armrest).

3. S4.5.3(b) is amended to delete the parenthetical number "(1)" (since there is no numeral "2" in this paragraph); to change the phrase in the first sentence "at the front designated seating position," to "at the left front outboard designated seating positions"; to change the phrase, "with condition (B)," in the last sentence to read "with either condition (B) or condition (C)"; and to add a new subparagraph "(C)" to read as follows:

(C) The belt webbing of a motorized automatic belt system is not in its locked, protective mode at the anchorage point.

(4) A new paragraph S10.5 is added to read as follows:

S10.5 The reach envelopes specified in S7.4.7 are obtained by positioning an anthropomorphic test dummy in the driver's seat or passenger's seat in its forwardmost adjustment position. Attach the lines for the inboard and outboard arms to the test dummy as described in Figure 3 of this standard. Extend each line backward and outboard to generate the compliance arcs of the outboard reach envelopes of the test dummy's arms.

5. A new paragraph S10.6 is added to read as follows:

S10.6 To determine compliance with S7.4.3 of this standard, position the anthropomorphic test dummy in the vehicle in accordance with S8.1.11 and under the conditions of S8.1.2 and S8.1.3. Pull the belt webbing three inches from the dummy's chest and release until the webbing is within 1 inch of the dummy's chest and measure belt pressure.

6. The term "passive belt[s]" would be amended to read "automatic belt[s]", wherever it appears in the standard.

7. S8.1.8 would be amended to read as follows: "Anthropomorphic test devices used for the evaluation of restraint systems manufactured pursuant to applicable portions of sections S4.1.2 and S4.1.3 shall conform to the requirements of Subpart B of Part 572 of this title for a 50th percentile adult male dummy.

8. The weights and dimensions of the vehicle occupants referred to in this standard and specified in S7.1.3 would be modified to read as follows:

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

Issued on December 31, 1980.

Joan Claybrook,

Administrator.

BILLING CODE 4910-59-M

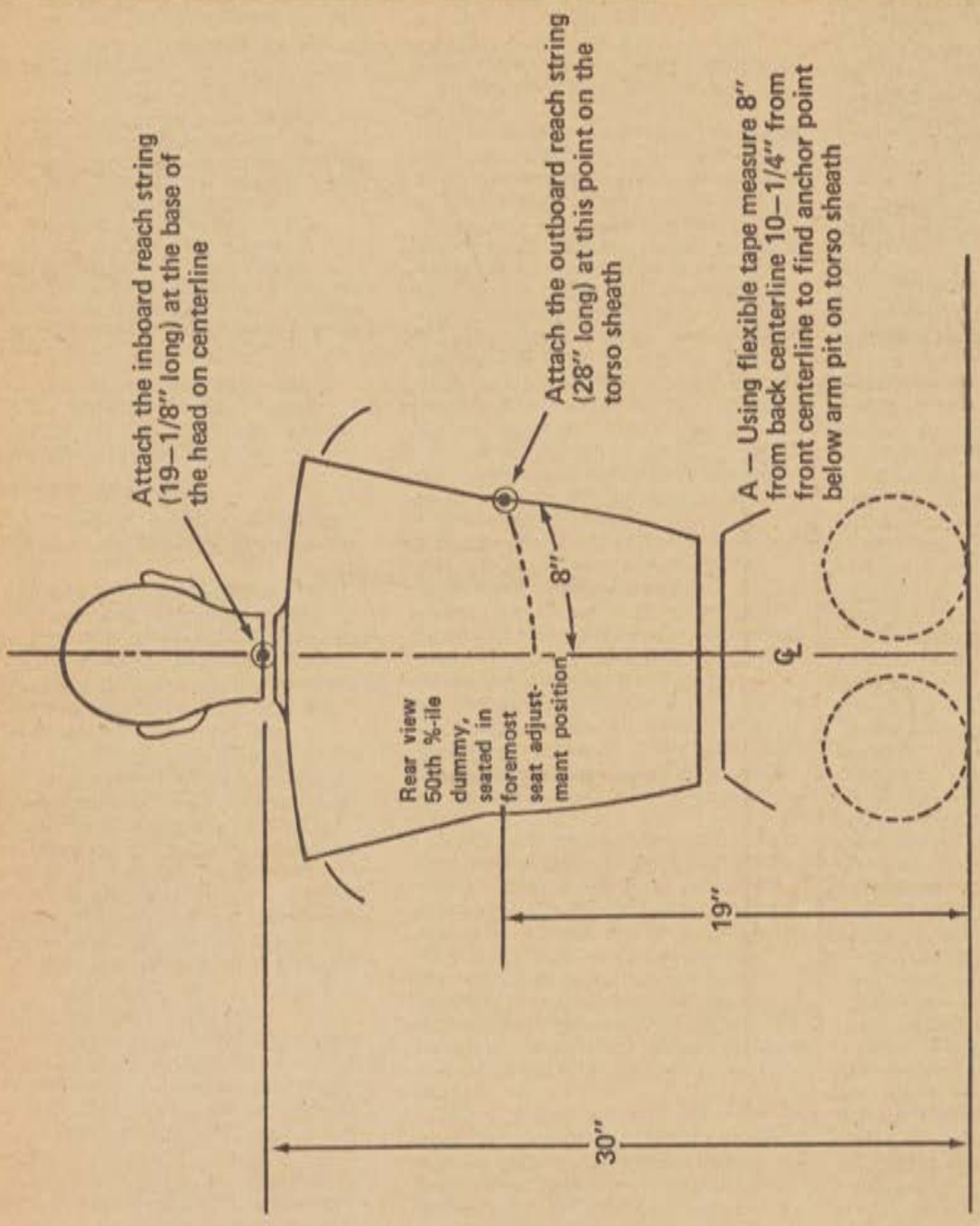


Figure 3 – Location of Anchoring Points for Latchplate Reach Limiting Chains or Strings to Test for Latchplate Accessibility

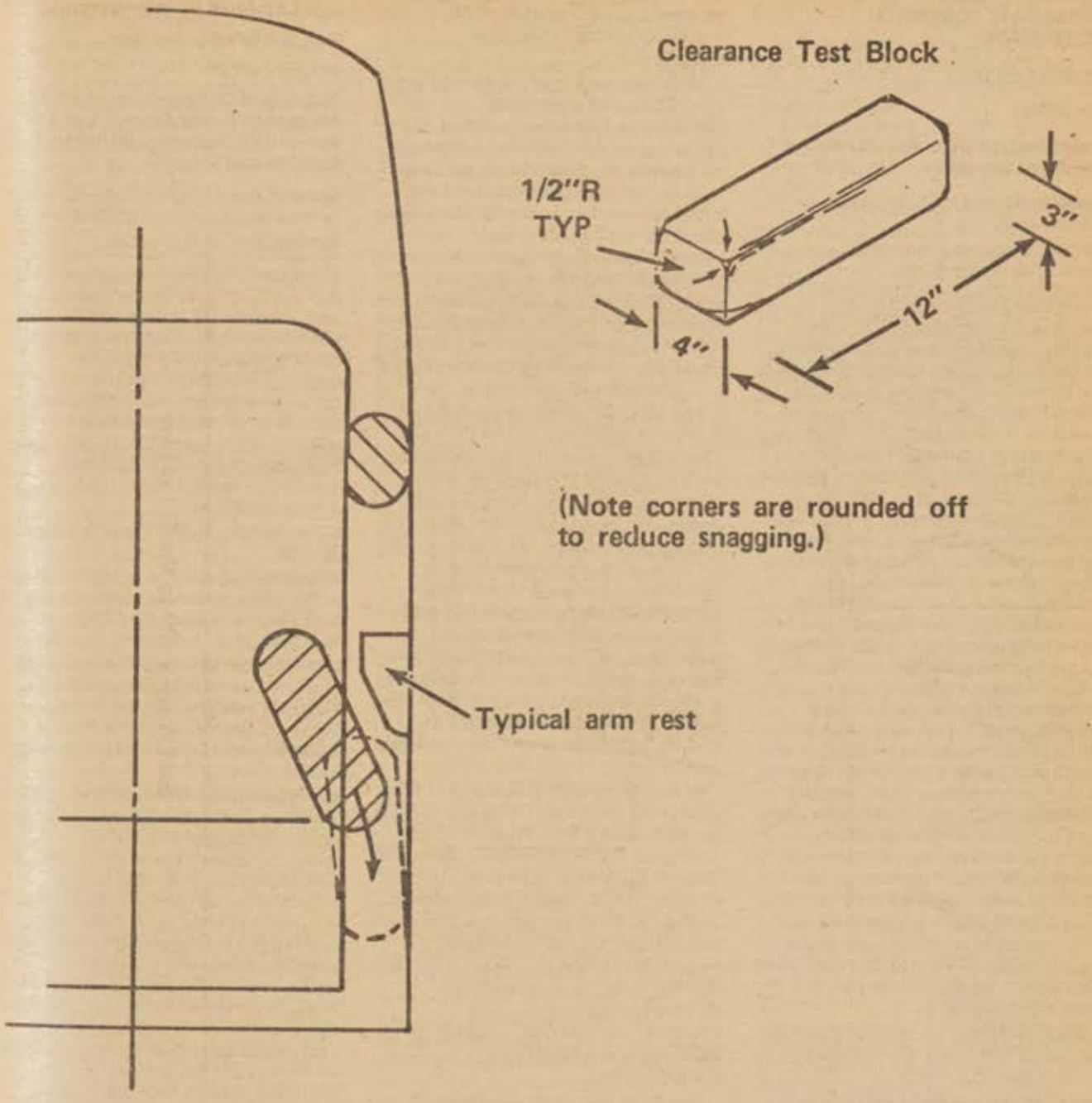


Figure 4 — Use of Clearance Test Block to Determine Hand/Arm Access

[FR Doc. 80-40846 Filed 12-31-80; 2:45 pm]
BILLING CODE 4910-59-C

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1207

[No. 37586]

Definition of Carrier Net Income for Dividend Purposes

AGENCY: Interstate Commerce Commission.

ACTION: Temporary waiver of accounting requirement.

SUMMARY: The Commission has previously announced that it will comply with the accounting treatment for carrier operating rights prescribed by the Financial Accounting Standards Board (FASB). The FASB voted on an Exposure Draft on October 8, 1980, which would require motor carriers to write-off the value of operating rights as an extraordinary item in 1980. As a result of this revised accounting policy, the Commission has redefined "carrier net income" for purposes of calculating allowable carrier dividends.

Certain carriers are limited in the amounts of dividends they can pay as a result of dividend restrictions imposed by the Commission. These dividend restrictions are expressed as a percentage of carrier net income. Because the non-cash charge for the write-off of carrier operating rights will significantly reduce carrier net income in 1980 and thereby severely restrict allowable dividends for certain carriers, the Commission will exclude this particular extraordinary item from the definition of carrier net income for dividend purposes only in 1980.

DATES: Comments: Carriers have until February 23, 1981 to comment on the requirements of this rule. Effective date: This waiver is effective for the accounting year 1980.

ADDRESS: Director, Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Bryan Brown, Jr., Area Code: 202–275–7448.

SUPPLEMENTARY INFORMATION: The Commission has imposed dividend restrictions, as appear in Part 1207, on certain motor carriers in the past. These dividend restrictions have been imposed as a result of improper dividend payments between carriers and holding companies, over capitalization, poor financial condition, and violations of the Interstate Commerce Act. In each case, the Commission has restricted dividend payments to a percentage of carrier net income as prescribed by the Commission.

With the passage of the Motor Carrier Act of 1980 and other recent Commission decisions, the value of carrier operating rights has diminished. As a result, the Commission concurs with the October 8, 1980, vote of the FASB that motor carrier operating rights should be written-off as an extraordinary charge against net income in 1980. Because the carrying value of operating rights is usually material, this accounting treatment will significantly reduce net income and thereby limit allowable dividends by carriers subject to Commission dividend restrictions.

The write-off of carrier operating rights will result in a non-cash charge against net income. It is the opinion of the Commission that this non-cash charge against net income should not be included in the calculation of allowable dividends. Therefore, the term "carrier net income" as prescribed by the Commission and used to determine allowable dividends by carriers subject to Commission-imposed dividend restrictions, will be redefined for 1980. The revised definition will exclude the write-off of carrier operating rights. This revised definition is not meant to exclude any other type of extraordinary item.

In reviewing the implications of this accounting treatment on certain carriers, the Commission noted that the conditions and or circumstances leading to the imposition of certain carrier dividend restrictions no longer existed. Therefore, the Commission recommends that carriers subject to dividend restrictions review the circumstances leading to the imposition of their dividend restriction and, if circumstances warrant, consider the submission of a petition of reconsideration.

This final rule does not appear to significantly affect the quality of the human environment or energy conservation.

This rule is issued under the authority of 49 U.S.C. 11142.

Decided: December 17, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-423 Filed 1-7-81; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 26

Opening of Certain National Wildlife Refuges to Public Access, Use and Recreation; Delaware, Maryland, North Carolina and Virginia

AGENCY: United States Fish and Wildlife Service, Department of the Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to public access, use and recreation of certain national wildlife refuges in Delaware, Maryland, North Carolina and Virginia is compatible with the objectives for which the areas were established and will provide additional recreational opportunity to the public through a non-consumptive use. This document establishes special regulations governing this use.

DATE: January 1, 1981 through December 31, 1983.

ADDRESS: Contact the Refuge Manager at the address and/or telephone number listed below in the body of Special Regulations.

FOR FURTHER INFORMATION CONTACT: Howard N. Larsen, Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158 (617–965–5100 Ext. 200).

SUPPLEMENTARY INFORMATION: Public access, use and recreation is permitted on the national wildlife refuges indicated below in accordance with 50 CFR 26 and the following Special Regulations. Portions of refuges which are open to public access, use and recreation are designated by signs and/or shown on maps available from addresses indicated below. No vehicle travel is permitted except on designated roads and trails. Special regulations applying to individual refuges are listed on leaflets available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was

established and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

Public entry shall be in accordance with all applicable Federal and State laws and regulations subject to the following special regulations:

§ 26.34 Special regulations; public access, use and recreation; for individual wildlife refuge areas.

Public access, use and recreation is permitted on the following areas: Mason Neck National Wildlife Refuge, 9502 Richmond Highway, Suite A, Lorton, Virginia 22079. Contact Domenic Ciccone, Refuge Manager, at 703–339–5278. Special Conditions: Entry into the refuge is permitted during daylight hours for the purposes of nature study, photography and sightseeing from April 1 through November 30 only. Woodmarsh Trail is open for foot travel only. Advance appointments for environmental education trips must be made with the refuge manager. Pets are permitted only if they are confined or kept on a leash not over 10 feet in length, one end of which is secured so as to restrict the movements of the animal.

Great Dismal Swamp National Wildlife Refuge, 680 B Carolina Road, Suffolk, Virginia 23434. Contact Ralph Keel, Refuge Manager, at 804–539–7479. Special Conditions: Entry to the refuge is permitted from sunrise to sunset for the purpose of nature study, photography, hiking, and sightseeing subject to the following restrictions. Travel by bicycle or foot is permitted on established roads within the refuge. Boat access is permitted by way of navigable waters connecting Lake Drummond with the intracoastal waterway known as the Dismal Swamp Canal. Access by registered motor vehicle within the refuge is by special use permit. Pets are permitted only if they are on a leash over 10 feet in length, one end of which is secured so as to restrict the movements of the animal.

Presquile National Wildlife Refuge, Box 620, Hopewell, Virginia 23860. Contact Harold Olson, Refuge Manager, at 804–458–7541. Special Conditions: Entry by foot is permitted for the purposes of wildlife trail use, nature study, wildlife observation, and photography between the hours of 7:30 a.m. and 4:00 p.m., Monday through Friday, except holidays. Access is gained by Government-owned and operated ferry. Individuals and organized groups wishing to visit the refuge should contact the refuge manager in advance.

Bombay Hook National Wildlife Refuge, RD 1, Box 147, Smyrna, Delaware 19977. Contact Don Perkuchin, Refuge Manager, at 302–653–9345. Prime Hook National Wildlife Refuge, RD 1, Box 195, Milton, DE 19968. Contact George O'Shea, Assistant Refuge Manager, at 302–684–8419. Special Conditions for Bombay Hook and Prime Hook: Entry by motor vehicle, bicycle or on foot is permitted from sunrise to sunset on designated routes for the purpose of nature study, photography, hiking, and sight-seeing. Pets are permitted if on a leash not over 10 feet in length, one end of which is secured so as to restrict the movements of the animal.

Blackwater National Wildlife Refuge, Route 1, Box 121, Cambridge, Maryland 21613. Contact John Schroer at 301–228–2677. Special Conditions: Entry by foot or motor vehicle is permitted during daylight hours on designated routes for the purposes of nature study, photography, hiking and sight-seeing. Bicycles are permitted on a designated portion of the auto drive. Visitors must remain in their vehicles while on the auto drive. Motorcycles or mopeds with motor in operation are not permitted on the auto drive or on other trails designated for foot or bicyle use. The use of mopeds or motorized bicycles shall be governed as follows: as a bicycle when motor is not in operation; as a motorcycle when motor is in operation. Pets are permitted in designated parking areas only if they are on a leash not over 10 feet in length, one end of which is secured so as to restrict the movements of the animal.

Eastern Neck National Wildlife Refuge, Route 2, Box 225, Rock Hall, Maryland 21661. Contact Phillip Feiger, Refuge Manager, at 301–639–7415. Special Conditions: Entry into and travel on the Eastern Neck National Wildlife Refuge is permitted year-round during daylight hours for photography, hiking, nature study, bicycling, and for access to public waters for fin fishing, shellfishing, and crabbing on areas designated by signs as open.

1. Bicycles and registered motor vehicles are permitted only on designated roads and parking areas. Parking and leaving vehicles unattended along refuge roads is not permitted.

2. Designated nature trails, boardwalks and recreation sites are closed during refuge deer hunts for safety purposes.

3. Boat access is permitted year-round at Bogle's Wharf for commercial and sport fin fishing, shellfishing, and crabbing.

4. The Ingleside Recreation Area and associated picnicking and boat launching sites are open from May 1 through September 30 each year.

5. Pets are not permitted out of cars except in designated parking areas where they must be on a leash not exceeding 10 feet in length, one end of which is secured so as to restrict the movements of the animal.

6. Camping on the refuge is specifically prohibited.

7. During the period May 1 through September 30, each year, the following activities are not permitted in an area delineated by posting at Eastern Neck Narrows: stopping or parking vehicles; standing on or fishing and crabbing from the roadside or shoreline; launching or removing boats.

Mackay Island National Wildlife Refuge, Pembroke Office Park, Pembroke Two Building, Suite 218, Virginia Beach, Virginia 23462. Contact Glen Bond, Refuge Manager, at 804–490–0505. Special Conditions: Entry to Great Marsh Nature Trail permitted year-round during daylight hours. Entry to other portions of the refuge on designated travel routes, including the landing of boats on designated portions of the refuge, is permitted during daylight hours from March 15 through October 15 for the purposes of nature study, photography, hiking and bicycling. No motorized vehicles are permitted on Mackay Island Road beyond the gate located 1.6 miles west of State Route 615. All waters within the refuge boundary are closed during the period October 16 through March 14. Boats may be launched from the Knotts Island Causeway at Corey's Ditch Bridge throughout the year. Boat launching at other points on the Causeway is permitted only from March 15 through October 15. Airboats are not permitted. Pets are permitted only if they are on a leash not over 10 feet in length, one end of which is secured so as to restrict the movement of the animal.

The provisions of this special regulation supplement the regulations which govern public access, use and recreation on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 26. The public is invited to offer suggestions and comments at any time.

Note.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Dated: December 29, 1980.

Howard N. Larsen,

Regional Director, U.S. Fish and Wildlife Service.

[FR Doc. 81-463 Filed 1-7-81; 8:45 am]

BILLING CODE 4310-55-M

---

50 CFR Part 33

Opening of Certain National Wildlife Refuges to Sport Fishing; Delaware, Maryland, Virginia, and North Carolina

AGENCY: United States Fish and Wildlife Service, Department of the Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to sport fishing of certain National Wildlife Refuges in Delaware, Maryland, Virginia and North Carolina is compatible with the objectives for which the areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: January 1, 1981 through December 31, 1981.

ADDRESSES: Contact the Refuge Manager at the address and/or telephone number listed below in the body of Special Regulations.

FOR FURTHER INFORMATION CONTACT: Howard N. Larsen, Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158 (617–965–5100 Ext. 200).

SUPPLEMENTARY INFORMATION: Sport fishing is permitted on the National Wildlife Refuges indicated below in accordance with 50 CFR 33 and the following Special Regulations. Portions of refuges which are open to sport fishing are designated by signs and/or shown on maps available from the addresses indicated below and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

Sport fishing shall be in accordance with all applicable State and Federal regulations subject to the following special conditions:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Sport fishing is permitted on the following areas: Chincoteague National Wildlife Refuge, Box 62, Chincoteague, Virginia 23336. Contact Dennis Holland, Refuge Manager, at 804–336–6122. Special conditions: Sport fishing, crabbing, and clamming (shellfishing) is permitted on areas designated by signs as open. Open areas: (a) Surf fishing—the entire beach including Tom's Cove is open except as posted; (b) Other fishing is permitted from banks of impoundments and saltwater areas adjacent to the beach access road in the area known as Swan Cove and Tom's Cove and from other portions of the refuge including bay side waters as posted; (c) Shellfishing (clams, oysters, mussels, whelks, etc.)—the area between high and low tide marks in Tom's Cove, except as posted closed; (d) Crabbing—from the banks of impoundments and saltwater areas adjacent to the beach access road in the area known as Swan Cove and Tom's Cove and from other areas including bay side waters as posted. Commercial fishing operations or methods are not permitted. A permit is required for fishing from 10:00 PM to 4:00 AM during the period April 1 through November 30 and from one-half hour after sunset to one-half hour before sunrise during the period December 1 through March 31. At least one member of the fishing party must be actively engaged in fishing at all times. Open fires and sleeping are not permitted. No permit is required at other times.

Blackwater National Wildlife Refuge, RFD #1, Box 121, Cambridge, Maryland 21613. Contact John Schroer, Refuge Manager, at 301–228–2677. Special conditions: Sport fishing and crabbing is permitted during daylight hours on areas designated by signs from April 15 through October 15, 1981. Boat launching from refuge lands is not permitted. The use of airboats is prohibited. All fish and crab lines must be attended. No set tackle may be used.

Mackay Island National Wildlife Refuge, Knotts Island, North Carolina, under administration of Back Bay National Wildlife Refuge, Pembroke #2 Building, South 218, 287 Pembroke Office Park, Virginia Beach, Virginia 23462. Contact Glen Bond, Refuge Manager, at 804–490–0505. Special conditions: Sport fishing is permitted during daylight hours on the areas designated by signs as open. Corey's Ditch and the canal adjacent to the Knotts Island Causeway are open year round to bank fishing only. Other waters within the refuge boundary and designated roads are open from March 15 through October 15. All fishing lines must be attended. Trot lines are not permitted. Airboats are prohibited.

Dismal Swamp National Wildlife Refuge, 680B Carolina Road, Suffolk, Virginia 23434. Contact Ralph Keel, Refuge Manager, at 804–539–7479. Special conditions: Boat fishing is permitted during daylight hours in Lake Drummond. Public access is limited to boats entering Lake Drummond from the Feeder Ditch on the east side of the lake. Bank fishing is prohibited. Commercial fishing operations or methods are not permitted. Fishing will be with hand held line or rod and reel.

Prime Hook National Wildlife Refuge, R.D. #1, Box 195, Milton, Delaware 19968. Contact George O'Shea, Assistant Refuge Manager at 302–684–8419. Special conditions: Pond fishing in boats propelled manually or by electric motor are permitted on Fleetwood or Turkle Ponds. Those portions of these ponds having wood duck nesting boxes are closed to public entry from March 1 through June 30, 1981. Boats may be launched from designated access points, or public roads. Bank fishing and crabbing is permitted only at designated access points and public road rights-of-way.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in title 50, Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

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.

Howard N. Larsen,

Regional Director, U.S. Fish and Wildlife Service.

December 29, 1980.

[FR Doc. 81-600 Filed 1-7-81; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

Foreign Fishing Fees; Fishery Conservation Zone

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/ Commerce.

ACTION: Final rules.

SUMMARY: NOAA revises the poundage fee schedule for foreign fishing in the fishery conservation zone (FCZ). These fees are consistent with the requirements of the American Fisheries Promotion Act of 1980 (Title II of Pub. L. 96-561). Most of the poundage fees are double the 1980 fees.

EFFECTIVE DATE: January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Denton R. Moore, Chief, F/CM7, Permits and Regulations Division, National Marine Fisheries Service, Washington, D.C. 20035, (202) 634-7432.

SUPPLEMENTARY INFORMATION: On November 13, 1980, the proposed fee schedule and various procedural amendments were published in the Federal Register (45 FR 74948). Public comments were accepted until December 15, 1980. A public hearing was held in Washington, D.C. on December 8, 1980.

The procedural amendments elicited little public comment. The final rulemaking on the fee collection procedures, effort plan format, and surcharge required under the Fishermen's Protective Act of 1967, as amended, were filed at the Federal Register on December 22, 1980.

There were numerous comments on the proposed poundage fees. Several changes in the schedule were made in response to those comments. The comments, including oral statements made at the hearing, may be grouped under five general headings. Each, with the NOAA response, appears below:

1. *Doubling or greatly increasing the fees is neither reasonable nor justified.* NOAA Response: The proposed schedule anticipated the enrollment of the American Fisheries Promotion Act (AFPA) (Title II of Pub. L. 96-561). Section 204(b)(10) of the FCMA, as amended by the AFPA, now requires NOAA to assess fees so that the receipts for 1981 are at least 7 percent of the exvessel value of the total foreign harvest in 1979, or $22.8 million.

Some commenters argued that the proposed fees would yield sums far in excess of the minimum. However, their arguments ignores fees refunded for uncaught allocations (25-30 percent of the total fish allocated). NOAA believes this fee schedule will yield approximately $25 million if current foreign fishing patterns are continued into 1981. However, unexpected changes in fishing patterns may result in receipts under $25 million.

2. *A uniform percentage rate should be applied to exvessel values to avoid the appearance of arbitrary selection of rates.* NOAA Response: The proposed schedule applied rates ranging from 1.9 to 11 percent. In the final schedule, only three rates are used, 3.5, 7, or 10 percent. The rate of 7 percent is applied to most species. The 3.5 percentage rate is used for species when 7 percent might prevent the optimum yields from being achieved or violate certain provisions in the Governing International Fishery Agreements. The 10 percent rate is used when 7 percent would be so low as to conflict with sound conservation and management, including economic considerations.

3. *Fees should recover all of the costs of providing special benefits to foreign vessel owners fishing in the FCZ.* NOAA Response: Estimated annual costs of managing foreign fishing in the FCZ range from $50 to $100 million. The net fees collected from foreign nations in 1979 (the most recent year for which final figures are available) were $11,400,000. NOAA feels that quadrupling the fees in a single year would be unreasonable, and would violate section 204(b)(10) of the FCMA as well as certain provisions of the Governing International Fisheries Agreements.

On the other hand, NOAA has determined that the proposed fees are a significant step toward recovery of such costs. During 1981, NOAA will continue to review costs to the Federal government of managing foreign fishing in the FCZ before establishing the 1982 fees. Consistent with the AFPA, a methodology for apportioning costs to users will be addressed.

4. *Fees should reflect the U.S. price where the fish are caught.*

NOAA response: The proposed schedule used the values in Hawaii for all species in the Pacific billfish and sharks fishery. The final schedule uses local U.S. values for Pacific billfish and sharks to establish poundage fees for these species in American Samoa, Guam and Northern Marianas, and Hawaii.

The proposed schedule used the Seattle price for many fish caught off Alaska. In the final schedule, the price in Alaska is used to redetermine values for flounders, other groundfish, and sablefish caught off Alaska. Separate exvessel values and fees are established for these species caught in the Pacific whiting fishery.

The proposed schedule based Atlantic squid prices on the U.S. price in January-May, 1980. The prices during the summer, when the most squid are landed in the United States, have been used to revise the values. The average U.S. price of *Illex* squid from January-September 1980 was $200/mt, and for *Loligo* squid $738/mt.

5. *Prices for "other species" should reflect the regional compositions of that category.*

NOAA response: The proposed schedule did not weight the value on the basis of the composition of the catch. For the final schedule, NOAA reviewed the composition of the foreign catch of "other species" and redetermined U.S. prices. The new value for "other finfish" in the Atlantic is $648/mt, for "other groundfish" (Alaska) it is $261/mt; and for "other fish" (Washington, Oregon, and California) it is $220/mt.

A summary of the values, percentages and fees is included in the following table.

Table

Species	Value			Percentage			Fee		
	1980	Proposed 1981	Final 1981*	1980	Proposed 1981	Final 1981*	1980	Proposed 1981	Final 1981*
1. Butterfish	927	[1]1,019		3.5	6	7	32+	85	71
2. Hake, red	315	[1]266		3.5	2.6	3.5	11+	7	9
3. Hake, silver	369	[1]378		3.5	1.9	3.5	14–	7	11
4. Herring, river	113	[1]136		3.5	6	7	4–	8	10
5. Mackerel, Atlantic	530	[1]341		3.5	11	7	18–	37	24
6. Other finfish (Atlantic)	920	633	[2]584	3.5	7		33–	96	48
7. Sharks (Atlantic)	1,091	[3]423		3.5	7		38+	30	
8. Squid, *Illex*	176	522	[4]200	3.5	7		6+	36	14
9. Squid, *Loligo*	993	736	[4]736	3.5	10	7	35–	76	52
10. Shrimp, royal red	NA	5,445			3.5	Reserved	NA	191	Reserved
11. Crab, Tanner	882	627		3.5	8	7	31–	50	44
12. Atka mackerel	223	[5]114		3.5	7		8–	8	
13. Cod, Pacific	419	566	[5]266	3.5	7	10	15–	41	27
14. Flounders (Alaska)	397	559	[5]141	3.5	5	7	14–	30	10
15. Flounders (WOC)	397	[5]550		3.5	5	10	14–	30	55
16. Jack mackerel	154	[5]198		3.5	10	3.5	5+	20	7
17. Pacific ocean perch	397	[1]440		3.5	10		14–	44	
18. Other groundfish (Alaska)	56	220	[5]261	3.5	3.5		2–	8	9
19. Other fish (WOC)	56	[1]220		3.5	3.5	10	2–	8	22
20. Pollock, Alaska	220	241	[6]205	3.5	7		8–	16.90	14
21. Sablefish (Alaska)	1,587	705	[7][8]661	3.5	7.8	10	60–	55	66
22. Sablefish (WOC)	1,587	[7]705		3.5	7.8	10	60–	55	71
23. Rockfish	397	[1]375		3.5	8	7	14–	30	26
24. Snails	658		[1]549	3.5		3.5	23+	46	19
25. Squid (Pacific)	324		[1]145	3.5		7	11+	23	10
26. Whiting, Pacific	176	[9]176		3.5	5	3.5	6+	8	6
27. Precious coral	NA		Reserved			Reserved	NA	Reserved	
28. Seamount groundfish	397		[10]397	3.5		3.5	14–	14	
29. Dolphinfish (mahi mahi) (American Samoa)	4,354	5,835	[11]1,500	3.5	3.5		152+	197	52
30. Wahoo (American Samoa)	2,998	5,071	[11]225	3.5	3.5		104–	177	8
31. Sharks (Pacific) (American Samoa)	825	[12]123		3.5	3.5		29–	4	
32. Swordfish (Hawaii)	3,036	[13]3,201		3.5	3.5	7	106+	112	224
33. Swordfish (American Samoa)	3,036	3,201	[14]1,300	3.5	3.5		106+	129	45
34. Swordfish (Guam, Northern Marianas, U.S. possessions)	3,036	[15]3,693	[15]2,200	3.5	3.5	7	106+	129	154
35. Striped marlin (Hawaii)	2,816	[16]3,693		3.5	3.5	7	99–	112	259
36. Striped marlin (American Samoa)	2,816	3,693	[11]1,000	3.5	3.5		99–	112	35
37. Striped marlin (Guam, Northern Marianas, U.S. possessions)	2,816	3,693	[15]2,200	3.5	3.5	7	99–	112	154
38. Other Pacific billfish (Hawaii)	1,111	[17]1,477		3.5	3.5	7	40–	52	103
39. Other Pacific billfish (American Samoa)	1,111	1,477	[11]1,000	3.5	3.5		40–	52	35
40. Other Pacific billfish (Guam, Northern Marianas, U.S. possessions)	1,111	1,477	[15]2,200	3.5	3.5	7	40–	52	140
41. Sharks (Pacific) (Hawaii, Guam, Northern Marianas, U.S. possessions)	825	[12]123		3.5	3.5	7	29–	4	8

*If the column is blank, the proposed 1981 figure was accepted as the final figure.

[1] Maine, Massachusetts, Rhode Island, New York, New Jersey, and Virginia landings, January–May 1980.

[2] Weighted average prices in New England and New Jersey for dogfish, goosefish, fluke, scup, and Jonah crab, January–September 1980.

[3] Gulf of Mexico landings, January–June 1980.

[4] New England and New Jersey landings, January–September 1980.

[5] Averaged 1980 United States and Japan prices.

[6] Weighted average of Alaskan bait prices and Alaska joint venture prices.

[7] NMFS Northwest Region estimate based on negotiated prices of West Coast Fishermen's Marketing Association and actual prices reported by Washington Department of Fisheries.

[8] NMFS Market News, Seattle.

[9] Exvessel price paid in 1980 by Japan for Soviet-caught pollock.

[10] NMFS Alaska Region estimate.

[11] 1980 price in Japan.

[12] Survey by NMFS Northwest Region of processing firms.

[13] January–June 1979 price in Japan.

[14] Western Pacific Fishery Management Council estimate for 1980.

[15] 1979 Hawaii landings.

[16] Hawaii landings, January–March 1979.

Payment of Fees

On December 19, 1980, NOAA filed final rules revising the fee collection procedures. In addition to the advance payment of 25 percent of the 1980 allocation at the rate finalized in this notice, foreign nations must pay 20 percent before commencing catching operations. These funds will be used to capitalize the Fisheries Loan Fund. Thus, a nation will pay 45 percent of the estimated annual poundage fee before it begins to catch fish. Those nations which plan to fish in January 1981 must pay the additional 20 percent before or on January 30, 1981. Each nation's 20 percent cash payment (and surcharge) will be credited to that nation's account in equal amounts at the end of the second quarter (after June 30) and at the end of the third quarter (after September 30), where appropriate.

Unless otherwise notified, NOAA will draw on the letter of credit for the 20 percent. This will reduce the letter of credit to 5 percent of the annual fee, and all catching by that nation will cease until the credit is reestablished at 25 percent. These payments may be made by check, if preferred.

Other Matters

The Assistant Administrator for Fisheries, NOAA, has determined that this amendment does not constitute a major Federal action within the meaning of the National Environmental Policy Act of 1969, as amended. Therefore, no environmental assessment or environmental impact statement is required. The Assistant Administrator also has determined that this amendment does not constitute a significant action under Executive Order 12044, and therefore does not require the preparation of a regulatory analysis.

The Assistant Administrator has determined that some countries may wish to begin harvesting their 1981 allocation on January 1, 1981. Therefore, these poundage fees must be effective for fish caught on January 1, 1981. Accordingly, the Assistant Administrator waives the 30-day delay in implementation required under the Administrative Procedures Act.

Signed this 30th day of December, 1980 in Washington, D.C.

Terry L. Leitzell,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

(16 USC 1801 *et seq.*)

For the reasons set out in the preamble, 50 CFR 611.22 is amended by revising paragraph (a)(2)(i) and adding (a)(2)(iv) to read as follows:

§ 611.22 Fee schedule for foreign fishing permits.

(a) * * *

(2) *Poundage fees.* (i). If a nation chooses to accept an allocation, poundage fees must be paid at the rate specified in Table I, plus the surcharge required by paragraph (b) of this section.

Table I.—(Dollars per metric ton)

Species and Poundage Fee

1. Butterfish—71
2. Hake, red—0
3. Hake, silver—11
4. Herring, river—10
5. Mackerel, Atlantic—24
6. Other finfish (Atlantic)—48
7. Sharks (Atlantic)—30
8. Squid, *Illex*—14
9. Squid, *Loligo*—52
10. Shrimp, royal red—reserved
11. Crab, Tanner—44
12. Atka mackerel—8
13. Cod, Pacific—27
14. Flounder (Alaska)—10
15. Flounders (WOC)—55
16. Jack mackerel—7
17. Pacific ocean perch—44
18. Other groundfish (Alaska)—8
19. Other fish (WOC)—22
20. Pollock (Alaska)—14
21. Sablefish (Alaska)—66
22. Sablefish (WOC)—71
23. Rockfish—26
24. Snails—19
25. Squid (Pacific)—10
26. Whiting, Pacific—6
27. Precious Coral—reserved
28. Seamount groundfish—14
29. Dolphinfish (mahi mahi) (American Samoa)—52
30. Wahoo (American Samoa)—8
31. Sharks (Pacific) (American Samoa)—4
32. Swordfish (Hawaii)—224
33. Swordfish (American Samoa)—45
34. Swordfish (Guam, Northern Marianas, U.S. possessions)—154
35. Striped marlin (Hawaii)—259
36. Striped marlin (American Samoa)—35
37. Striped marlin (Guam, Northern Marianas, U.S. possessions)—154
38. Other Pacific billfish (Hawaii)—103
39. Other Pacific billfish (American Samoa)—35
40. Other Pacific billfish (Guam, Northern Marianas, U.S. possessions)—140
41. Sharks, Pacific (Hawaii) (Guam, Northern Marianas, U.S. possessions)—8

* * * * *

(iv) In 1981, nations must pay an additional 20 percent of the annual poundage fees, as determined in paragraph (a)(2)(ii) of this section, no later than January 30, 1981. Half of this amount will be credited to the second quarter bill, and half to the third quarter bill.

* * * * *

[FR Doc. 80-40649 Filed 12-31-80; 8:52 am]
BILLING CODE 3510-22-M

---

50 CFR Part 611

Trawl Fisheries and Herring Gillnet Fishery of the Eastern Bering Sea and Northeast Pacific Ocean

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/ Commerce.

ACTION: Final rule.

SUMMARY: The Assistant Administrator for Fisheries, NOAA (Assistant Administrator) has amended the preliminary management plan (PMP) for the Trawl Fisheries and Herring Gillnet Fishery of the Eastern Bering Sea and Northeast Pacific. Certain amounts in the joint venture processing (JVP) component of domestic annual harvest (DAH) are increased. Specifically, the JVP amount of yellowfin sole will be increased from 8,664 metric tons (mt) to 25,000 mt, and the JVP amount of flounder will be increased from 100 mt to 3,000 mt. The OY for Pacific cod is increased to 78,700 mt. The reserve for Pacific cod is increased to 22,935 mt, and total allowable level of foreign fishing (TALFF) is specified as 31,500 mt.

Final regulations are published to implement the amendment. The PMP and implementing regulations remain in effect until further amended or until superseded by regulations implementing a fishery management plan for this fishery.

EFFECTIVE DATE: Regulations effective January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, Telephone: (907) 568–7221.

SUPPLEMENTARY INFORMATION: The PMP for the Trawl Fisheries and Herring Gillnet Fishery of the Eastern Bering Sea and Northeast Pacific was prepared under authority of the Fishery Conservation and Management Act of 1976 (FCMA) and was published in the **Federal Register** (42 FR 9298) on February 15, 1977. Amendments have been made periodically to account for changes in resource and harvest conditions.

During 1980, the PMP was amended twice to: (1) Shift 7,814 mt of yellowfin sole from the TALFF to the JVP component of DAH; and

(2) Increase the optimum yield (OY) for Pacific cod by 12,000 mt, from 58,700 mt to 70,700 mt (45 FR 70523).

The proposed regulations, published November 28, 1980, (45 FR 79126), modified estimates of DAH by increasing the JVP amounts of yellowfin sole from 8,664 mt to 25,000 mt, and other flounders from 100 mt 3,000 mt. The OY for these species remains unchanged; TALFF's have been adjusted accordingly.

The National Marine Fisheries Service (NMFS) surveyed that portion of the U.S. fishing industry concerned with these resources to determine expected volume of fish and processing capacities for the Bering Sea/Aleutian Islands are in 1981. Amounts of fish (metric tons) U.S. processors reported that they intended to process in 1981 are shown in Table 1. Expected domestic annual processing (DAP) amounts currently established by the PMP (Table I) are considered to be adequate and will remain unchanged. The DAP for Pacific cod remains the same because the processors' estimate is considered unrealistic in light of the small harvest in 1980 (2,800 mt).

The PMP contains a mechanism for the Regional Director to apportion those amounts of DAP to TALFF that he determines excess to U.S. needs. The reserves (Table III) will be used to accommodate increased domestic harvest, if necessary.

Table I.—*Amounts of Fish (mt) U.S. Processors Reportedly Intend To Process in the Bering Sea (DAP) and the Initial DAP*

Species	1981 U.S. reported intention to process (mt)	Initial DAP (mt)
Pollock	9,982	10,500
Pacific cod	17,241	7,200
Atka mackerel	0	0
Yellowfin sole	227	1,200
Turbot	0	1,000
Flounder	907	1,200
Pacific ocean perch	454	1,100
Rockfish	227	1,100
Sablefish	552	1,000
Squid	0	0
Other species	0	1,800
Total	26,560	26,100

Table II.—*Amounts of Fish (mt) Designated for Delivery by U.S. Fishermen to Foreign Processors (JVP)*

Species	JVP
Pollock	9,050
Pacific cod	17,065
Atka mackerel	100
Yellowfin sole	[1]25,000
Turbot	75
Flounder	[2]3,000
Pacific ocean perch	1,560
Rockfish	450
Sablefish	400
Squid	50
Other species	200
Total	57,050

[1] A 24,150 mt increase over the initial level for 1980.
[2] A 2,900 mt increase over 1980.

Table III.—*Initial DAH, Reserve, and TALFF Amounts (mt)*

Species	DAH	Reserve	TALFF
Pollock	19,550	50,000	1,030,450
Pacific cod	24,265	22,935	31,500
Atka Mackerel	100	1,240	23,460
Yellowfin sole	26,200	5,850	84,950
Turbot	1,075	4,500	84,425
Flounders	4,200	3,050	53,750
Pacific ocean perch	2,760	537	7,453
Rockfish	1,550	500	5,677
Sablefish	1,400	600	3,100
Squid	50	500	9,450
Other species	2,000	3,712	68,537
Total	83,150	85,324	1,402,752

Joint venture catches of some species in 1980 were greater than amounts initially provided in the PMP and have been increased (Table II). Increases in JVP have resulted in equivalent decreases in TALFF (Table III).

Reserves (Table III) established by the PMP (5 percent of the OY for each species or species group) can accommodate either the DAP or JVP components of DAH during the fishing year, should the amounts in either the DAP or JVP prove inadequate. The exception is the reserve for Pacific cod which exceeds 5 percent because domestic fishermen expressed considerable interest in the expansion of cod production.

Differences between the proposed regulations and the final regulations:

A. Pacific cod OY and reserve. The proposed regulations increased the reserve for Pacific cod by 12,000 mt, from 2,935 mt to 14,935 mt. A 1980 environmental assessment (EA) cited 20,000 mt as the amount by which the Pacific cod OY of 58,700 mt could be increased, based on recent analysis of improved stock conditions. Accordingly these final regulations increase the Pacific cod OY by an additional 8,000 mt, to 78,700 mt. The entire 8,000 mt increase is placed in reserve because of uncertainty as to the amount of Pacific cod that will be utilized by the U.S. fishing industry.

B. Salmon savings time/area closure. On October 3, 1980, NMFS announced receipt (45 FR 59187) of a petition requesting an amendment to the PNP which would provide for an annual closure of Bering Sea INPFC statistical areas I and II from October 1 through March 31, in order to reduce the incidental catch of salmon by foreign groundfish trawlers. An Advance Notice of Proposed Rulemaking (45 FR 65642) requested comments on the petition and on alternatives to the course of action suggested by the petition. On December 19, 1980, the Assistant Administrator denied the petition, but noted that additional amendments to the PMP have not been ruled out, and that a modified salmon savings closure is under active consideration for implementation in 1981.

Additionally, an FMP for the Bering Sea groundfish fishery is nearing completion. The Environmental Impact Statement (EIS) accompanying the FMP addresses the question of salmon interceptions, as does a proposed amendment to the FMP which, if approved and implemented, would establish the salmon savings area referred to above. These ongoing administrative actions provide appropriate opportunities for the resolution of the problem of salmon interception.

Public Comments

A. Comments Received. Three comments on the proposed regulations were received, addressing the following points:

(1) The Pacific cod OY should be increased substantially.

(2) The Alaska pollock OY should be increased to 1,200,000 tons.

(3) The DAH for Pacific ocean perch and sablefish should be reduced.

(4) Unused portions of the JVP estimate for Pacific cod, yellowfin sole, and other flounders should be released to TALFF at the earliest opportunity.

(5) Reallocation of unused TALFF should be made in a more timely manner.

B. Response to Comments. The following responses are keyed to the above comments:

(1) The Pacific cod OY has been raised by 8,000 mt with the increase being put into reserve.

(2) Data on pollock biomass assessments are being evaluated and adjustments will be made if appropriate.

(3) The DAH amounts are based on recent surveys. Should these amounts prove excessive, there is a mechanism in the PMP to transfer unused DAH to TALFF.

(4) Unused DAH (including the JVP portion of DAH) will be transferred to TALFF at the earliest opportunity, consistent with a reasonable estimation of expected catch by joint ventures for the season.

(5) This concern is noted and will be conveyed to the Department of State which has responsibility for these adjustments.

Other Matters

The Assistant Administrator, having reviewed the PMP, determined that the PMP is still necessary and appropriate to the conservation and management of eastern Bering Sea groundfish resources.

The Assistant Administrator further determined that the amendment of the PMP and its implementing regulations do not constitute a major Federal action requiring the preparation of an environmental impact statement under the National Environmental Policy Act of 1969. Further, the amendment does not constitute a significant change to regulations requiring the preparation of a regulatory analysis under Executive Order 12044.

For the reasons set forth below, the Assistant Administrator for good cause waives the 30-day delayed-effectiveness period specified at 5 U.S.C. 553(d). The delayed-effectiveness period is unnecessary. Notice of the amendment and proposed regulations was published on November 28, 1980 (45 FR 79127), and the public afforded a 30-day period in which to submit comments. The public is familiar with the management measures established by the PMP, effective since January 4, 1980. These measures remain largely unchanged, and as a consequence no additional time is necessary to prepare for compliance. In addition, the amendment confers a benefit and does not work to the detriment of interested parties.

Signed in Washington, D.C., this 31st day of December 1980.

William H. Stevenson,

Deputy Assistant Administrator, National Marine Fisheries Service.

(16 U.S.C. 1801 *et seq.*)

Revise section 4.A of 50 CFR 611.20, Appendix 1, to read as follows:

§ 611.20 Total allowable level of foreign fishing.

* * * * *

Appendix 1. *Optimum yield (OY), domestic allowable harvest (DAH), domestic allowable processing (DAP), joint venture processing (JVP), domestic non-processed fish (DNP), reserve, and total allowable level of foreign fishing (TALFF), all in metric tons*

Species and species code	Areas	OY	DAH	DAP	JVP	DNP	Reserve	TALFF
* * *	*	*		*				*
2. Alaska fisheries:								
A. Bering Sea and Aleutian Islands Groundfish Fishery:								
Pollock—701	Bering Sea [1]	1,000,000	19,550	10,500	9,050	—	50,000	930,450
	Aleutians [2]	100,000	0	0	0	—	0	100,000
Yellowfin sole—720		117,000	26,200	1,200	25,000	—	5,850	84,950
Turbots—721, 118		90,000	1,075	1,000	75	—	4,500	84,425
Other flounders—129		61,000	4,200	1,200	3,000	—	3,050	53,750
Pacific ocean perch [4]—780	Bering Sea [1]	3,250	1,380	550	830	—	162	1,708
	Aleutians [2]	7,500	1,380	550	830	—	375	5,745
Other rockfish—849		7,727	1,550	1,100	450	—	500	5,677
Sablefish—703	Bering Sea [1]	3,500	700	500	200	—	350	2,450
	Aleutians [2]	1,500	700	500	200	—	150	650
Pacific cod—702		78,700	24,265	7,200	17,065	—	22,935	31,500
Atka mackerel—207		24,800	100	0	100	—	1,240	23,460
Squid—509		10,000	50	0	50	—	500	9,450
Other species [3]—499		74,249	2,000	16,000	200	—	3,712	68,537
* * *	*	*		*				*

[1] Bering Sea means fishing areas I, II, and III in Figure 2, Appendix II of 50 CFR 611.9.
[2] Aleutian means fishing Area IV in Figure 2, Appendix II of 50 CFR 611.9.
[3] The category "other species" includes sculpins, sharks, skates, eulachon, smelts, capelin, octopus, and all other finfish and marine invertebrates except those listed in the table and "unallocated species". See § 611.93(b)(2)(iii) for the definition of "unallocated species".
[4] The category "Pacific ocean perch" includes *Sebastes* species *S. alutus* (Pacific ocean perch), *S. polyspinus* (northern rockfish), *S. aleutianus* (rougheye rockfish), *S. borealis* (shortraker rockfish), and *S. zacentrus* (sharpchin rockfish).

* * * * * * *

[FR Doc. 80-40048 Filed 12-31-80; 4:52 pm]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 46, No. 5
Thursday, January 8, 1981

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 979

Melons Grown in South Texas; Proposed Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed regulation would require fresh market shipments of melons grown in designated counties in South Texas to be inspected and meet minimum grade, quality and container requirements. It would promote orderly marketing of such melons and keep less desirable qualities from being shipped to consumers.

DATE: Comments due March 9, 1981.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077–S, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments must be submitted; the comments will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250 (202) 447–2615. The Draft Impact Analysis relating to this proposed rule is available upon request from Mr. Porter.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant."

Marketing Agreement No. 156 and Order No. 979 (7 CFR 979) regulate the handling of melons grown in designated counties of South Texas. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The South Texas Melon Committee, established under the order, is responsible for its local administration.

This proposed regulation is based upon unanimous recommendations made by the committee at its public meeting at McAllen, Texas, on December 3, 1980. The recommendations of the committee reflect its appraisal of the expected volume and composition of the 1981 spring crop of South Texas melons and of the marketing prospects for the shipping season.

The proposed regulation would benefit consumers and producers by standardizing and improving the quality of melons shipped from the production area. The proposed grade requirements would prevent melons of poor quality from being shipped to fresh market outlets. Not more than 50 percent of the melons in any lot could fail the requirements for U.S. Commercial grade. A tolerance of 20 percent would be allowed for serious damage of which not more than 10 percent would be for melons affected by soft decay. Black surface discoloration would not be considered a defect. Individual cartons would be required to contain at least 25 percent U.S. Commercial quality melons.

The proposed container requirements would prevent the shipment of bulk loads of packinghouse culls which adversely affect the reputation and returns of packed South Texas melons. However, the containers required would be those customarily packed for the retail trade. Cartons that contain melons which have been chemically treated to induce ripening must be so marked in letters at least 2 inches high on carton sides.

Exceptions would be provided to certain of these handling requirements to recognize special situations in which such requirements would be inappropriate or unreasonable. Up to 120 pounds of melons could be handled, other than for resale, per day by handler without regard to requirements of this section in order to avoid placing an unreasonable burden on persons handling noncommercial quantities of melons.

The requirements with respect to special purpose shipments would allow the shipment of melons for charity, relief, canning and freezing. Shipments of melons for canning or freezing would be exempt under the legislative authority for this part. Shipments for charity or relief would be exempt since no useful purpose would be served by regulating such shipments.

It is proposed that § 979.302 (45 FR 24105, April 9, 1980) be removed and a new § 979.303 be added as follows:

§ 979.303 Handling regulation.

From May 1 through July 31, 1981, no person shall handle cantaloup or honeydew melons unless they meet the requirements of paragraphs (a) through (c), (d) or (e) and (f) of this section.

(a) *Grade requirements.* Not more than 50 percent of the melons in any lot may fail to meet the requirements of U.S. Commercial grade except no more than 20 percent shall be allowed for serious damage, and including in this latter amount not more than 10 percent for melons affected by soft decay. Black surface discoloration shall not be considered as a grade defect with respect to such grade. Individual cartons shall contain not less than 25 percent U.S. Commercial or better quality.

(b) *Container requirements.* (1) Except as provided in paragraphs (b)(5), (d) or (e) and (f) all cantaloups shall be packed in fiberboard cartons with inside dimensions of not more than 17¼ nor less than 16¾ inches in length, not more than 13 nor less than 12¾ inches in width, and not more than 10⅝ nor less than 9¾ inches in depth. All honeydew melons shall be packed in fiberboard cartons with inside dimensions of 17 inches long by 15¼ inches wide and not more than 7½ inches nor less than 6½ inches deep. A tolerance of ¼ inch for each dimension shall be permitted.

(2) Each carton shall be marked to indicate the count; the name, address, and ZIP code of the shipper; the name of the product; and the words "Produce of U.S.A." or "Product of U.S.A."

(3) If the carton in which the melons are packed is not clean and bright in appearance without marks, stains, or other evidence of previous use, the carton shall be conspicuously marked with the words "Used Box" in letters not less than three-fourths (¾) inch high.

(4) If the carton contains cantaloups which have been treated with chemicals to induce ripening, the carton side panels shall be conspicuously marked with the words "Chemically Ripened" in letters at least two inches high.

(5) These container requirements shall not be applicable to melons sold to Federal agencies.

(c) *Inspection.*

(1) No handler may handle any melons regulated hereunder except pursuant to paragraphs (d) or (e) and (f) of this section unless an inspection certificate has been issued covering them and the certificate is valid at the time of shipment.

(2) No handler may transport by motor vehicle or cause such transportation of any shipment of melons for which an inspection certificate is required unless each such shipment is accompanied by a copy of the inspection certificate applicable thereto or by documentary evidence on forms furnished by the committee identifying truck lots to which a valid inspection certificate is applicable. A copy of such inspection certificate or committee document shall be surrendered upon request to authorities designated by the committee.

(3) For purposes of operation under this part each inspection certificate or committee form required as evidence of inspection is hereby determined to be valid for a period not to exceed 72 hours following completion of inspection as shown on the certificate.

(4) Designated inspection stations will be located at the Texas Federal Inspection Service office, 1301 W. Expressway, Alamo (Phone (512) 787–4091 or 6881) and the Matt Dietz Packing Co., 4700 N. Santa Maria, Laredo (Phone (512) 723–9178 or 9170), to be available for handlers who do not have permanent packing facilities recognized by the committee.

(5) Handlers shall pay assessments on all assessable melons according to the provisions of § 979.42, at the rate of 1¼¢ per carton.

(d) *Minimum quantity exemption.* Any handler may handle, other than for resale, up to, but not to exceed 120 pounds net weight of melons per day without regard to the provisions of Sections 979.42, 979.52, 979.60, and 979.80, but this exemption shall not apply to any shipment or any portion thereof of over 120 pounds of melons.

(e) *Special purpose shipments.*

(1) The requirements of paragraphs (a) through (c) of this section shall not apply to shipments for charity, relief, canning and freezing if a handler presents a Certificate of Privilege for such melons prior to handling them in accordance with § 979.155.

(2) Melons failing to meet the requirements of paragraphs (a) through (c) of this section and not exempt under paragraph (d) or (e), and all melons discarded from the grading table shall either be mechanically spiked or mutilated or handled for special purpose outlets in accordance with § 979.152.

(f) *Safeguards.* Each handler making shipments of melons for relief, charity, canning or freezing under paragraph (e) of this section shall:

(1) Notify the committee of the intent to ship melons under paragraph (e) of this section by applying on forms furnished by the committee for a Certificate of Privilege applicable to such special purpose shipments.

(2) Obtain an approved Certificate of Privilege.

(3) Prepare on forms furnished by the committee a special purpose shipment report for each individual shipment.

(4) Forward copies of the special purpose shipment report to the committee office and to the receiver with instructions to the receiver to sign and return a copy to the committee's office. Failure of the handler or receiver to report such shipments by promptly signing and returning the applicable special purpose shipment report to the committee office shall be cause for suspension of such handler's Certificate of Privilege applicable to such shipments.

(g) *Definitions.* "U.S. melon standards" mean the United States Standards for Grades of Cantaloups (7 CFR 2851.475–2851.494c), or the United States Standards for Grades of Honey Dew and Honey Ball Type Melons (7 CFR 2851.3740–2851.3749), whichever is applicable, or variations thereof specified in this section. The term "U.S. Commercial" shall have the same meaning as set forth in these standards.

All other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 156 and this part.

Dated: December 31, 1980.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 81–510 Filed 1–7–81; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 80–ANW–14]

Proposed Establishment of Control Zone; Burns, Oregon

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to establish a control zone at Burns, Oregon, to provide controlled airspace to protect aircraft executing instrument procedures at Burns Municipal Airport.

DATES: Comments must be received on or before January 30, 1981.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Operations, Procedures, and Airspace Branch, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Washington 98108.

The official docket may be examined at the following location: Office of the Regional Counsel, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, Airspace Specialist, Operations, Procedures, and Airspace Branch, (ANW–534), Air Traffic Division, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Washington 98108; telephone (206) 767–2610.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 80–ANW–14." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rule Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking by

submitting a request to the Federal Aviation Administration, Chief, Operations, Procedures, and Airspace Branch, ANW–530, Northwest Region, FAA Building, Boeing Field, Seattle, Washington 98108, or by calling (206) 767–2610. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a control zone for the Burns, Oregon, Municipal Airport. The control zone, if designated, will allow aircraft to remain in controlled airspace while conducting instrument operations at the airport.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 356), by adding a control zone at Burns, Oregon, as follows:

Burns, Oregon

Within a 5 mile radius of the Burns Municipal Airport (latitude 43°35'32" N, longitude 118°57'14" W); and within 2 miles each side of the Wildhorse VOR (latitude 43°35'38" N, longitude 118°57'14" W) 090° radial extending from the 5 mile radius zone to 9.5 miles east of the Wildhorse VOR; within 2.5 miles each side of the Wildhorse VOR 141° radial extending from the 5 mile radius zone to 9.5 miles southeast of the Wildhorse VOR; within 2 miles each side of the Wildhorse VOR 227° radial extending from the 5 mile radius zone to 8.5 miles southwest of the Wildhorse VOR. This control zone shall be effective during the times established by a Notice to Airmen and thereafter published continuously in the Airport/Facility Directory.

(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(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 Seattle, Washington, December 15, 1980.

Charles R. Foster,

Director, Northwest Region.

BILLING CODE 4910-13-M



[FR Doc. 81-457 Filed 1-7-81; 8:45 am]
BILLING CODE 4910-13-C

14 CFR Part 71

[Airspace Docket No. 18605/80-AEA-8]

Proposed Alteration of Group I Terminal Control Area (TCA)—New York, N.Y.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to reconfigure the Group I TCA at New York, N.Y., which first became effective September 16, 1971. This action would increase the capability of the Air Traffic Control (ATC) system to separate aircraft as they leave or enter the terminal airspace around the three New York Metropolitan Airports (J. F. Kennedy International Airport, Jamaica, N.Y.; LaGuardia Airport, New York, N.Y.; and Newark International Airport, Newark, N.J.). It is based on data indicating that a high percentage of near midair collisions reported to the FAA in the New York terminal area involves Visual Flight Rules (VFR) aircraft that are not required to be under ATC control.

The objective of this proposal is to increase safety while accommodating the legitimate concerns of the airspace users and, in particular to provide the highest degree of safety for passengers in public air transportation.

DATES: Comments must be received on or before April 6, 1981.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Eastern Region, Attention: Chief, Air Traffic Division, AEA-500, Docket No. 18605/80-AEA-8, Federal Aviation Administration, Federal Building, Room 300, John F. Kennedy International Airport, Jamaica, N.Y. 11430.

The docket for this action may be examined at the office of the Regional Air Traffic Division, at the above address, or at the FAA, Office of the Chief Counsel, Rules Docket (AGC-204), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Walter H. Mitchell, Chief, Airspace and Procedures Branch (AEA-530), Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430; telephone: (212) 995-3390.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, Room 300, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received on or before April 6, 1981, will be considered before action is take on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the FAA Regional and Washington Rules Dockets for examination by interested persons.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice shall submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 18605/80-AEA-8." The postcard will be date/time stamped and returned to the commenter.

Availability of NPRM

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

History

As part of a comprehensive program announced on December 27, 1978, in the Administrator's Plan for Enhanced Safety in the National Airspace System, the New York TCA was a candidate for expansion laterally and vertically. Consequently, the New York TCA was reviewed in depth. The goal was to provide the safest and most efficient configuration for all airspace users. Other aspects considered included safety for passengers and aircraft, environmental impacts, and costs to users.

The review disclosed that the mix of controlled and uncontrolled aircraft in the New York terminal area is extensive. Between August 1978 and December 1980, 17 Near Midair Collision Reports (NMACs) were filed, detailing incidents in the airspace which this notice proposes to add to the TCA. In addition, a study covering a period from January 1979 to December 1980 revealed 43 reported incidents in which small, VFR aircraft departing from or arriving at Flushing Airport penetrated the TCA airspace in the vicinity of LaGuardia Airport without ATC authorization. The proximity of Flushing and LaGuardia airports to each other and the mix of various types of aircraft using this complex airspace combine to create an increased collision potential between controlled and uncontrolled aircraft. Therefore, in order to minimize the potential for midair collision, this notice also proposes to eliminate the operation of uncontrolled aircraft at Flushing Airport by including Flushing in the TCA airspace.

The proposal contained in this notice was preceded by broad and helpful public participation with the FAA in considering the development of an airspace description for the TCA which would be responsive to the need to increase safety as well as the needs of both transient and local aircraft operators. An extensive publicity effort was made to invite all interested persons to participate in six informal airspace meetings. In addition to published notices, notice was given through mailings to thousands of persons believed to have an interest in this proposal. Notices were also posted in airports and Flight Service Stations (FSSs). Two meetings were held in 1979; four in 1980. As a result of the meetings and the oral and written comments received, several adjustments to the TCA configuration were recommended and are reflected in this notice. The TCA configuration which was discussed in 1979 was altered further, and has become less restrictive in its coverage.

The 1979 version of the recommended TCA expansion would have increased the overall size of the New York TCA from a 20-nautical mile (NM) radius to a 42 NM radius area of the Metropolitan New York Airports and vertically from 7,000 to 12,500 feet MSL. As a result of the numerous informal airspace meetings, the current proposal to expand the New York TCA includes an increase of only 5 NM in radius from 20 NM to 25 NM. The area directly to the north of New York City (between the Kennedy VORTAC 020° magnetic radial, counterclockwise to the Kennedy VORTAC 325° magnetic radial) would remain at a radius of 20 NM. The TCA ceiling would be raised from 7,000 to 10,000 feet MSL. An additional opportunity for public participation is provided by this notice to ensure full consideration of public concerns at every stage of the rulemaking process.

The FAA determined that the risk of collision between controlled and uncontrolled aircraft in the airspace between LaGuardia and Flushing Airports necessitated immediate regulatory action. Accordingly, on December 29, 1980 the FAA published an interim rule in the **Federal Register** (45 FR 85604). The rule, effective January 8, 1981, establishes requirements for communication and navigational equipment, prohibits student-pilot and training operations in the affected area, and provides improved separation between LaGuardia and Flushing Airport operations. The final determination whether or not to include Flushing Airport within the TCA will be made after a thorough analysis of the comments to that rule, comments to this notice, and the effectiveness of the special air traffic rule during the interim.

Local Benefits

The expansion of a Group I TCA, as proposed in this notice, would make a meaningful contribution to the systemwide increase in safety. The number of airport operations for the New York Metropolitan Airports in the year ending September 30, 1979, was 890,475 and is forecast to reach 1,113,000 by 1986. The total passenger enplanement for the Metropolitan Airports in calendar year 1978 was 24,706,000 and is forecast to reach 37,300,000 annually by 1986. The proposed TCA expansion will enable ATC to more safely and efficiently manage the forecast increases in traffic.

Economic Impacts

The FAA is committed to ensuring that the costs of expanding the New York, N.Y., TCA are considered before final regulatory decisions are made. Since those costs may affect other TCA proposals announced in the Plan for Enhanced Safety, a comprehensive economic assessment covering the entire program as described in that plan was made available to attendees at the six informal airspace meetings held in the New York metropolitan area and is in the Regional and Washington dockets for public comment. The assessment includes systemwide assumptions concerning the impact of all of the original 44 recommended new TCAs and the expansions to existing TCAs, including the expansion of the New York, N.Y., TCA. In addition, to determine whether those general assumptions are valid for the particular TCA airspace description proposed for New York, N.Y., the FAA Eastern Regional Office has prepared a detailed addendum to the broad national study. That regional economic assessment is appended to the national assessment and is also in the Regional and Washington dockets. The objective of this process is to assist the Administrator in determining whether the least costly means of obtaining the overall objective of the terminal airspace phase of the plan have been selected. Since 14 of the original TCA sites are no longer under current consideration, the cost impact systemwide is even less than indicated in the assessment but the underlying assumptions are still valid as applied to the remaining candidates. To assist in this determination, public comment on these economic assessments is invited.

Airspace Outside the United States

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

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

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

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

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

The Proposed Terminal Control Area

The airspace description for the proposed TCA action in this notice was developed by the FAA Eastern Region in consultation with affected users to minimize the potential impact of the proposal. Informal airspace meetings, open to the public, were held on June 26, 1979, in Jamaica, N.Y.; June 28, 1979, in Woodbridge, N.J.; May 14, 1980, in Cranford, N.J.; May 21, 1980, in White Plains, N.Y.; May 28, 1980, in Farmingdale, N.Y.; and June 3, 1980, in Jamaica, N.Y. Notice of those meetings was published in the **Federal Register** (44 FR 33409) on June 11, 1979, on March 17, 1980, (45 FR 17019), and on April 21, 1980, (45 FR 26718). Approximately 700 persons attended those meetings, which were held to obtain public participation in the development of an airspace description responsive to the needs of both transient and local users. A report describing each meeting has been placed in the Regional and Washington dockets.

The rationale for the proposal to alter the vertical and lateral dimensions of the New York, N.Y., TCA has been discussed previously in this notice. This alteration is proposed in order to limit the presence of uncontrolled aircraft in that airspace over and around John F. Kennedy, LaGuardia, and Newark Airports in which the transport of passengers by air carrier and other TAC controlled aircraft is involved, thereby reducing the potential of a midair collision between aircraft. As a result of these meetings and subsequent reviews, the size of the recommended TCA was reduced by lowering the ceiling from 12,500 to 10,000 feet MSL. In fact, the reviews concluded that the radial dimensions could be reduced from 42 to 25 miles. Those changes will provide additional airspace to all users and will avoid operating areas for sailplanes, experimental aircraft, and other special operations. The recommended TCA airspace near McGuire AFB was deleted due to a request by military representatives, in order to reduce the compression effect and allow freer use of this area by the military, without reducing the effectiveness of the proposal.

Including Flushing Airport in the TCA may have some impact on both LaGuardia and Flushing operations under certain conditions. Due to the

proximity of the airports and the runway configuration interaction, simultaneous takeoffs and landings at certain times may be prohibited. FAA recognizes that, during LaGuardia's peak traffic period, aircraft arriving and departing the Flushing Airport may experience some delay. Minimal delays can be expected at LaGuardia Airport. That situation would normally occur less than .6 percent of the time.

The following are proposed responses to other user comments and recommendations. However, specific public comments providing details and data regarding the proposed disposition are invited so that FAA can further assess the correctness of its initial perceptions:

(a) Commenters stated that the proposed alteration of the TCA encompassed too much airspace.

Adjustments to the TCA configuration were made and are reflected in the configuration proposed in this notice. The size and shape have been carefully evaluated and are considered the minimum needed to efficiently contain the radar vectoring, sequencing, arrival and departure profiles of aircraft within the TCA. Further reductions in the size would diminish the safe and efficient use of that airspace by creating unacceptable risks of traffic conflict and collision potential.

(b) A comment was made that a 12,500 foot TCA ceiling is unnecessary.

As previously stated, adjustments to the TCA configuration to 10,000 feet were made and are reflected in the configuration proposed in this notice. Additional adjustments would compromise the airspace needed to contain the numerous departure and arrival flight profiles in the interest of safety.

(c) A comment was made that the FAA has already demonstrated its inability to provide adequate service and the expanded TCA will increase delays and result in increased fuel consumption.

During the first six months of 1980, the New York Common IFR Room controlled a total of 84,874 TCA operations in the present TCA. The monthly average was 14,146 with a peak day count of 1,068. The FAA does not anticipate any significant increase in traffic handled as a result of the proposed expansion. However, if such an increase does materialize, the FAA would take necessary action to deal with the traffic. It is recognized that there are delays to VFR aircraft as a result of the TCA, but it is anticipated that additional delays would be minimal and the FAA will continue to work to minimize the delays while providing an appropriate level of safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.401(a) of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 658) by revising the description of the New York, N.Y., TCA to read as follows:

New York, N.Y., Terminal Control Area

Primary Airports

John F. Kennedy International (40°38'25"N., 73°46'41"W.)
LaGuardia (40°46'36"N., 73°52'24"W.)
Newark International (40°41'40"N., 74°10'02"W.)

References

John F. Kennedy (JFK) VORTAC (40°37'59"N., 73°46'25"W.)
LaGuardia (LGA) VOR (40°47'18"N., 73°52'39"W.)

Boundaries

Area A: That airspace extending upward from the surface to and including 10,000 feet MSL within three areas—(1) within an 8-mile radius circle centered on the JFK VORTAC; (2) within a 4-mile radius circle centered on EWR Airport; and (3) within a 6-mile radius circle centered on the LGA VOR; excluding Areas B and D.

Area B: That airspace extending upward from 500 feet MSL to and including 10,000 feet MSL within three areas—(1) within an 8-mile radius centered on the JFK VORTAC and south of a line beginning at the intersection of the JFK VORTAC 237° radial and the Atlantic Ocean shoreline; thence easterly along the shoreline to the intersection of the JFK VORTAC 125° radial 5-mile DME fix; thence northerly along the 5-mile DME arc to, and easterly along, the JFK VORTAC 094° radial to the 8-mile radius circle centered on the JFK VORTAC; (2) within a 6.5-mile radius circle centered on EWR Airport excluding Areas C, D, and E; and (3) that airspace bounded by a line beginning at the intersection of the LGA VOR 6-mile radius circle and the LGA VOR 039° radial; thence southwesterly along the LGA VOR 039° radial to, and southerly along, the Bronx shoreline to the north stanchion of the Throggs Neck Bridge; thence southerly along the Throggs Neck Bridge and Clearview Expressway to its point of intersection with the LGA VOR 093° radial; thence easterly along the LGA VOR 093° radial to its point of intersection with the LGA VOR 6-mile radius circle; and thence counterclockwise along the LGA VOR 6-mile radius circle to the point of beginning.

Area C: That airspace extending upward from 800 feet MSL to and including 10,000 feet MSL within an area bounded by a line beginning at the point where the 6.5-mile radius circle centered at EWR Airport intersects U.S. Highway No. 1; thence northeast along U.S. Highway No. 1 to the Exxon Research Center at the intersection of U.S. Highway No. 1 and the 4-mile radius circle centered on EWR Airport; thence direct to the public service powerplant; thence direct to the Staten Island Expressway at its point of intersection with the 4-mile radius circle; thence east via the Staten Island Expressway to Richmond Avenue; thence south along Richmond Avenue to the 6.5-mile radius circle; and thence clockwise along the 6.5-mile radius circle to the point of beginning.

Area D: That airspace extending upward from 1,100 feet MSL to and including 10,000 feet MSL within three areas—(1) that airspace within a 6-mile radius circle centered on the LGA VOR west of the east bank of the Hudson River; (2) that airspace within a 6.5-mile radius circle centered on EWR Airport, east of the Colts Neck VORTAC 012° radial; and (3) that airspace between the east and west banks of the East River bounded on the north by the south end of Roosevelt Island and on the south by the 6-mile radius circle centered on the LGA VOR.

Area E: That airspace extending upward from 1,200 feet MSL to and including 10,000 feet MSL southwest of the EWR Airport between the 4-mile and 6.5-mile radius arcs centered on EWR Airport bounded on the north by the tracks of the Central Railroad of New Jersey and on the southeast by U.S. Highway No. 1.

Area F: That airspace extending upward from 1,500 feet MSL to and including 10,000 feet MSL within the consolidation of two areas—(1) that bounded by a line beginning at the intersection of a 20-mile radius circle centered on JFK VORTAC and the JFK VORTAC 208° radial; thence counterclockwise along the 20-mile circle to its intersection with the Long Island shoreline; thence southwest along the Long Island shoreline to, and counterclockwise along, a 13-mile radius circle centered on the JFK VORTAC to, counterclockwise along, an 11-mile radius circle centered on the LGA VOR to the LGA VOR 351° radial; thence along a line from the LGA VOR 351° radial to the intersection of the LGA 337° radial and the Erie Lackawanna Railroad tracks; thence southerly along the Erie Lackawanna Railroad tracks to the intersection of a 6-mile radius circle centered on the LGA VOR; thence clockwise along the LGA VOR 6-mile radius circle to, and clockwise along, an 8-mile radius circle centered on the JFK VORTAC to and clockwise along the LGA VOR 6-mile radius circle to the intersection of the New Jersey shoreline; thence southerly along the New Jersey shoreline to the intersection with and clockwise along a 6.5-mile radius circle centered on EWR Airport to the intersection with and westerly along Route 22 to the intersection of a 10-mile circle centered on EWR Airport; thence counterclockwise along a 10-mile radius circle to its intersection with the Colts Neck VORTAC 005° radial; thence direct to the intersection of the Colts Neck VORTAC 034° radial and the New Jersey shoreline at Sandy Hook; thence south along the New Jersey shoreline to the point of beginning; and (2) that area within 2 miles each side of the Newark ILS Runway 4L localizer course, extending from the CHESA outer marker to 6 miles southwest of the outer marker.

Area G: That airspace extending upward from 1,800 feet MSL to and including 10,000

feet MSL within an area bounded by a line beginning at the intersection of the LGA VOR 337° radial and the Erie Lackawanna Railroad tracks; thence south along the railroad tracks to the east branch of the Hackensack River; thence south and west along the river to the LGA VOR 299° radial; thence direct to the intersection of a 6-mile radius circle centered on the LGA VOR and the LGA VOR 264° radial at the west bank of the Hudson River; thence south along the west bank of the Hudson River to its intersection with a 6.5-mile radius circle centered on EWR Airport; thence counterclockwise along the 6.5-mile radius circle to, and southwest along, Route 22 to, and clockwise along, a 10-mile radius circle centered on EWR Airport to the LGA VOR 283° radial; and thence direct to the point of beginning.

Area H: That airspace extending upward from 3,000 feet MSL to and including 10,000 feet MSL within the area included within the 20-mile radius circles of the JFK VORTAC, LGA VOR, EWR Airport; excluding Areas A, B, C, D, E, F, G and I; and that airspace between the 20-mile circles centered on both the JFK VORTAC and the EWR Airport and between the JFK VORTAC 163° radial and the JFK VORTAC 230° radial.

Area I: That airspace extending upward from 4,000 feet MSL to and including 10,000 feet MSL within the area bounded by a line beginning at the JFK VORTAC 064° radial 13 DME fix at Hempstead Turnpike; thence easterly along Hempstead Turnpike to the Seaford Oyster Bay Expressway; thence northerly along the Seaford Oyster Bay Expressway to the intersection of the JFK VORTAC 049° radial; thence northeasterly along the JFK VORTAC 049° radial to a 25-mile circle centered on the LGA VOR; thence clockwise on the 25-mile circle to, and clockwise along, a 25-mile circle centered on the JFK VORTAC to the JFK VORTAC 088° radial; thence westerly along the JFK VORTAC 088° radial to, and westerly along, the south shore to Tobay Beach to a 13-mile radius circle centered on JFK VORTAC; and thence counterclockwise along the 13-mile arc to the point of beginning.

Area J: That airspace extending upward from 5,000 feet MSL to and including 10,000 feet MSL within the area between the 20-mile and 25-mile radius circles centered on the EWR Airport and between the JFK VORTAC 230° radial and the JFK VORTAC 318° radial.

Area K: That airspace extending upward from 6,000 feet MSL to and including 10,000 feet MSL within the area between the 20-mile and 25-mile radius circles centered on the JFK VORTAC and the LGA VOR and between the JFK VORTAC 010° radial and the JFK VORTAC 049° radial and between the JFK VORTAC 088° radial and the JFK VORTAC 163° radial.

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

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft regulatory 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 Washington, D.C., on January 2, 1981.

R. J. Van Vuren,

Director, Air Traffic Service.

BILLING CODE 4910-13-M


AREA K
AREA K
AREA F
AREA F
AREA A
AREA B
AREA H
AREA H
AREA J
AREA J
AREA
AREA
AREA

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

Federal Old-Age, Survivors and Disability Insurance; Allowance of Additional Child Care Dropout Years for Benefit Computation of Younger Disabled Workers

AGENCY: Social Security Administration, HHS.

ACTION: Notice of Proposal to Develop Regulations.

SUMMARY: The Social Security Administration plans to publish regulations to implement the child care provision of section 102 of the Social Security Disability Amendments of 1980 (Pub. L. 96–265). That section amends section 215(b)(2)(A) of the Social Security Act. It provides that in determining the number of benefit computation years for some disabled workers, we can drop out 1 year for each year the wage earner is living with his or her child (or the child of a spouse) substantially throughout the period in which the child was alive and under the age of 3, and the individual had no earnings (as described in section 203(f)(5)) in the year. This provision is in addition to the dropout years allowed under section 102 for all disabled workers, for which a Regulations Proposal was published on September 15, 1980, at 45 FR 60922. In these regulations we will define "living with" and "substantially throughout the period."

Where a worker is first entitled to disability insurance benefits after June 1980, the basic rule for disabled workers is that we will drop out 1 year for each 5 elapsed years, as explained in the September 15 proposal. If that dropout is fewer than 3 years, we may increase it by including child care dropout years. The total of regular and child care dropout years cannot exceed 3 years. This provision applies for monthly benefits payable beginning with July 1981. The proposed regulation will amend Subpart C of 20 CFR Part 404.

The Department of Health and Human Services has classified the proposed regulation as policy significant.

FOR FURTHER INFORMATION CONTACT: Marty Smedley, 1115 West High Rise Building, 6401 Security Boulevard, Baltimore, Maryland 21235, Telephone: 301–594–2654.

Dated: December 5, 1980.

William J. Driver,

Commissioner of Social Security.

[FR Doc. 81–603 Filed 1–7–81; 8:45 am]

BILLING CODE 4110–07–M

20 CFR Parts 404 and 416

Federal Old-Age, Survivors, and Disability Insurance Benefits; Supplemental Security Income for the Aged, Blind, and Disabled; Experiments and Demonstration Projects Under the Disability Insurance and Supplemental Security Income Programs

AGENCY: Social Security Administration, HHS.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Social Security Administration (SSA) plans to publish proposed regulations to implement section 505 of Pub. L. 96–265 (The "Social Security Disability Amendments of 1980").

Section 505(a) directs the Secretary to conduct experiments and demonstration projects to test the relative advantages and disadvantages of (1) various ways to treat work activity of disabled applicants and beneficiaries under the Old-Age, Survivors, and Disability Insurance program, and (2) altering other program limitations and conditions that affect these individuals. For these projects, the Secretary of HHS is authorized to waive compliance with the benefit requirements of titles II and XVIII of the Social Security Act (the Act) to the extent necessary for a thorough evaluation of the alternative methods under consideration.

Section 505(b) authorizes experiments and demonstration projects to promote the objectives or improve the administration of the Supplemental Security Income (SSI) program. For these projects, the Secretary of HHS is authorized to waive any requirements, conditions, or limitations of title XVI of the Act or to impose additional requirements, conditions, or limitations. These experiments and demonstration projects may test eligibility factors and administrative policies in the SSI program and are not limited to disabled applicants and recipients. We are required to include projects on the feasibility of treating alcoholics and drug addicts to prevent future permanent disability. Participation in SSI projects will be voluntary and the projects selected may not result in a substantial reduction of participating individual's income and resources. These regulations will be designed not to disadvantage any of the participants.

The regulations will describe the purpose and duration of the experiments and demonstration projects. They will explain how the participants are selected, the provisions of the law that may be waived, the benefits that participants may receive and any obligations the participants may have as a condition for receiving the special benefits or services provided under the projects.

FOR FURTHER INFORMATION CONTACT: Alice Farley, Social Security Administration, Room 2223, Annex, 6401 Security Boulevard, Baltimore, Maryland 21235, Telephone: (301) 594–0301.

SUPPLEMENTARY INFORMATION: No experiment or demonstration project will actually be placed in operation unless a notice describing the experiment or project is published in the **Federal Register.** The changes will require revisions to part 404 and part 416 of Title 20 of the Code of Federal Regulations. These proposed regulations will revise only regulations issued under title II and title XVI because SSA administers these titles of the Act. Any necessary regulations concerning revisions of regulations issued under title XVIII will be issued by the Health Care Financing Administration. The Department of Health and Human Services has classified the proposed regulations as technical.

Dated: December 10, 1980.

William J. Driver,

Commissioner of Social Security.

[FR Doc. 81–531 Filed 1–7–81; 8:45 am]

BILLING CODE 4110–07–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Parts 625 and 655]

[FHWA Docket No. 81–2]

National Standards for Traffic Control Devices; Manual on Uniform Traffic Control Devices

Note.—This document originally appeared in the **Federal Register** for Wednesday, January 7, 1981. It is reprinted in this issue to meet requirements for publication on an assigned day of the week. (See OFR notice 41 FR 32914, August 6, 1976.)

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Advance notice of proposed amendments to the Manual on Uniform Traffic Control Devices.

SUMMARY: The FHWA is inviting comments on requests for changes to the Manual on Uniform Traffic Control Devices (MUTCD). The MUTCD contains the standards for traffic control devices and has been approved by the FHWA for use on all streets and highways open to public travel.

DATE: Comments must be received on or before July 15, 1981.

ADDRESS: Submit written comments, preferably in triplicate, to FHWA Docket No. 81–2, Federal Highway Administration, Room 4205, HCC–10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments 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. James C. Partlow, Office of Traffic Operations, (202) 426–0411, or Mr. Lee J. Burstyn, Office of the Chief Counsel, (202) 426–0754, 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: The FHWA prepares and issues the national standards for traffic control devices used on all streets and highways open to public travel. These standards are published in the MUTCD which has been incorporated by reference into Title 23, Code of Federal Regulations (CFR), Parts 625 and 655. the MUTCD is available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D. It may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 ($18.00). The FHWA both receives requests and initiates recommendations for changes (i.e., amendments) to the MUTCD.

This advance notice contains requests for changes to the MUTCD which were received or originated by the FHWA. These requests are being processed in accordance with the informal rulemaking procedure of the Administrative Procedure Act (5 U.S.C. 553) and the Department of Transportation procedures issued pursuant to Executive Order 12044.

Each request has been assigned an identification number which indicates, by Roman numeral, the organizational part of the MUTCD affected and, by Arabic numeral, the order in which the request was received. This advance notice is being issued to provide the public with an opportunity to participate in the processing of requests for amendments to the MUTCD. Based upon comments received and on its own review, the FHWA will prepare a notice of proposed amendments which will provide recommendations for the disposition of the suggested amendments to the MUTCD. Any final amendments which result from that action will be published in the **Federal Register** and incorporated by reference into title 23, CFR.

Index of Requests

1. Signs (Part II).
(a) Request II–38 (Chng.) Identifying Left-Hand Exits on Interchange Sequence Signs.
(b) Request II–52 (Chng.) Beginning of Pavement Width Transition Sign.
(c) Request II–53 (Chng.) Mandatory Movement Signs.
(d) Request II–54 (Chng.) Add Percent Grade Within Hill Sign.
2. Markings (Part III).
(a) Request III–22 (Chng.) Pavement Marking Symbol for School Crossing.
(b) Request III–23 (Chng.) Mounting Height of Object Markers.
(c) Request III–24 (Chng.) Delineators on Truck Escape Ramps.
3. Signals (Part IV).
(a) Request IV–22 (Chng.) Single Portable Traffic Light.
(b) Request IV–25 (Chng.) Speed Limit Sign Beacon.
(c) Request IV–27 (Chng.) Rules for Phasing and Sequencing of Traffic Signals.
4. Traffic Control Systems for Railroad-Highway Grade Crossings (Part VIII).
Request VIII–9 (Chng.) Elevation of Top of Foundation for Flashing Lights and Gates.

1. Signs (Part II)

(a) *Request II–38 (Chng.) Identifying Left-Hand Exits on Interchange Sequence Signs.*

This request from the Michigan Department of Transportation (MiDOT) is for a change in the MUTCD to provide guidance on and a method for identifying left-hand exits on interchange sequence signs for urban freeways. The request was originally for an interpretation of Section 2F–31 of the MUTCD. Since neither Section 2F–31 nor other sections of the MUTCD address this subject, the FHWA has modified the request to a request for a change. The MUTCD recommends the use of Interchange Sequence signs where interchanges are closely spaced. When used, the signs should identify and show the street names and distances for the next three exits on the freeway or expressway. Neither the text nor the typical sign illustrations in the MUTCD provide guidance on a manner for identifying left-hand exits.

The MiDOT pointed out that the MUTCD provides guidance for identifying left-hand exits on freeways and expressways in rural and other areas where the interchanges are far enough apart to preclude the need for Interchange Sequence signs. MiDOT also noted that without specific guidance at closely spaced interchanges, motorists assume the approaching exit is on the right-hand side and make erroneous lane changes before realizing the mistake through reading the information provided on subsequent guide signs.

(b) *Request II–52 (Chng.) Beginning of Pavement Width Transition Sign.*

The Michigan Department of Transportation (MiDOT) has requested that the MUTCD be amended to include a standard warning sign to mark the physical beginning point of a pavement width transition. The proposed sign has three black downward slanting arrows on a yellow diamond shaped background supplemented by a separate plaque with the message LANE ENDS.

Section 2C–19 of the MUTCD presently includes signs for use in providing motorists with advance warning of pavement width transitions, that is, locations where there is a reduction in the number of traffic lanes in the direction of travel on a multilane highway. The MUTCD recommends that these advance warning signs should be placed 250 feet or more in advance of the physical beginning point of the pavement width transition in order to provide drivers with sufficient time to comprehend and react to the sign messages. The MiDOT suggests that this advance signing should be followed by the proposed sign to identify the exact location of the beginning of the transition and to provide motorists with better warning of the condition. Supplementing this request, the MiDOT suggests appropriate editorial changes for Section 2C–19 and illustration changes in Figures 3–10 (page 3B–13) and 6–13a (page 3B–23) of the MUTCD. The MiDOT also recommends that contingent upon approval of the proposed sign, the RIGHT (LEFT) LANE ENDS sign (Sign W9–1, page 2C–10 in the MUTCD) should be considered an alternate rather than a supplement to the LANE ENDS MERGE RIGHT (LEFT) Sign (sign W9–2, page 2C–10 in the MUTCD) and that the Pavement Width Transition symbol sign (sign W4–2, page 2C–10 in the MUTCD) should be described in detail in the text of Section 2C–19 of the MUTCD.

(c) *Request II–53 (Chng.) Mandatory Movement Signs.*

This request from an individual is for an amendment to the MUTCD to provide standard signs for mandatory turning movements at intersections. The requester noted that there are many intersections where all traffic is required to make a single turning movement (for

example, all traffic must turn right), while other movements (straight ahead and left turn) are prohibited. Since the MUTCD does not provide a specific sign for this purpose, some jurisdictions use regulatory signs with legends such as RIGHT TURN ONLY or ALL TRAFFIC with an appropriate arrow. These signs are permissible in the MUTCD under Section 2B–44, Other Regulatory Signs. Other jurisdictions use the Lane Use Control Sign (R3–5) (turn arrow with the word ONLY) of Section 2B–17. However, this sign is intended for overhead mounting to control traffic movement in one lane only. A directional arrow within a colored ring is used in Canada to designate a mandated movement.

The requester suggests that a new section providing standard mandatory turn signs should be added to the MUTCD, that symbol signs are preferable to word legend signs, that a minimum of two signs should be required at each installation, and that the R3–3 NO TURNS signs (mandatory straight ahead movement) should be changed to a symbol sign if a standard symbol is adopted for mandatory turn signs.

(d) *Request II–54 (Chng.) Add Percent Grade Within Hill Sign.*

The Hill sign (sign W7–1, page 2C–13 of the MUTCD) may be supplemented by several signs with appropriate legends such as the percent of grade (MUTCD sign W7–3, page 2C–13) or the percent of grade plus the length of grade (MUTCD sign W7–3b, page 2C–14). The Utah Department of Transportation (UDOT) has requested an amendment to the MUTCD to permit the display of the percent of grade within the Hill sign so that when supplemental signs such as NEXT 5 MILES or 5 MILES AHEAD are installed a more complete message will be conveyed. For example, at a location where a mild grade and a steeper grade are separated by a short level section, motorists could be warned of the remaining length of the mild grade, and then, by an additional sign assembly, be warned of the distance to the steeper grade. In each case, the percent of grade could also be displayed.

The UDOT suggests that this usage of the proposed sign and supplementary signs would encourage motorists to maintain a slower speed in the short level section.

2. Markings (Part III)

(a) *Request III–22 (Chng.) Pavement Marking Symbol for School Crossing.*

Section 3B–17 of the MUTCD states that symbol messages are generally preferable to word messages for pavement markings used to warn, guide, or regulate traffic. The same section includes the pavement marking word message SCHOOL as appropriate for use where warranted, but does not provide an alternate marking symbol.

The Utah Department of Transportation (UDOT) has developed a symbol for this purpose and has requested that the MUTCD be amended to permit use of the proposed symbol as an alternate to the marking word message SCHOOL. The UDOT suggested that use of the proposed symbol would reduce the time and material required for installation of the message and that the symbol would last longer since it would not be in the wheel tracks of vehicles using the roadway. The proposed symbol is a suitable elongation of the standard walking children symbol adopted for use on the School Advance sign (S1–1).

(b) *Request III–23 (Chng.) Mounting Height of Object Markers.*

This request, originated by the FHWA, is for an amendment to the MUTCD to specify the minimum mounting height of object markers. Object markers are traffic control devices used to mark obstructions within or adjacent to a roadway.

Request III–7 (Chng.) Object Markers was published in the **Federal Register** on January 24, 1980 (45 FR 5750), in a notice of proposed amendments to the MUTCD (FHWA Docket No. 79–35). Request III–7 (Chng.) included among others, a request for the determination of the appropriate mounting height for Type 3 Object Markers. The FHWA commented in that notice that Section 1A–4 and other unspecified sections of the MUTCD provided sufficient guidance on this matter. After an additional review of the comments received in Docket 79–35 and information from other sources, the FHWA has determined that better guidance is needed in the MUTCD.

The FHWA is now inviting comments on a proposal to amend Section 3C–1 of the MUTCD to specify mounting heights. The FHWA suggests a height of 4 feet from the pavement edge to the bottom of the object marker when used within the roadway or within 6 feet of the shoulder or curb, and a height of 4 feet above the ground when used 6 feet or more from the shoulder or curb.

These heights are suggested by the need to maintain the effectiveness of the devices by providing a vertical clearance area for weeds, plowed snow, and the splash pattern resulting from wet pavements. The FHWA suggests that when object markers are applied directly to a hazardous object, the mounting height should be permitted to vary according to need.

(c) *Request III–24 (Chng.) Delineators on Truck Escape Ramps.*

Truck escape ramps are specially constructed vehicle lanes which leave the alignment of the main roadway and are intended as recovery areas where runaway trucks may be brought safely under control. Approximately 60 runaway truck ramps are now in operation in the United States and others are in the planning stage.

The Institute of Transportation Engineers (ITE) has requested an amendment to the MUTCD to provide a standard for the color and spacing of delineators used to indicate the edge of runaway truck ramps. The ITE stated that different States are using a variety of colors on delineators to mark the edge of their ramps and that it is important that a standard color be established for this function.

Report No. FHWA–TS–79–201, Emergency Escape Ramps for Runaway Heavy Vehicles (1978).[1] suggests that delineation for escape ramps is needed, but must be different from the standard white (for right edge of roadway) and yellow (for left edge of roadway) now provided in the MUTCD. Motorists not wishing to use the ramps have been led into the ramps by the standard white and yellow delineations.

3. Signals (Part IV)

(a) *Request IV–22 (Chng.) Single Portable Traffic Light.*

The MUTCD requires that all traffic signal installations must provide a minimum of two signal faces for through traffic for each approach to an intersection. This request from Lifeguard, Inc., if for an amendment of Section 4B–12–1 of the MUTCD to provide for the use of a single signal face on a portable mounting for control of traffic through construction and maintenance zones. The single faced portable signal could be used in place of a single flagger in controlling traffic in work areas.

(b) *Request IV–25 (Chng.) Speed Limit Sign Beacon.*

The Utah Department of Transportation has requested a change in Section 4E–2 and Section 7D–24 of the MUTCD to permit the use of horizontally aligned Speed Limit Sign Beacons when the Speed Limit sign is longer vertically than horizontally. The MUTCD presently permits horizontal alignment of Speed Limit Sign Beacons only when the Speed Limit sign is longer horizontally than vertically.

(c) *Request IV–27 (Chng.) Rules for Phasing and Sequencing of Traffic Signals.*

[1] Available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D.

The Signals Technical Committee of the National Committee on Uniform Traffic Control Devices completed a review resulting in a substantial proposal for a well defined set of parameters for phasing and sequencing of traffic signals. The committee has requested that the MUTCD be revised to incorporate these changes which it believes will provide more uniformity in the phasing and sequencing of traffic signals.

The following list enumerates the recommended changes to the MUTCD by the Signals Technical Committee:

[Section 4B–6 Application of Signal Indications]

1. Delete paragraph 5(a) and redesignate paragraphs 5(b) through 5(f) to read as paragraphs 5(a) through 5(e), respectively.

2. Revise new paragraph 5(a) to read as follows:

(a) A steady YELLOW ARROW indication shall be used following a GREEN ARROW indication which has been displayed simultaneously with a CIRCULAR RED indication in the same signal face. A GREEN ARROW need not be terminated by a displayed interval if a CIRCULAR GREEN permitting the turn to continue on a permissive basis is displayed in the same signal face simultaneously with the GREEN ARROW or immediately following the GREEN ARROW termination.

3. Add new paragraphs 5(f) and (g) to read as follows:

(f) A GREEN ARROW shall not be displayed when any conflicting movement has a CIRCULAR GREEN or CIRCULAR YELLOW or YELLOW ARROW.

(g) A YELLOW ARROW shall not be displayed when any conflicting movement has a CIRCULAR GREEN or CIRCULAR YELLOW.

4. Delete paragraph 6(e).

5. Add to the very end of Section 4B–6, paragraph 6, the following new wording:

The following signal indications shall not be displayed on any signal face, either alone, or in combination with any other indication:

(a) Straight-through RED ARROW.

(b) Straight-through YELLOW ARROW.

[Section 4B–9 Arrangement of Lenses in Signal Faces]

6. Delete from paragraphs 1 and 2 the words "Straight-through" YELLOW ARROW.

7. Delete arrangement "t" from Figure 4–1 on page 4B–9.

[Section 4B–12 Number and Location of Signal Faces]

8. Add a new paragraph 13 to read as follows:

13. If a signal face(s) displays control for a particular vehicular movement during any interval of a sequence, it must display control for that same movement during all intervals of the sequence.

[Section 4B–15 Vehicle Change Interval]

9. Add a new paragraph which addresses the question of YELLOW ARROW to GREEN ARROW, at the end of the section to read as follows:

A YELLOW ARROW shall not be terminated by a GREEN ARROW. It may be terminated by a CIRCULAR GREEN (if the movement controlled by the arrow is to continue on a permissive basis), a CIRCULAR YELLOW, a CIRCULAR RED, or a RED ARROW.

[Section 4B–16 Unexpected Conflicts During Green Interval]

10. Add a new paragraph, which expands the ruling on unexpected conflicts, at the end of the section to read as follows:

During a change interval, entry into an intersection is not controlled or prohibited. It is, therefore, necessary to define responsibilities during the change interval as being similar to those which exist during the green interval.

[Section 4B–18 Flashing Operation of Traffic Control Signals]

11. Add a new paragraph, which provides additional guidance in the use of flashing operations, at the beginning of the section to read as follows:

The mode of operation of a traffic signal operation may be exclusively steady—stop and go—or it may be exclusively flash mode. The initiation and termination of flashing displays shall follow the same rules as the steady modes with flashing yellow considered the same as steady green and flashing red considered the same as steady red.

[Section 4B–19 Continuity of Operation]

12. Delete the first paragraph of this section and add a new first paragraph to read as follows:

A traffic signal installation, except as provided below, shall be operated in an activated mode at all times.

[Section 4B–22 Priority Control of Traffic Signals]

13. Add a new paragraph which permits a priority change from yellow to green, at the end of this section to read as follows:

When a priority sequence is initiated, the display may proceed from Steady Yellow to Steady Green. This exception does not apply to the termination of priority or to any display during priority operation.

4. Traffic Control Systems for Railroad-Highway Grade Crossings (Part VIII)

Request VIII–9 (Chng.) Elevation of top of Foundation for Flashing Lights and Gates.

This request from the Florida Department of Transportation is for the deletion of the requirement that the top of the foundation for flashing light signal and gate supports shall be at the same elevation as the crown of the roadway. The request, if adopted, would require revision of Figures 8–3, 8–4, and 8–5 on pages 8C–2, 8C–3 and 8C–4 respectively in the MUTCD. The requirement that the top of the foundation shall be no more than 4 inches above the finished ground would not be changed.

The crown of the roadway can still be used as a reference point for determining vertical clearance for cantilevered flashing light signals (Figure 8–4), the vertical location of gates in the down position (Figure 8–5), and the vertical location of flashing light signals (Figure 8–3). As an alternative, some other reference point could be specified.

This advance notice of proposed amendments to the MUTCD is issued under the authority of 23 U.S.C. 109(d), 315, and 402(a), and the delegation of authority in 49 CFR 1.48(b).

Note.—The Federal Highway Administration has determined that this document does not contain a significant proposal according to the criteria established by the Department of Transportation pursuant to Executive Order 12044. Due to the preliminary nature of this inquiry, a regulatory evaluation has not been prepared at this time. The expected impact of the changes requested is so minimal that a full evaluation does not appear to be warranted. The need to further evaluate economic consequences will be reviewed on the basis of the comments submitted in response to this notice. (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: January 2, 1981.

John S. Hassell, Jr.,

Federal Highway Administrator.

[FR Doc. 81–587 Filed 1–6–81; 8:45 am]

BILLING CODE 4910–22–M

National Highway Traffic Safety Administration

23 CFR Part 1221

[Docket No. 81-01; Notice 1]

Performance Standards for Speed Measuring Radar Devices

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes performance requirements and test methods for evaluating speed measuring radar devices used by law enforcement agencies. It is to be used in the establishment of a qualified products list which will specify which radar devices may be purchased by State and local governments with Federal highway safety funds.

DATES: Comment closing date: February 2, 1981.
Proposed Effective Date: Date of publication of final rule in **Federal Register.**

ADDRESS: Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Kathy DeMeter, Office of Chief Counsel, NHTSA, 400 Seventh Street, SW., Washington, D.C. 20590, (202-426-1834) or Ronald Engle, Enforcement and Emergency Services Division, NHTSA, 400 Seventh St. SW., Washington, D.C. 20590 (202-472-4913).

SUPPLEMENTARY INFORMATION: For almost 30 years radar has been accepted by the courts and the public as a reliable method of measuring vehicular speed. Its use as a tool to enforce traffic laws has saved countless lives by encouraging motorists to maintain safe speeds. Its continued use and acceptance are vital to improve traffic safety and to conserve energy by helping to promote compliance with the national 55 mile per hour speed limit.

There are currently no standards regulating the quality of radar devices. Soon after the enactment of the 55 MPH National Maximum Speed Limit, the National Highway Traffic Safety Administration (NHTSA) recognized that the increased use of radar in support of the 55 mile per hour speed limit made the quality of that radar a matter of national concern. The agency therefore entered into an interagency agreement in 1977 with the National Bureau of Standards (NBS) to develop comprehensive performance standards that could be used to develop a qualified products list for police radar devices. The standard that follows is a product of that agreement. The resulting qualified products list will identify those specific models which can be purchased by State and local law enforcement agencies using Federal highway safety funds.

The NBS began its development of the proposed standard by reviewing the current state of the art in radar devices. It then selected those performance characteristics that it regarded as necessary to ensure the accurate and dependable use of radar devices, and devised appropriate laboratory and field tests to measure these characteristics. In the final stage of its work, NBS conducted a complete series of tests at its Boulder, Colorado facility, to validate the proposed standard.

After completing its tests of the proposed standard, NBS followed its conventional practice of seeking outside review of its work by soliciting comments on the draft standard from radar manufacturers, State and local governments, university research facilities and other interested persons. Thirty-five comments were received from a variety of sources. The NBS evaluated each of these comments in preparing the final version of the proposed standard for submission to the NHTSA. All comments on the draft standard are available for review or reproduction in Docket 81-01, Room 5108, 400 Seventh Street, SW., Washington, D.C. 20590.

The result of these comments and final review by the NBS and NHTSA is the proposed standard testing procedure set forth below. By this notice we are soliciting comments from the general public, as well as additional comments that the manufacturers and law enforcement agencies might have had which could result in refining the standard. Qualification testing to this standard, of products submitted by manufacturers, will be conducted by NBS approved test laboratories to be announced in the final rule. The final rule will also contain a complete description of the procedures to be undertaken by manufacturers in order for their products to be included on the qualified products list.

NHTSA expects that challenges to the use of radar will diminish as the new devices are introduced into enforcement service. This is not to suggest that the existing radar devices are inadequate. The existing devices have by and large withstood the legal challenges to their use. In the hands of properly trained officers they been shown to be accurate and reliable speed measuring devices. However, time and expense are entailed in defending the use of radar. The standard is intended to diminish these litigation costs. Concurrently with the proposed standard, NHTSA is developing a model program to train police officers in the use of radar. By simultaneously decreasing the level of skill needed for the use of radar devices and increasing the level of skill of the officers who use them, the agency intends to ensure that radar retains its acceptance as an essential law enforcement tool.

Under the proposed standard the manufacturers would be required to enclose certain information with each radar device that they sell, including complete installation and operation instructions, necessary power supply voltage levels for proper operation, microwave frequency band of operation, output power and maximum power density, antenna horizontal beam width, type of antenna polarization and environmental factors. A tuning fork would have to be supplied, and controls and antenna would have to be permanently labeled with specified operating information. All requirements, as well as all tests, are stated in both English measurements and their approximate metric equivalents. The labeling requirements that specify labeling in mph or km/h would apply to all new units. However, if an existing unit is modified so that it complies with the final standard, but such device is labeled with kph, that designation shall be an acceptable alternative to km/h. This exception applies only to existing units.

The proposed standard would require radar devices to meet strict standards of accuracy when tested under a variety of conditions. In many of these tests, a mechanical tuning fork with a known frequency is vibrated in the antenna beam to generate the target signal. The radar device must display the tuning fork signal within ± 1 mph. One manufacturer, in its comments on the draft standard, objected that the tuning fork requirement may discourage the development of innovative methods of determining radar accuracy by the operator. However, in the agency's view, the tuning fork is presently the only tool available to the operator to test for proper functioning. At such time as other instruments are developed, manufacturers may petition the NHTSA to amend the standard to include those instruments. This standard is by no means static and will be updated periodically to reflect the technological advances in the radar field.

Performance requirements would also be established for transmission frequency and frequency stability, input current stability, output power stability, and the width of the antenna beam. The ability of the radar unit to withstand environmental extremes would be ensured by testing for temperature, humidity and vibration stability. The temperature test is designed to simulate the use of a radar device after prolonged exposure to heat or cold, as in a patrol vehicle parked outside in the summer or winter. The humidity test is designed to simulate the use of a radar device under dry conditions after exposure to moisture.

The standard would require radar devices to squelch all audible tones if no target speed signal is being processed, but would permit the squelch to be overridden by the operator. Such an override can assist an operator in searching for electromagnetic or mechanical motion interference. The standard would prohibit the use of an audible signal to alert the operator when a specified speed threshold has been exceeded by a target vehicle.

Under the proposed standard radar devices would have visual readout displays that are illuminated to ensure readability. The display functions would be required to have safeguards such as clearing the speed reading automatically when a different mode of operation is selected, and preventing the transfer of the patrol speed reading to the target speed display.

The proposed standard would require each radar device to be free of erroneous signals despite test signals simulating CB and police radios, patrol vehicles' ignitions, alternators, windshield wipers, air-conditioners and heater fans and other outside sources. To further ensure that the devices do not pick up erroneous signals, procedures would be established for testing the devices against interference in an actual operating environment.

The accuracy of radar devices would be ensured by requiring the devices to be free of erroneous readings while the patrol and target vehicles are driven over a measured course at specified speeds. A minimum range at which the radar device will correctly measure and display the speed of a compact vehicle is ensured by testing on a measured course.

Moving radar records the speed of the target vehicle by subtracting the speed of the patrol vehicle from the combined speed of the target and patrol vehicle. NBS researchers examined several phenomena allegedly caused by the interaction of the patrol and target speeds and concluded that the errors ascribed to them were imagined or could easily be overcome by simple precautions during proper installation and by operation of the radar devices by trained individuals.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the final standard may be issued at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

In accordance with Executive Order 12221, the regulation has been reviewed for environmental and economic impact. It has been determined that there is no significant impact and therefore, no regulatory analysis is necessary.

In consideration of the foregoing, it is proposed that Chapter II of Title 23, Code of Federal Regulations be amended by adding Part 1221, *Performance Standards for Speed Measuring Radar Devices*, to read as set forth below.

(Secs. 401, 402, and 403 of the Highway Safety Act of 1966, as amended, 23 U.S.C. 401, 402, and 403; delegation of authority at 49 CFR 1.51.)

Issued on December 31, 1980.

Charles Livingston,

Associate Administrator for Traffic Safety Programs.

PART 1221—PERFORMANCE STANDARDS FOR SPEED MEASURING RADAR DEVICES

Subpart A—General

Sec.
1221.1 Scope.
1221.2 Purpose.
1221.3 Application.
1221.4 Definitions.

Subpart B—Requirements

1221.11 Manufacturer provided equipment.
1221.12 Manufacturer provided information.
1221.13 Labeling requirements.
1221.14 Tuning fork calibration requirement.
1221.15 Radar device tuning fork requirement.
1221.16 Microwave transmission requirements.
1221.17 Environmental requirements.
1221.18 Low supply voltage requirement.
1221.19 Doppler audio requirements.
1221.20 Power surge requirements.
1221.21 Speed display requirements.
1221.22 Electromagnetic interference susceptibility requirements.
1221.23 Radar device operational test requirements.
1221.24 Speed accuracy.
1221.25 Minimum range.

Subpart C—Test Procedures

Conditions

1221.31 Conditions.

Equipment

1221.41 Equipment.
1221.42 Audiofrequency synthesizer.
1221.43 Microphone.
1221.44 Environmental chamber.
1221.45 Anechoic chamber.
1221.46 Microwave frequency counter.
1221.47 Field intensity meter.
1221.48 Isotropic probe.
1221.49 Photometer.
1221.50 Simulator test range.
1221.51 Line impedance stabilization network (LISN).
1221.52 Pulse generator.
1221.53 Sawtooth wave generator.
1221.54 FM signal generator.
1221.55 AM signal generator.
1221.56 Power meter.
1221.57 Stopwatch.
1221.58 Oscilloscope.
1221.59 Vibration tester.
1221.60 Slide whistle.
1221.61 Thermocouple.

Procedures

1221.71 Tuning fork calibration test.
1221.72 Radar device tuning fork test.
1221.73 Microwave transmission tests.
1221.74 Environmental tests.
1221.75 Low supply voltage test.
1221.76 Doppler audio tests.
1221.77 Speed monitor alert test.
1221.78 Power surge test.
1221.79 Speed display tests.
1221.80 Electromagnetic interference tests.
1221.81 Radar device operational tests.
1221.82 Speed accuracy test.
1221.83 Minimum range test.
Table 1—Minimum performance requirements for speed measuring radar devices.

Authority: Sections 401, 402, and 403 of the Highway Safety Act of 1966, as amended; 23 U.S.C. 401, 402, and 403; delegation of authority at 49 CFR § 1.51.

Subpart A—General

§ 1221.1 Scope.

This part establishes performance requirements and test methods for speed measuring radar devices used by law enforcement agencies to enforce vehicle speed regulations.

§ 1221.2 Purpose.

The purpose of this part is to specify performance standards for radar devices and to establish a qualified products list.

§ 1221.3 Application.

This part applies to speed measuring radar devices that transmit microwave

energy, monitor the reflected signal from moving vehicles within the microwave beam, process the doppler shift of the reflected signal to display the speed of the vehicle that is being tracked, and if appropriate, the speed of the patrol vehicle. It does not apply to speed measuring radar devices that utilize low power, short range, across-the-road technology.

§ 1221.4 Definitions.

As used in this part:

"Accuracy" when used in conjunction with radar device means the degree to which the radar device measures and displays the correct speed of a target vehicle that it is tracking.

"Ambient Interference" means the conducted and/or radiated electromagnetic interference and/or mechanical motion interference at a specific test location and a time which would be detrimental to proper radar performance.

"Antenna horizontal beam width" means the total included acute angle, in the horzontal plane, of the main lobe between the half-power points of the radar antenna far-field radiation pattern, where the half-power points are measured relative to the maximum power at the center of the beam and on a radius equidistant from the face of the antenna.

"Audio doppler" means an audible signal from a radar device that is generated by driving an integral loudspeaker with the doppler shift beat frequency or with the doppler shift beat frequency which is divided by a fixed factor, provided that the audio sound corresponds directly with changes in speed of a target vehicle and any ambient interference present is discernible.

"Automatic lock" means a control function of a radar device that, when activated, causes the device to automatically retain the displayed speed of a target vehicle and preserve that speed displayed until manually reset by the operator.

"Closing speed" means the speed at which an identified radar target is moving relative to the radar device (whether the radar device is moving or not) when measured on a straight line (radius) from the radar to the target.

"Cosine angle effect" means the effect due to the target not travelling directly toward the radar device, which lowers the doppler shift frequency in proportion to the cosine of the angle between the direction of travel of the radar target and a line from the radar device to the target.

"Display" means a visual readout device.

"Doppler shift" means the magnitude of the frequency change of the radar return signal received when the source and the radar reflecting target are in motion relative to one another.

"Erroneous reading" means an incorrect target speed displayed by the radar device, one that is not due to a target vehicle or which is not within the required accuracy tolerance of the speed of a target vehicle.

"Far-field region" means that region beyond the close proximity of a transmitting antenna designed by the relationship

$$R > \frac{2d^2}{\lambda}$$

where d is the horn diameter and λ is the wavelength of the transmitted frequency, in consistent units.

"Internal circuit test" means a test function (whether manually or automatically initiated) that verifies that all radar device internal circuitry is working correctly, i.e., all target and patrol vehicle signals will be properly processed and displayed.

"Just acquired distant target" means a target just within the radar range of a radar device which was originally beyond the range and now provides a display signal of target speed.

"K-Band radar" means a speed measuring radar device designed to operate in the 24.050 to 24.250 MHz frequency band.

"Low voltage indicator" means a radar device component which alerts the operator to the fact that a low supply voltage condition exists.

"Luminance" means the photometric brightness or the luminous intensity of any surface in a given direction per unit of projected area of the surface as viewed from that direction.

"Luminance contrast" means the relationship between the luminance of an object and the luminance of its own background.

"Minimum range" means the least distance at which a given radar device will detect a specified target vehicle.

"Microwave output power" means that part of the total power produced by the microwave generator in the radar device and supplied to the antenna.

"Moving mode" means the capability of a radar device to measure and display the speed of a target vehicle while the radar device is moving with respect to the surrounding terrain.

"Near-field region" means that region in close proximity to the transmitting antenna where radiation fields predominate whose outer bounds are defined by the relationship

$$R > \frac{2d^2}{\lambda}$$

where d is the horn diameter and λ is the wavelength of the transmitting frequency, in consistent units.

"Patrol channel" means that portion of the radar circuitry of a radar device that processes and calculates the speed of a patrol vehicle when the radar device is operating in the moving mode.

"Patrol speed" means the speed at which the patrol vehicle is moving with respect to the surrounding terrain.

"Polarization" means that property of a radiated electromagnetic wave describing the time-varying direction and magnitude of the electric field vector.

"Power density" means power density per unit area or energy density flux per unit area.

"Radar horizontal capture angle" means the total included acute angle, in the horizontal plane, between the −10dB power points of the main lobe of an antenna far-field radiation pattern, where the −10 dB power points are measured relative to the maximum power at the center of the beam and on a radius equidistant from the face of the antenna.

"Radar range" means the maximum distance at which a radar device will respond to a reflected signal from a target vehicle and measure the speed of the target within the required accuracy tolerance.

"Side lobes" means beams that appear as shoulders on the primary beam radiated from the radar antenna.

"Speed display transfer" means the capability of transferring the speed reading from the patrol speed display window to the target speed display window.

"Speed lock switch" means a radar control that causes speed on display as target speed and patrol speed to be retained on display until reset.

"speed monitor alert" means a function that alerts the operator when a target speed signal is received that is equal to or above some preselected threshold speed.

"Squelch" means the capacity of a radar to inhibit the doppler audio sound when the radar is in operation.

"Standby mode" means a function of a radar device that allows all device circuits to be energized except the microwave oscillator circuit.

"Stationary mode" means the capability of a radar device to operate from a fixed location and display the speed of a target vehicle within the required accuracy tolerance.

"Target channel" means the portion of the radar circuitry that processes the closing speed signal and calculates the speed of a radar target.

"Target speed" means the speed at which the target vehicle is moving with respect to the surrounding terrain.

"Target vehicle" means the vehicle identified as producing a given doppler radar signal that is processed and displayed by the radar device as the target speed.

"Track-Through-Lock" means the feature of a radar device whereby the unit continues to measure, process and accomplish audio doppler tracking and, in some cases, real time speed display of the target, after the speed lock switch has been actuated to the lock condition.

"Tuning fork" means a mechanical device, which when excited, produces free oscillations that may be used to generate a pseudo doppler frequency reference when placed in the radar antenna beam.

"Type I radar device" means a radar device that transmits microwave energy in the 10,500 to 10,550 MHz frequency band (in the X-band) and operates only in the stationary mode.

"Type II radar device" means a radar device that transmits microwave energy in the 10,500 to 10,550 MHz frequency band (in the X-band) and operates in both the stationary and moving modes.

"Type III radar device" means a radar device that transmits microwave energy in the 24,050 to 24,250 MHz frequency band (in the K-band) and operates only in the stationary mode.

"Type IV radar device" means a radar device that transmits microwave energy in the 24,050 to 24,250 MHz frequency band (in the K-band) and operates in both the stationary and moving modes.

"X-Band radar" means a speed measuring radar device designed to operate in the frequency band of 10,500 to 10,550 MHz.

Supart B—Requirements

§ 1221.11 Manufacturer provided equipment.

Each Type I and III radar device shall be accompanied by one tuning fork and each Type II and IV radar device shall be accompanied by two tuning forks.

§ 1221.12 Manufacturer provided information.

(a) Each radar device submitted for testing in accordance with the provisions of this standard shall be accompanied by the following minimum information:

(1) Complete instructions for installing the radar in or on the police patrol vehicle or remote from the vehicle including any precautions necessary to minimize or avoid interference from vehicle ignition, heater/air conditioner blowers or other potentially interfering components.

(2) Complete operating instructions including test procedures, procedures, internal circuit test data, required maintenance, maintenance, and any operting characteristics that are indicative of or symptomatic of possible malfunction of the radar.

(3) Nominal power supply voltage and currents (with and without displays illuminated; with and without target present; and in standby mode if appropriate).

(4) The microwave frequency band of operation.

(5) Microwave output power (in mW) as measured by a microwave power meter connected to the microwave oscillator.

(6) Lowest and highest supply voltage level at which the radar is designed to operate, the low voltage alert value and display behavior.

(7) Maximum microwave power density (mW/cm^2) measured in a plane 2 in (5 cm) distant from the front of the antenna.

(8) Antenna horizontal beam width and radar horizontal capture angle in degrees.

(9) Type of antenna polarization, i.e., linear or circular and orientation.

(10) Minimum and maximum operating speed of the radar device [target (Types I and III); target and patrol (types II and IV)].

(11) The highest and lowest temperature at which the unit is designed to operate.

(12) The highest temperature and humidity combination at which the radar device is designed to operate.

(b) Each tuning fork shall be accompanied by a calibration certificate including as a minimum the serial number of the tuning fork, the nominal design speed, a frequency calibration at 70° F (21°C), the microwave frequency band for which it is to be used (X or K), the calibrated frequency and associated radar speed in mph or km/h, and any correction factor that must be applied to the 70° F (21°C) calibration speed when used at another temperature.

§ 1221.13 Labeling requirements.

(a) *Tuning Fork.* The manufacturer shall permanently mark each tuning fork with a serial number, the radar frequency band that it is to be used with (X or K), and a nominal stationary mode radar speed specification including units (mph or km/h).

(b) *Control Functions.* The control panel of the radar device shall be permanently marked with the functions and settings of all switches, controls and displays. It shall not be possible to set the controls to a functional mode of operation that is not marked or identified on the control panel of the radar device.

(c) *Antenna.* The top surface of single piece radar devices, or the antenna of modular radar devices, shall be permanently marked with two lines that form an angle, the vertex of which is pointed toward the rear of the antenna that is centered on the major axis of the antenna beam, and is equivalent to the total included acute angle between the −10dB points of the main lobe. This marking shall be labeled, "RADAR CAPTURE ANGLE."

§ 1221.14 Tuning fork calibration requirement.

When tested in accordance with § 1221.71, the frequency of vibration of each tuning fork shall be within ±½% of that specified by the manufacturer (§ 1221.12(b)) in the certificate of calibration for that tuning fork.

§ 1221.15 Radar device tuning fork requirement.

Each radar device when tested in accordance with § 1221.72 shall meet the following tuning fork requirements, as appropriate.

(a) *All Radar Devices.* Each radar device, when placed in the stationary mode, shall respond to the signal from the tuning fork within ±1 mph (±1.6km/h).

(b) *Type II and IV Radar Devices (Approaching Mode).* Each type II and type IV radar device, when set into the approaching, moving mode, shall simultaneously respond to the signals from two vibrating tuning forks of different frequencies, and shall display the calibration speed designated for the lower frequency tuning fork as the patrol vehicle speed, and the difference between the calibration speed designated for the higher frequency tuning fork and that of the lower frequency tuning fork as the target vehicle speed; both displayed speeds shall be within ±1 mph (±.6km/h) of the correct values.

(c) *Type II and IV Radar Devices (Following Mode).* Each type II and type

IV radar device, when placed into the following, moving mode (if such capability is provided by the unit) shall respond to the signals from two vibrating tuning forks of different frequencies, and shall display the calibration speed designated to the higher frequency tuning fork as the patrol vehicle speed, and the sum of the calibration speed designated for the higher frequency tuning fork and that of the lower frequency tuning fork as the target vehicle speed; both displayed speeds shall be within ±1 mph (±.6km/h) of the correct values.

§ 1221.16 Microwave transmission requirements.

The microwave characteristics of transmission frequency and frequency stability, input current stability, radiated output power stability, antenna horizontal beam width, radar horizontal capture angle and antenna near-field power density shall be measured in accordance with § 1221.73 and shall meet the following requirements:

(a) *Transmission Frequency and Frequency Stability.* When operated at the standard supply voltage, the transmission frequency shall be within the assigned frequency band of 10,500 to 10,550 MHz for types I and II radar devices and 24,050 to 24,250 MHz for types III and IV radar devices. The transmission frequency shall remain within the assigned frequency bands when the input voltage is varied to ±20% of the nominal supply voltage or the low voltage value, whichever is lower.

(b) *Input Current Stability.* When the standard supply voltage is varied ±20%, the input current shall not vary more than 10% from its nominal value, with no variation in the numerical figure displayed on the target speed display.

(c) *Radiated Output Power Stability.* The microwave carrier output power shall not vary by more than ±1.5 dB from the nominal value when the standard supply voltage is varied ±20%.

(d) *Antenna Horizontal Beam Width.* The total included angle between the –3 dB power points of the main lobe of the microwave beam, relative to the maximum power at the center of the beam, shall not exceed 18° for type I and II and 15° for type III and IV radar devices.

(e) *Radar Horizontal Capture Angle.* The total included angle between –10 dB power points shall not exceed the value specified by the manufacturer (§ 1221.12(a)(8)).

(f) *Antenna Near-Field Power Density.* The maximum antenna near-field power density of each radar device shall not exceed that specified by the manufacturer (§ 1221.12(a)(7)

§ 1221.17 Environmental requirements.

The ability of the radar device to operate in environmental extremes shall be determined using the appropriate test methods described in § 1221.74 and each radar device shall meet the following requirements:

(a) *Operational Temperature Stability.* When tested in accordance with § 1221.74(a), following exposure to a temperature of —22°F (—30°C) or the lowest temperature at which the manufacturer states that the radar device will operate properly (§ 1221.12(a)(11), whichever is lower, and following exposure to a temperature of 140°F (60°C) or the highest temperature at which the manufacturer states that the device will operate properly (§ 1221.12(a)(11)), whichever is higher, each radar device shall continue to meet the requirements of § 1221.15 and § 1221.16(a) through § 1221.16(c).

(b) *Operational Humidity Stability.* When tested in accordance with § 1221.74(b) following exposure to 90% relative humidity at 99°F (37°C) for a minimum of 8 hours, each radar device shall continue to meet the requirements of § 1221.15 and § 1221.16(a) through § 1221.16(c).

(c) *Vibration Stability.* No fixed part of the radar device shall come loose, nor movable part be shifted in position or adjustment, as a result of the test conducted in accordance with § 1221.74(c). During the last 5 minutes of the test in any one direction, the radar device shall respond to the tuning fork signal and shall display the designated tuning fork speed within ±2 mph (±3 km/h).

§ 1221.18 Low supply voltage requirement.

Each radar device shall have a low voltage indicator capable of attracting the attention of the operator. When tested in accordance with § 1221.75 the low voltage indicator shall operate if the supply voltage is reduced to 10.8 V or the lowest voltage at which the radar device is designed to operate, whichever is lower. When the supply voltage is reduced to the low voltage alarm value, the radar shall not display any erroneous readings when subjected to the tuning fork test (§ 1221.72). A blank display is not considered an erroneous reading for this requirement only.

§ 1221.19 Doppler audio requirements.

The doppler audio output characteristics of audio output and volume control, audio squelch and squelch override and audio track-throughlock and speed monitor alert shall be tested in accordance with § 1221.76 and each radar device shall meet the following requirements:

(a) *Audio Output and Volume Control.* The radar device shall emit a doppler audio tone that is correlated with the received doppler signal and it shall have an audio volume adjustment control.

(b) *Audio Squelch and Squelch Override.* When the radar device is operated, the audio tone shall be squelched as long as no target speed signal is being processed. The radar device shall permit the operator to inhibit the squelch action to keep the receiver open.

(c) *Audio Track-Through-Lock.* For those radar devices with a track-through-lock feature, the doppler audio tone shall continue to follow the received doppler signal when the speed lock switch is activated.

(d) *Speed Monitor Alert.* The radar device shall not have a speed monitoring alert capability.

§ 1221.20 Power surge requirements.

The power surge characteristics exhibited when turning the radar device from standby to on shall be tested in accordance with § 1221.78. Switching the radar device from standby to on shall not cause any erroneous speed readings either with or without a target present.

§ 1221.21 Speed display requirements.

The speed display characteristics of display readability, display speed lock control, display clear function, internal circuit test function, speed display transfer, signal processing channel sensitivity, target channel speed displays, patrol channel speed displays, and auxiliary displays shall be tested in accordance with § 1221.79 and shall meet the following requirements:

(a) *Display Readability.* The illuminated segments used to indicate speed readings shall have a minimum daylight luminance contrast of 2.5 when compared with the display background. The characters used to indicate speed shall be at least 0.4 in (1 cm) high.

(b) *Display Speed Lock Control.* If provided, the speed lock switch shall preserve the displayed target vehicle and patrol vehicle (types II and IV) speed readings. Such speed lock switch shall require manual actuation by the radar operator and shall not be capable of automatic selflock. When the radar device has a track-through-lock capability, the speed displayed after locking shall be the target speed and patrol speed (type II and IV only) readings that existed at the instant the speed lock switch was activated. The

radar device shall not recall a previous speed reading when the speed lock switch is activated.

(c) *Display Clear Function.* The selection of a different mode of operation of the radar device such as off/on, standby/on, standby/operate, standby/clear, or stationary/moving mode shall automatically clear the radar device of all displayed readings whether the speed lock switch is activated or not, unless the radar device retains displayed information indicating the mode used to acquire the locked-in target speed. It shall be permissible to accomplish a test sequence without clearing locked-in speed readings.

(d) *Internal Circuit Test Function.* The radar device shall have a self test function that, when activated, determines whether or not all signals will be processed and displayed to within ±1 mph (1.6 km/h). The radar device shall display the correct reading(s) when performing the internal circuit test function and it shall be impossible for the radar device to lockin the speed displays caused by this test. These readings shall be cleared when the radar is switched to another mode of operation. The internal circuit test switch shall not be labeled "Cal" or "Calibrate."

(e) *Speed Display Transfer.* In the moving mode the radar device shall not be capable of transferring the patrol speed reading from the patrol speed display to the target speed display.

(f) *Signal Processing Channel Sensitivity.* (1) *Stationary Mode Target Channel Sensitivity.* When the radar device is operated in the stationary mode, its signal processing channel sensitivity shall not vary more than 10 dB for targets traveling at speeds of 20 to 90 mph (32 to 144 km/h) nor more than 3 dB for targets traveling at speeds of 60 to 90 mph (96 to 144 km/h).

(2) *Moving Mode Target Channel Sensitivity (Type II and IV Only).* When the radar device is operated in the moving mode at 25 mph (40 km/h), its signal processing channel sensitivity shall not vary more than 10 dB for targets traveling at speeds of 40 to 90 mph (64 to 144 km/h). When operated at 50 mph (80 km/h), its sensitivity shall not vary more than 3 dB for targets traveling at speeds of 60 to 90 mph (96 to 144 km/h).

(g) *Target Channel Low and High Speed Displays.* (1) The target signal processor channel and target speed display shall function as specified in the test procedure at § 1221.79(g) at a speed of 20 mph (32 km/h) or the lowest speed at which the manufacturer states that his device will operate properly, whichever is lower, when operating in the stationary or moving mode.

(2) The target signal processor channel and target speed display shall function as specified in the test procedure at § 1221.79(g) at a speed of 100 mph (160 km/h) when operating in the stationary mode. While operating in the moving mode, type II and IV radar devices shall process closing speeds of at least 155 mph (248 km/h) but type IV radars shall not process closing speeds of 210 mph (336 km/h) or greater.

(h) *Patrol Channel Speed Displays (Type II and IV Radar Devices.* (1) *Low and High Speed Readings.*

(i) The patrol signal processor channel and patrol speed display shall function as specified in the test procedure at § 1221.79(h)(1) at speeds down to 20 mph (32 km/h) or the lowest speed at which the manufacturer states that his unit will operate properly (§ 1221.12(a)(10)), which ever is lower, when operating in the moving mode.

(ii) The patrol signal processor channel and the patrol speed display shall function as specified in the test procedure at § 1221.79(h)(1) at a speed of 55 mph (88 km/h) or the highest speed at which the manufacturer states that his unit will operate properly (§ 1221.12(a)(10)), whichever is higher, when operating in the moving mode.

(2) *Patrol Vehicle Speed Changes.* When tested in accordance with § 1221.79(h)(2) the patrol signal processor channel shall track the patrol car speed within ±1 mph (1.6 km/h) and maintain proper radar performance while the patrol car changes speed at a rate of 3 mph (4.8 km/h) per second.

(i) *Auxiliary Displays.* If the radar device has auxiliary speed displays, the requirements specified for the target channel and patrol channel speed displays shall apply to the auxiliary displays.

(1) If the radar device utilizes a printing device to permanently record the speed display readings, this printed record shall show the operating status (stationary or moving mode), the retained patrol vehicle and target vehicle speeds and the time of day and date at which the speed lock switch was activiated.

(2) If the radar device utilizes a separable, remote module, this remote module shall display as a minimum the retained target vehicle speed. The remote module shall clear all displays when reconnected to the radar device or when a display clear function occurs.

§ 1221.22 Electromagnetic interference susceptibility requirements.

The susceptibility of the radar device to simulated electromagnetic interference from the vehicle alternator, vehicle ignition, air conditioner/heater motor, windshield wiper motor and typical police and citizens band transceivers shall be tested in accordance with § 1221.80. During these tests, a blank target speed display shall not be considered an erroneous reading. Each radar device when tested in accordance with § 1221.80 shall meet the following requirements:

(a) *Simulated Vehicle Alternator Interference.* When subjected to a 10–20 μsec wide pulse signal of 1 V peak-to-peak amplitude (except for transition spikes) having a maximum rise time of 2 μsec and a maximum fall time of 2 μsec (both excluding ringing) and having a ringing time no greater than 8 μsecs, with a pulse repetition rate between 200 and 10,000 pulses per second (pps), the radar device shall not display any erroneous readings.

(b) *Simulated Vehicle Ignition, Air Conditioner/Heater Motor and Windshield Wiper Motor Interference.* When subjected to a negative ramp sawtooth wave signal of 1 V peak-to-peak with a positive rise time of a maximum of two μsec over a frequency range of 200 to 10,000 Hz, the radar device shall not display any erroneous readings.

(c) *Simulated Police FM Transceiver Interference.* When subjected to a 10 mW frequency modulated (FM) radio frequency signal in each police radio frequency band, the radar device shall not display any erroneous speed readings.

(d) *Simulated Citizens Band (CB) AM Transceiver Interference.* When subjected to a 5 mW amplitude modulated (AM) radio frequency in any of the CB channels specified in § 1221.80(d), the radar device shall not display any erroneous speed readings.

§ 1221.23 Radar device operational test requirements.

The operational test requirements of vehicle ignition and alternator interference, air conditioner/heater fan interference, radio frequency transceiver interference, and speed accuracy shall be tested in accordance with § 1221.81 and each radar device shall meet the following requirements:

(a) *Vehicle Ignition and Alternator Interference.* The radar device shall not display any erroneous speed readings when the engine speed is slowly increased or decreased while the patrol car is standing still with the radar device in the stationary mode and tracking a just acquired distant target traveling at a speed of 50 mph (80 km/h).

(b) *Air Conditioner/Heater Fan Interference.* The radar device shall not

display any erroneous speed readings due to electromagnetic interference when the air conditioner/heater fan motor is turned off and on or changed in speed while the patrol car is standing still with the radar device operating in either the stationary or moving mode and tracking a just-acquired distant target traveling at a speed of 50 mph (80 km/h).

(c) *Radiofrequency Transceiver Interference.* (1) *Police FM Transceiver Interference.* The radar device shall not display any erroneous speed readings when a police FM radio transceiver properly installed in the patrol vehicle is operated while the patrol vehicle is standing still with the radar device in the stationary mode and tracking a just-acquired distant target traveling at a speed of 50 (80 km/h). The radar device shall not display any erroneous readings when a handheld police FM transceiver with an integral antenna is operated inside the patrol vehicle under similar circumstances.

(2) *Citizens Band (CB) AM Transceiver Interference.* The radar device shall not display any erroneous speed readings when a CB AM transceiver properly installed in the patrol vehicle is operated while the patrol vehicle is standing still with the radar device in the stationary mode and tracking a just-acquired distant target traveling at a speed of 50 mph (80 km/h).

(3) *Adjacent Vehicle Radiofrequency Interference.* (i) The radar device shall not display any erroneous speed readings when a second vehicle with an operating police FM transceiver is driven within 10 ft (3 m) of the stationary patrol vehicle while the radar device is operating and tracking a just-acquired distant target traveling at a speed of 50 mph (80 km/h).

(ii) The radar device shall not display any erroneous speed readings when a second vehicle with an operating CB AM transceiver is driven within 10 ft (3 m) of the stationary radar patrol vehicle while the radar device is operating and tracking a just-acquired distant target traveling at a speed of 50 mph (80 km/h).

§ 1221.24 Speed accuracy

When tested in accordance with paragraph 6.3.12, each radar device shall display the correct speed of a target vehicle traveling at speeds of 20 to 100 mph 932 to 160 km/h) within ±1 mph (±1.6 km/h) when operated in the stationary mode. Type II and IV radar devices shall display the correct patrol vehicle speed and target vehicle speed of a radar target within ±2 mph (±3.2 km/h) when operated in the moving mode.

§ 1221.25 Minimum range.

When tested in accordance with paragraph 6.3.13, each radar device operating in the stationary mode shall have sufficient sensitivity to correctly measure and display the speed of a compact vehicle with a metallic body and a sloping front profile at a distance of 500 ft (150 m) when operated in the stationary mode.

Subpart C—Test Procedures.

Conditions

§ 1221.31 Conditions.

Allow all measurement equipment to warm up until the system has achieved sufficient stability to perform the measurement. Unless otherwise specified, perform all measurements under standard test conditions, as follows:

(a) *Standard Temperature.* Standard ambient temperature shall be between 68°F (20°C) and 86°F (30°C).

(b) *Standard Relative Humidity.* Standard relative humidity shall be between 10 and 85%.

(c) *Standard Supply Voltage.* In a nominal 12 V dc system, the standard supply voltage shall be 13.6±.1 V. A well filtered electronic power supply capable of a voltage adjustment of ±20% should be used for laboratory testing and is recommended for other tests in place of the battery for safety and convenience. The standard supply voltage shall be applied to the input terminals of the dc supply cables (including all connectors and circuit protectors) furnished by the manufacturer and adjusted to within 1% of the above value.

(d) *Standard Supply Input Current.* The standard input current shall be the value measured while the radar is operating but is not receiving a target signal.

(e) *Special Instructions.* Each time a test method requires that the radar device be connected to the simulator test range (hereafter called "simulator"), the radar device must also be connected to the standard supply voltage source and properly aligned on the simulator.

Equipment

§ 1221.41 Equipment.

The test equipment discussed in this section is limited to that equipment which is most critical in making the measurements discussed in this document. All other test equipment shall be of laboratory instrumentation quality. All test equipment, except the anechoic chamber, shall be provided with instruction manuals.

§ 1221.42 Audiofrequency synthesizer.

The audiofrequency synthesizer shall have a frequency range of 300 to 10,000 Hz, a resolution of at least 0.01 Hz, and a measurement uncertainty no greater than 1 part in 10^6

§ 1221.43 Microphone.

The microphone shall have a frequency range of 300 to 10,000 Hz and shall be capable of coupling tuning fork tones into an amplifier or oscilloscope.

§ 1221.44 Environmental chamber.

The environmental chamber or chambers shall produce air temperatures that meet the requirements of § 1221.17(a) and § 1221.17(b) while shielding the test radar device from heating or cooling air currents blowing directly on it. The temperature of the radar device shall be measured with a thermocouple (§ 1221.61) separate from the sensor used to control the chamber air temperature and shall have an accuracy of ±2°F (±1°C). Likewise, humidity shall be measured with a hygrometer separate from the sensor used to control humidity and shall have an accuracy of ±2%.

§ 1221.45 Anechoic chamber.

The rf anechoic chamber shall be shielded to exclude outside interference and shall be constructed to minimize internal microwave reflections from the chamber walls, floor and ceiling.

§ 1221.46 Microwave frequency counter.

The microwave frequency counter shall be capable of measuring microwave frequencies from 10,500 to 10,550 MHz and from 24,050 to 24,250 MHz with an uncertainty no greater than one part in 10^7

§ 1221.47 Field intensity meter.

The field intensity meter shall have a probe with omnidirectional pickup characteristics and a 4 in (10 cm) diameter protective sphere, and shall be capable of measuring E-field insensities from 0.01 mW/cm² to 10mW/cm² to 10−mW/cm² with an accuracy of ±1dB.

§ 1221.48 Isotropic probe.

The isotropic probe shall have sensor antennas consisting of three orthogonal dipoles enclosed in a 4 in (10 cm) dismeter protective sphere, a minimum detectable power density level of 0.01 mW/cm² over the frequency range of 10 to 25 GHz, and high resistance between the sensor and metering units.

§ 1221.49 Photometer.

The photometer shall incorporate a photopic response which closely approximates the Commission International de l'Eclairage (CIE)

luminous efficiency function and have optics which allow the measurement of circular areas as small as 0.004 in (0.01 cm) in diameter. the photometer shall have a full scale sensitivity of at least 0.1 foot-lambert (0.34 candela per square meter (cd/m^2)). Measurement uncertainty of the calibrated photo shall be less than 5% of the reading.

§ 1221.50 Simulator test range.

The simulator test range shall have the capability of mounting the radar device in an interference free environment and the means of generating modulation reflection signals as pseudo doppler audio signals. It shall be able to simultaneously produce simulated patrol and target vehicle speeds. The simulator test range shall consists of a mounting bench, two audio signal generators and microwave single sideband (SSB) modulator. The audio generators shall operate from 300 to 15,000 Hz with frequency counters having an uncertainty of less than 1 part in 10^6 and shall have a calibrated output with an accuracy of ± 2 dB. If integral frequency counters are not included, separate counters with the required accuracy shall be used. The SSB modulator shall be capable of generating SSB modulation for frequencies of 300 to 15,000 Hz, and test personnel shall be able to monitor visually the microwave signal level and the modulator balance adjustment.

§ 1221.51 Line impedance stabilization network (LISN).

The line impedance stabilization network, constructed as in figure 1 with shielded terminals shall be capable of simultaneously interfacing with the radar device, the standard supply voltage source, and the interference injection generator.

§ 1221.52 Pulse generator.

The pulse generator shall be capable of producing 20 V peak to peak across a 50 ohm output impedance with rise and fall times of less than one μsec and pulse repetition rates of 200 to 10,000 pulses per second.

§ 1221.53 Sawtooth wave generator.

The sawtooth wave generator shall be capable of producing 20 V peak to peak across a 50 ohm output impedance. It shall also be capable of producing a sawtooth wave having a positive-going, leading-edge, fast rise-time wave of less than one μsec over a frequency range of 200 to 10,000 Hz.

§ 1221.54 FM signal generator.

The FM signal generator shall be capable of producing frequencies from 30 to 500 MHz and shall have an audio frequency modulation variable from 500 to 5000 Hz, a 50-ohm output impedance, a maximum standing wave ratio of 1.2 and a variable output level. It shall also have a deviation meter or calibrated control for determining the peak frequency deviation with an uncertainty no greater than 10%.

§ 1221.55 AM signal generator.

The AM signal generator shall cover the 25 to 30 MHz frequency range, be capable of 99% modulation of frequencies from 500 to 5000 Hz, have a 50-ohm output impedance and a maximum standing wave ratio of 1.2. The generator should include a digital frequency counter having an uncertainty no greater than 1 part in 10^6 and an AM monitor or calibrated control for determining the AM percentage with an uncertainty no greater than 10%. If an integral frequency counter is not included, a separate frequency counter having the required accuracy shall be provided.

§ 1221.56 Power meter.

The power meter shall have 50 ohm feed-through detectors for frequencies from 20 to 500 MHz and the ability to handle powers up to 50 watts with an accuracy of 10% or better.

§ 1221.57 Stopwatch.

The stopwatch shall have a 1.1 sec resolution or better and a total time accumulation of at least 5 min.

§ 1221.58 Oscilloscope.

The oscilloscope shall have a vertical input sensitivity (y-axis) of 10mV/cm or better and a frequency response of at least 5 MHz. It shall also have a horizontal input (x-axis) having at least 20 kHz frequency response and a horizontal sweeptime base resolution of 100 μsec/cm or better. It shall provide a reference voltage, accurate to 5% or better, for calibrating the vertical input.

§ 1221.59 Vibration tester.

The vibration tester shall be adjustable in frequency from 10 to 60 Hz, in a linear-sweep mode, and it shall be servo-controlled, with a reference signal derived from a suitable calibrated accelerometer or other calibrated sensor. It shall also provide an adjustable simple harmonic motion in at least one plane for a total excursion of 0.04 in (1 mm).

§ 1221.60 Slide whistle.

The slide whistle, a wind instrument with notched hollow tube and a variable displacement, shall be capable of producing audiofrequency notes from 500 to 4000 Hz.

§ 1221.61 Thermocouple.

The thermocouple shall be an American National Standards Institute (ANSI) type T thermocouple. Reference tables from ANSI/ASTM E 230–77, Standard Temperature, shall be used to convert electromotive force into measured temperature. At least one thermocouple shall be installed within the case of each radar device for temperature measurement purposes.

Procedures

§ 1221.71 Tuning fork calibration test.

Interconnect the test equipment as shown in figure 2 except that a frequency counter and amplifier may be substituted for the audiofrequency synthesizer and the oscilloscope. If used, adjust the audiofrequency synthesizer to approximately the tuning fork frequency by multiplying the labeled tuning fork speed by 31.3906 for Type I and II radar devices and by 72.0301 for Type III and IV radar devices. After striking the tuning fork on a non-metallic object, wait 3 seconds, then hold it in front of the microphone while adjusting the synthesizer frequency to obtain a stationary, circular, lissajous pattern on the oscilloscope. Record the tuning fork frequency directly from the synthesizer dials. Divide the synthesizer frequency or the frequency as measured by the counter by the appropriate constant given above to obtain the speed corresponding to the measured frequency of the tuning fork.

§ 1221.72 Radar device tuning fork test.

(a) *All Radar Devices.* Place the radar device in operation, orienting the antenna so that no moving targets are present. Activate the tuning fork by striking it on a non-metallic object and hold it 1 to 4 in. (2.5 to 10 cm) in front of the antenna with the flat side parallel to the direction of propagation. The radar must display the speed corresponding to the tuning fork frequency in the target vehicle speed window.

(b) *Type II and IV Radar Devices (Approaching Mode).* Place the radar in the moving mode of operation, orienting the antenna so that no moving targets are available to the radar. Activate the lower speed tuning fork by striking it on a non-metallic object and hold it 1 to 4 in. (2.5 to 10 cm) in front of the antenna with the flat side parallel to the direction of propagation. The radar should display the tuning fork speed in the patrol vehicle speed window. Strike the higher speed tuning fork on a non-metallic object and place in front of the antenna alongside the low speed tuning fork. The speed corresponding to the low-speed tuning fork frequency must

remain in the patrol vehicle speed display window and the target vehicle speed display must indicate the difference in speed between the two tuning forks.

(c) *Type II and IV Radar Devices (Following Mode).* Place the radar in the following mode of operation, orienting the antenna so that no moving targets are available to the radar. Activate the higher speed tuning fork by striking it on a non-metallic object and hold it 1 to 4 in. (2.5 to 10 cm) in front of the antenna with a flat side parallel to the direction of propagation. The radar must display the speed corresponding to the tuning fork frequency in the patrol display window. Strike the lower speed tuning fork on a non-metallic object and place in front of the antenna alongside the high speed tuning fork. The speed corresponding to the high speed tuning fork frequency must remain in the patrol vehicle speed display window and the target vehicle speed display must indicate the sum of the two tuning forks.

§ 1221.73 Microwave transmission tests.

(a) *Transmission Frequency and Frequency Stability Test.* (1) Place the radar device in the anechoic chamber and connect the test equipment as shown in figure 4. Position the pickup horn antenna in the radar beam, a sufficient distance away from the radar device to prevent overdriving the microwave frequency counter. Adjust the standard supply voltage to its nominal value and record the microwave frequency.

(2) Reduce the standard supply voltage by 20% of its nominal value, allow it to stabilize for 2 min, and repeat the above procedure.

(3) Repeat the procedure for a change in standard supply voltage of +20%.

(b) *Input Current Test.* Place the radar device in the anechoic chamber and connect the test equipment as shown in figure 3. Vary the standard supply voltage +20% and record the change in input current. Repeat for a supply voltage of −20% of the nominal value.

(c) *Radiated Output Power Stability Test.* Position the radar device on a vertical test stand in the anechoic chamber, with the antenna pointed upward, and connect the test equipment as shown in figure 5. Mount the isotropic probe of the field intensity meter 20 to 40 in. (50 to 100 cm) from the radar antenna in the longitudinal axis of the radar beam. Record the distance between the antenna aperture and the isotropic probe and the field strength of the microwave output signal.

(d) *Antenna Horizontal Beam Width Test.* Position the radar device on a vertical test stand in the anechoic chamber, with the antenna pointed upwards, and connect the test equipment as shown in figure 5. Mount the isotropic probe of the field intensity meter 20 to 40 in. (50 to 100 cm) above the radar antenna. Energize the radar using standard supply voltage and allow it to stabilize for 2 min. Adjust the position of the radar device on the test stand until the probe is in the center of the antenna beam (maximum power), then adjust the height of the probe for a full scale or reference level on a sensitive scale of the field strength meter, maintaining the probe in the antenna far-field region. Record the distance between the antenna and the probe, and the field intensity. Move the radar unit to the right and to the left of the probe until half-power is indicated on the meter and mark the distance between the half-power points as measured. Again measure the distance between half-power points, moving the radar on a path 90° to the previous direction. Average the distances between the two half-power readings and calculate the half-power beam width using the following equation to correct for any change in radius distance.

$A + 2f^{\circ} \text{ Arctan } (B/R)$.

Where A is the angular half-power beam width, f° is a factor to correct for the change in radius (from the graphed curve, figure 6), B is the average perpendicular distance from boresight to the half-power point, and R is the radius from the front of the antenna to the point at which the boresight power density was measured.

(e) *Radar Capture Angle Test.* Follow the same procedure as for either of the antenna beam width tests in par. (d) of this section except that the measurements shall be made using the 10 dB power points.

(f) *Antenna Near-Field Power Density Test.* Connect the radar device to the test equipment as shown in figure 7. Being careful not to vary the distance from the antenna, use the isotropic probe to search for the maximum signal strength in the plane 2 in. (5 cm) from the antenna aperture or lens face of the antenna and perpendicular to the longitudinal axis of the radar beam. Move the probe to obtain the maximum reading and record it.

§ 1221.74 Environmental tests.

(a) *Operational Temperature Test.* Place the radar device, with the power off, in the environmental chamber and adjust the chamber to the required low temperature ± 3.6°F (±2°C). Allow the radar device to reach temperature equilibrium and maintain it at this temperature for 30 min. Using protective gloves, remove the radar device from the environmental chamber, place it in the anechoic chamber and connect it to the standard supply voltage. After energizing, wait 2 min. before performing any measurements. The radar shall meet the requirements of § 1221.17(a) after 15 min. of operation. Repeat the above procedure at the required high temperature ±3.6°F (±2°C).

(b) *Operational Humidity Test.* Place the radar device, with the power off, in the environmental chamber. Adjust the relative humidity to a minimum of 90% at 99°F (37°C) and maintain the radar device at these conditions for at least 8 hours. Remove the radar device from the chamber, place it in the anechoic chamber and connect it to the standard supply voltage. After energizing, wait 2 min. before performing any measurements. The radar device shall meet the requirements of § 1221.17(b) after 15 min. of operation.

(c) *Vibration Test.* (1) Fasten the radar device to the vibration tester using a rigid mounting fixture. Perform a two-part test for a total of 30 min. in each of three directions, namely the directions parallel to both axis of the mounting and perpendicular to the place of the mounting.

(2) First subject the radar device to three 5 min. cycles of simple harmonic motion having an amplitude of 0.015 in (0.38 mm) [total excursion of 0.03 in (0.76 mm)] applied initially at a frequency of 10 Hz and increased at a uniform rate to 30 Hz in 2.5 min., then decreased at a uniform rate to 10 Hz in 2.5 min. Conduct the appropriate radar device tuning fork test (§ 1221.72) during the last 5 min. cycle.

(3) Then subject the radar device to three 5 min. cycles of simple harmonic motion having an amplitude of 0.0075 in (0.19 mm) [total excursion of 0.015 in (0.38 mm)] applied initially at a frequency of 30 Hz and increased at a uniform rate to 60 Hz in 2.5 min., then decreased at a uniform rate to 30 Hz in 2.5 min. Conduct the appropriate radar device tuning fork test (§ 1221.72) during the last 5 min. cycle.

(4) Repeat this procedure for each of the other two directions.

§ 1221.75 Low supply voltage test.

Connect the radar device to the standard supply voltage as shown in figure 3 and energize it. Allow the radar device to stabilize for 2 min., then conduct the appropriate radar device tuning fork test (§ 1221.72) and measure the radar speed generated by the tuning fork frequency. Continue to measure the radar speed and decrease the supply

voltage at the rate of approximately 0.2 V/s until the low voltage alert is activated. Record the supply voltage level. Verify that no erroneous reading is present. Increase the supply voltage until the low voltage indicator is deactivated, and again conduct the appropriate radar device tuning fork test to verify that the radar device yields the same speed reading as at standard supply voltage.

§ 1221.76 Doppler audio tests.

Each time a test method requires that the radar device be connected to the simulator, the radar device must also be connected to the standard supply voltage source and properly aligned on the simulator. See figure 8 for a block diagram of this measurement setup. The following procedures shall be followed:

(a) *Audio Output and Volume Control Test.* (1) Connect the radar device to the simulator and energize it in the stationary mode. Establish a simulated target and vary the target speed to verify that the doppler audio is correlated with the target speed. In a single target situation, stationary mode, the doppler audio should be a single clear tone (not distorted). For type II and IV radar devices, switch to moving mode operation and use the simulator to establish a simulated moving mode situation. Vary the target speed control and verify that the simulated target doppler audio is correlated with the target speed, whether the patrol doppler audio is present or not.

(2) Vary the audio volume adjustment control.

(b) *Audio Squelch and Squelch Override Test.*

(1) Connect the radar device to the simulator and energize it in the stationary mode with no target present. Verify that the audio output is squelched.

(2) Disable the squelch function and verify that the audio doppler output continues uninterrupted.

(c) *Audio Track-Through-Lock Test.* (1) Connect the radar device to the simulator, energize it in the stationary mode and turn on the squelch. Establish a simulated target, actuate the speed lock switch and record the target speed reading. Verify that the target speed is locked in, that the radar device continues to process the target speed, and that the doppler audio continues uninterrupted. Increase the simulated target speed and verify that the target speed reading and doppler audio are correlated with the target speed. Discontinue the simulated target and verify that the target speed display shows the target speed that existed when the speed lock switch was actuated.

(2) Repeat the above procedure using a decreased simulated target speed.

(3) For type II and IV radar devices, switch to the moving mode of operation, establish a simulated fixed patrol speed and a variable target speed and repeat the above procedure. Verify that the target speed display shows speeds that existed when the speed lock switch was actuated.

§ 1221.77 Speed monitor alert test.

Verify that the radar device does not have a speed monitor alert capability.

§ 1221.78 Power surge test.

Conduct the following test on any devices with a standby capability. Adjust all range sensitivity controls and audio volume controls to maximum for these tests. Connect the radar device to the simulator. Place the radar device in the stationary mode and establish a simulated target of 50 mph (80 km/h) switch the device to standby mode. Turn the device from standby to on and verify that there are no erroneous readings. Repeat this three times.

§ 1221.79 Speed display tests.

(1) *Display Readability Tests.* Position the radar device with the illuminated face perpendicular to the optical axis of the photometer as shown in figure 9. Position a light source at an angle of 30° from the perpendicular such that 1000 footcandles (10,760 lumens per square meter) of illumination will be measured across the face of the display. Turn on the display using standard supply voltage and use a tuning fork to place a speed reading on the display. Lock in the reading and darken the room. Vary the intensity of the display to obtain the maximum luminance contrast. Use the photometer to measure the luminance of an individual character element, either a bar or a single dot, and its background at three locations, if possible, representing the left, center and right portions of the display. Repeat for illumination angles of 45° and 60°. Record the values of daylight luminance contrast for each of the nine tests and calculate the average value of L_1 and L_2 (defined below). Calculate the daylight luminance contrast value from

$$C = \frac{L_1 - L_2}{L_2}$$

where C is the luminance contrast L_1 is the luminance of the display element and L_2 is the luminance of the background immediately surrounding the display element.

Measure the height of a typical display character.

(b) *Display Speed Lock Tests.* (1) These tests may be performed in conjunction with the display clear test (paragraph (c) of this section) for convenience. Connect the radar device to the simulator and establish a simulated target. Place the radar device in the stationary mode and activate the speed lock switch to retain the target vehicle speed reading. Increase the target speed, then discontinue the simulated target and verify that the target speed display has retained the correct speed reading.

(2) Clear the radar device and again establish a simulated target, but do not activate the speed lock switch. Discontinue the simulated target and then activate the speed lock switch. Verify that the target speed display remains blank.

(3) For type II and IV radar devices, establish both a simulated target and a simulated patrol vehicle speed. Proceed as above except that both the target speed display and the patrol speed display must be observed.

(c) *Display Clear Test.* (1) Connect the radar device to the simulator and establish a simulated target. Activate any one of the control switches (on, off, standby, test, etc.) on the radar device except the speed lock switch and verify that the previous speed reading has not been preserved. Repeat for each control switch on the radar device.

(2) With the radar device still connected to the simulator, again establish a simulated target. Lock in this speed reading using the speed lock switch. Activate any one of the control switches on the radar device (on, off, standby, test, etc.) and verify that the previous speed reading has not been preserved. Repeat for each control switch on the radar device.

(d) *Internal Circuit Test.* Activate the radar device and perform the internal circuit test in accordance with the instructions of the manufacturer. Verify that only correct readings are displayed, and that all readings are cleared automatically when the test is completed. Repeat the internal circuit test a second time and attempt to actuate the speed lock switch while readings are being displayed. Verify that these readings are not retained by the display.

(e) *Speed Display Transfer Test.* Connect the radar device to the simulator and establish a moving mode

simulated patrol speed. Using each of the available controls, attempt to transfer the patrol speed reading to the target speed display.

(f) *Signal Processing Channel Sensitivity Tests.* (1) Connect the radar device to the simulator and establish a 20 mph (32 km/h) simulated target. Place the radar device in the stationary mode, increase the target signal by adjusting the generator output or audio attenuator and record the minimum target speed signal level needed to acquire the target. Repeat for target speeds of 30 to 90 mph (48 to 144 km/h) at 10 mph (16 km/h) increments.

(2) For type II and IV radar devices, place the radar device in the moving mode, establish a 25 mph (40 km/h) simulated patrol vehicle speed and then increase the patrol speed signal level by 10 dB (5 dB if using a microwave attenuator). Establish a 40 mph (64 km/h) simulated target, acquire it and record the minimum target speed signal level needed to reacquire the target. Repeat for target speeds of 50 to 90 mph (80 to 144 km/h) at 10 mph (16 km/h) increments. Repeat the procedure for a simulated patrol vehicle speed of 50 mph (80 km/h) and target speeds of 60 to 90 mph (96 to 144 km/h) at 10 mph (16 km/h) increments.

(g) *Target Channel Low and High Speed Display Tests.* (1) Connect the radar device to the simulator. With the radar device in off or standby, establish a simulated target traveling at the required low speed. Switch the radar device to the stationary mode to verify that it will acquire this target and measure its speed. For type II and IV radar devices, establish a simulated patrol speed of 20 mph (32 km/h), switch the radar device to the moving mode and repeat this procedure.

(2) Switch the radar device to the stationary mode, determine the minimum signal level necessary to establish a simulated 50 mph (80 km/h) target, then increase the simulated signal level by 10 dB (5 dB if using a microwave attenuator) and repeat this procedure using the required high speed target speed.

(3) For type II and IV radar devices, with simulated target traveling at 100 mph (160 km/h) and a patrol vehicle speed of 55 mph (88 km/h), verify that the target signal processing channel will process and display the correct speed readings. For type IV radar devices, change the closing speed to 210 mph (336 km/h), with a maximum patrol speed of 55 mph (88 km/h), and verify that the radar device will not process and display any speed reading.

(h) *Patrol Channel Speed Display Tests.* (1) *Low and High Speed Tests.* Connect the radar device to the simulator. With the radar device in off or standby, establish a simulated target and a patrol speed signal at the required low speed. Switch the radar device to the moving mode and verify that it will acquire and measure this patrol speed. With the radar device still in the moving mode, establish a simulated patrol speed of 55 mph (88 km/h) and repeat the procedure.

Switch the radar device to the stationary mode, determine the minimum signal level necessary to establish a simulated 50 mph (80 km/h) target, then increase the simulated signal level by 10 dB (5 dB if using a microwave attenuator) and repeat this procedure using the required high speed target speed.

(2) *Patrol Vehicle Speed Change Test.* (i) Connect the radar device to the simulator and establish a patrol speed of 20 mph (32 km/h). Place the radar device in the moving mode and display the correct patrol speed. Use the simulator to increase the patrol speed at a rate of 3 mph per second for 5 seconds and verify that the patrol speed display reading agrees with the simulated patrol speed during this 5 second period. Repeat this procedure for initial patrol speeds of 30 and 40 mph (48 and 64 km/h).

(ii) With the radar device still connected to the simulator, establish a patrol speed of 55 mph. Place the radar device in the moving mode and display the correct patrol speed. Use the radar target simulator to decrease the patrol speed at a rate of 3 mph per second for 5 seconds and verify that the patrol speed reading agrees with the simulated patrol speed during this 5 second period. Repeat this procedure for an initial patrol speed of 40 mph (64 km/h).

(i) *Auxiliary Display Tests.* (1) Connect the radar device together with the auxiliary printer or remote display module to the simulator and conduct the display speed lock test (paragraph (b) of this section) and the display clear test (paragraph (c) of this section). Verify that the remote module displays are cleared when it is reconnected to the radar device.

(2) With the radar device still connected to the simulator, establish a simulated target, actuate the speed lock switch and the printer function. Verify that the printout includes the items required by § 1221.21(i).

§ 1221.80 Electromagnetic interference tests.

Connect the radar device to the simulator and to the other test equipment as shown in figure 10. Activate the radar device in the stationary mode, determine the minimum signal level necessary to establish a simulated 50 mph (80 km/h) target, then increase the simulated signal level by 3 dB (1.5 dB if using a microwave attenuator). Turn the simulated signal off and proceed with each of the tests in paragraphs (a) through (d) of this section.

(a) *Vehicle Alternator Interference Test.* (1) With the pulse generator connected such that the pulse signals are impressed on the radar device power line, set the generator output to 1 V peak to peak, as measured by the oscilloscope, at a pulse repetition rate of 200 pulses per second (pps) with a pulse width of 10–20 μsecs. With the radar device still in the stationary mode, establish a simulated target of 40 mph (64 km/h) and slowly vary the generator frequency from 200 pps to 10,000 pps and back to 200 pps.

(2) For type II and IV radar devices, switch to the moving mode and determine the minimum signal level necessary to establish a patrol speed of 50 mph (80 km/h). Then increase this level by 10 dB (5 dB if using a microwave attenuator). Establish a target speed of 60 mph (96 km/h) (3 dB above a minimum target signal) and repeat the above procedure. Verify that no erroneous readings appear at any time.

(b) *Vehicle Ignition, Air Conditioner/Heater Motor and Windshield Wiper Motor.* Disconnect the pulse generator and replace it with the sawtooth as shown in figure 11, such that sawtooth wave signals are impressed on the radar device power line. Set the generator output to 1 V peak to peak, as measured by the oscilloscope, at a frequency of 200 Hz. Place the radar device in the stationary mode, establish a simulated target of 40 mph (64 km/h), then increase the simulated signal level by 3 dB and slowly vary the generator frequency from 200 to 10,000 Hz and back to 200 Hz. Verify that no erroneous readings appear at any time.

For type II and IV radar devices, switch to the moving mode, establish a patrol speed of 50 mph (80 km/h) (10 dB above minimum patrol signal) and a target speed of 60 mph (96 km/h), then increase the simulated signal level by 3 dB and repeat the above procedure. Verify that no erroneous readings appear at any time.

(c) *Police FM Transceiver Interference Test.* (1) Connect the FM signal generator to the line interference stabilization network, as shown in figure 12, such that the rf signals are impressed on the radar device power line. Set the generator to a frequency of 160 MHz with an output of 10 mW, as measured

by the power meter, with no more than 1 mW reflected power. Place the radar device in the stationary mode, establish a simulated target of 40 mph (64 km/h), then increase the simulated signal level by 3 dB, set the generator frequency deviation to 5 kHz and slowly vary the modulation frequency from 200 to 10,000 Hz and back to 200 Hz. Verify that no erroneous readings appear at any time.

(2) For type II and IV radar devices, switch to the moving mode, establish a patrol speed of 50 mph (80 km/h) (10 dB above minimum patrol signal) and a target speed to 60 mph (96 km/h), then increase the simulated signal level by 3 dB and repeat the above procedure. Verify that no erroneous readings appear at any time.

(3) Repeat the entire test for frequencies of 40 and 460 MHz.

(d) *Citizens Band (CB) AM Transceiver Interference Tests.* (1) Connect the AM signal generator to the line interference stabilization network, as shown in figure 12, such that the rf signals are impressed on the radar device power line. Set the generator to a frequency of 27 MHz with an output of 5 mW, as measured by the power meter, with no more than 1 mW reflected power, at a frequency of 27 MHz and adjust the generator modulation to 99%. Place the radar device in the stationary mode, establish a simulated target of 40 mph (64 km/h), then increase the simulated signal level by 3 dB and slowly vary the modulation frequency from 200 to 10,000 Hz and back to 200 Hz. Verify that no erroneous readings appear at any time.

(2) For type II and type IV radar devices, switch to the moving mode, establish a patrol speed of 50 mph (80 km/h) (10 dB above minimum patrol signal) and a target speed of 60 mph (96 km/h), then increase the simulated signal level by 3 dB and repeat the above procedure. Verify that no erroneous readings appear at any time.

1221.81 Radar device operational tests.

Install the radar device in the patrol vehicle in accordance with the manufacturers instructions, using extreme care in positioning the antenna. The patrol vehicle shall be of the type normally used for law enforcement purposes, with heavy duty components and a factory installed air conditioning system. It shall have at least one standard police FM transceiver and an antenna installed in accordance with the instructions provided by the transceiver manufacturer. This test must be conducted in an environment free of extraneous moving targets such as large ventilation fans.

(a) *Vehicle Ignition and Alternator Interference Test.* Start the patrol vehicle engine. Wait 30 sec, turn on the radar device, place it in the stationary mode and acquire and track a just-acquired distant target traveling at a speed of 50 mph (80 km/h). Slowly increase and decrease the engine speed and monitor the display for erroneous readings.

(b) *Air Conditioner/Heater Fan Interference Test.* (1) Start the patrol vehicle engine and set it to a fast idle. Wait 30 sec, place the radar device in the stationary mode and acquire and trace a just-acquired distant target traveling at a speed of 50 mph (80 km/h). Turn the air conditioner/heater motor on and off at least 3 times except for the highest speed. Repeat the above procedure at all available fan motor speeds.

(2) Switch to moving mode operation and repeat the procedure.

(c) *Radiofrequency Transceiver Interference Tests.*

(1) *Police FM Transceiver Interference Test.* (i) Start the patrol vehicle engine and set it to a fast idle. Wait 30 seconds, place the radar device in the stationary mode and switch on the FM transceiver. Track a just-acquired distant target traveling at a speed of 50 mph (80 km/h), activate the push-to-talk switch and use the slide whistle to transmit tones via the microphone. Slowly vary the tone of the slide whistle from 500 Hz to 3000 Hz and back to 500 Hz, observing the target speed display for possible erroneous readings. Repeat two more times.

(ii) Turn off the FM transceiver and repeat the procedure using a handheld FM transceiver with an integral antenna and an output power of 2 watts or more positioned at the patrol vehicle driver's location.

(2) *Citizens Band (CB) AM Transceiver Interference Test.* Mount the CB transceiver in a typical front seat location and install the antenna as recommended by the manufacturer. Connect the CB transceiver power leads to the vehicle battery or the ignition switch circuitry, but not to the cigarette lighter. Start the patrol vehicle engine and set it to a fast idle. Place the radar device in the stationary mode and track a just-acquired distant target traveling at a speed of 50 mph (80 km/h). Switch on the CB transceiver, set it to channel 20, activate the push-to-talk switch and use the slide whistle to transmit tones via the microphone. Slowly very the tone from 500 to 3000 Hz and back to 500 Hz, observing the target speed display for possible erroneous readings. Repeat for channels 1 and 40.

(3) *Adjacent Vehicle Radiofrequency Interference Test.* (i) Start the patrol vehicle engine and set it to a fast idle. Place the radar device in the stationary mode and track a just-acquired distant target traveling at a speed of 50 mph (80 km/h). From a distance of at least 50 ft (15 m), slowly drive a second vehicle equipped with a police FM transceiver of at least 50 watts of output power and a matching antenna past the patrol vehicle passing within 10 ft. (3m) of it. Use the slide whistle to transmit tones between 500 and 3000 Hz from this transceiver until reaching a point 50 ft (15 m) away from the patrol vehicle. Note any erroneous readings on the radar device display. Turn the second vehicle around and repeat the above procedure, passing within 10 ft. (3 m) of the patrol vehicle on its other side, again using the slide whistle to transmit modulating tones from 300 to 3000 Hz, and observing the radar speed display.

(ii) Turn off the FM transceiver, mount the CB transceiver in the second vehicle and repeat the above procedure.

§ 1221.82 Speed accuracy test.

(a) Establish a measured distance of at least 1332 ft (400 m) on an open, level location away from other moving targets. Turn on the radar device, place it in the stationary mode and drive the patrol vehicle over the measured distance at a constant speed, measuring the elapsed time with a stopwatch while recording the patrol speed reading and the speedometer reading. Repeat the procedure twice in each direction, maintaining the same speed for all 4 runs. Use the stopwatch average time to determine the true patrol vehicle speed and use this speed to calculate the patrol vehicle speedometer correction factor and the radar device speed correction factor. Repeat this procedure for speeds of 20, 50 and 70 mph (32, 72, and 96 km/h).

(b) For type II and type IV radar devices, switch to the moving mode of operation and repeat this procedure to obtain the appropriate correction factor.

(c) Switch the radar device to the stationary mode of operation and position the patrol vehicle at one end of the measured test range. Drive a target vehicle through the measured distance at a constant speed, measuring the elapsed time with a stopwatch, recording the speedometer reading and measuring target vehicle speed with the radar device. Repeat one time, then move the patrol vehicle to the opposite end of the measured range. Repeat the procedure twice in this direction, again recording the stopwatch elapsed time, speedometer reading and radar speed reading. Calculate the true target vehicle

speed, the target vehicle speedometer correction factor and the indicated radar speed reading. Repeat this procedure for speeds of 20, 50 and 70 mph (32, 80 and 112 km/h).

(d) For type II and IV radar devices, switch the radar device to the moving mode and station the patrol vehicle and the target vehicle at opposite ends of, and beyond the end of, the measured distance. Make 3 moving mode, constant speed, approaching runs in each direction, recording the speedometer readings of each vehicle and the radar device speed display reading. A stopwatch may be used to obtain the true vehicle speed. Average the 6 speedometer and speed display readings. Calculate the true target vehicle speed, the target vehicle correction factor and the indicated radar speed reading. Repeat this procedure using a patrol speed of 20 mph (16 km/h) and a target speed of 55 mph (88 km/h) and using a patrol speed of 55 mph (88 km/h) and a target speed of 70 mph.

(e) For radar devices with a moving mode, following feature, repeat this procedure using a patrol speed of 55 mph and a target speed of 70 mph (112 km/h).

§ 1221.83 Minimum range test.

(a) Establish a measured distance of 1330 ±10 ft. (400 ±3 m) on an open, level location away from other moving targets. Position the patrol vehicle at one end of the measured distance, turn on the radar device and place it in the stationary mode. Cause the target vehicle, a compact vehicle with a metallic body and a sloping front profile, to drive through the measured distance at a constant speed of 20 mph (32 km/h) toward the patrol vehicle. Use a stopwatch in the target vehicle to measure the time necessary to traverse the measured distance. Concurrently, start a stopwatch in the patrol vehicle when the radar initially displays the target vehicle speed and stop the stopwatch the instant the target vehicle passes the patrol vehicle position. Repeat this procedure two more times.

(b) Calculate the target vehicle speed using the measured distance and the stopwatch time. Calculate the average of the three patrol vehicle acquisition times and determine the minimum range from the equation.

range (feet) = 1.467 (target vehicle speed in mph) (target acquisition time in secs)

(c) Repeat this procedure at target vehicle speeds of 50 and 70 mph (80 and 112 km/h).

Table 1.—*Minimum Performance Requirements for Speed Measuring Radar Devices*

Performance characteristic	Minimum requirement
Tuning Fork Characteristic:	
A. Tuning Fork Frequency Tolerance.	±1/2 pct.
Radar Device Characteristic:	
B. Radar Device Tuning Fork Speed Tolerance.	±mph (±2 km/h).
C. Input Current Variation	10,500–10,550 MHz (X Band).
D. Microwave Frequency Variation.	24,050–24,250 MHz (K Band). ±1.5 dB.
E. Radiated Output Power Variation.	18°max (X Band).
F. Antenna Horizontal Beam Width.	15°max (K Band).
G. Radar Device Speed Tolerance During Vibration.	±2 mph (±3 km/h).
H. Display Readability Contrast.	2.5.
I. Display Readability Height.	.4 in (1 cm).
J. Patrol Vehicle Speed Changes.	±1 mph (±2 km/h).
K. Target Channel Sensitivity, Stationary Mode.	<10 dB 20 to 90 mph (32 to 144 km/h). <3 dB 60 to 90 mph (32 to 144 km/h).
L. Target Channel Sensitivity, Moving Mode.	<10 dB 40 to 90 mph (64 to 144 km/h). <3 dB 60 to 90 mph (32 to 144 km/h).
M. Accuracy, Stationary Mode.	±1 mph (±2 km/h).
N. Accuracy, Moving Mode	±2 mph (±3 km/h).
O. Minimum Radar Range	500 ft (150 m).

BILLING CODE 4910-59-M

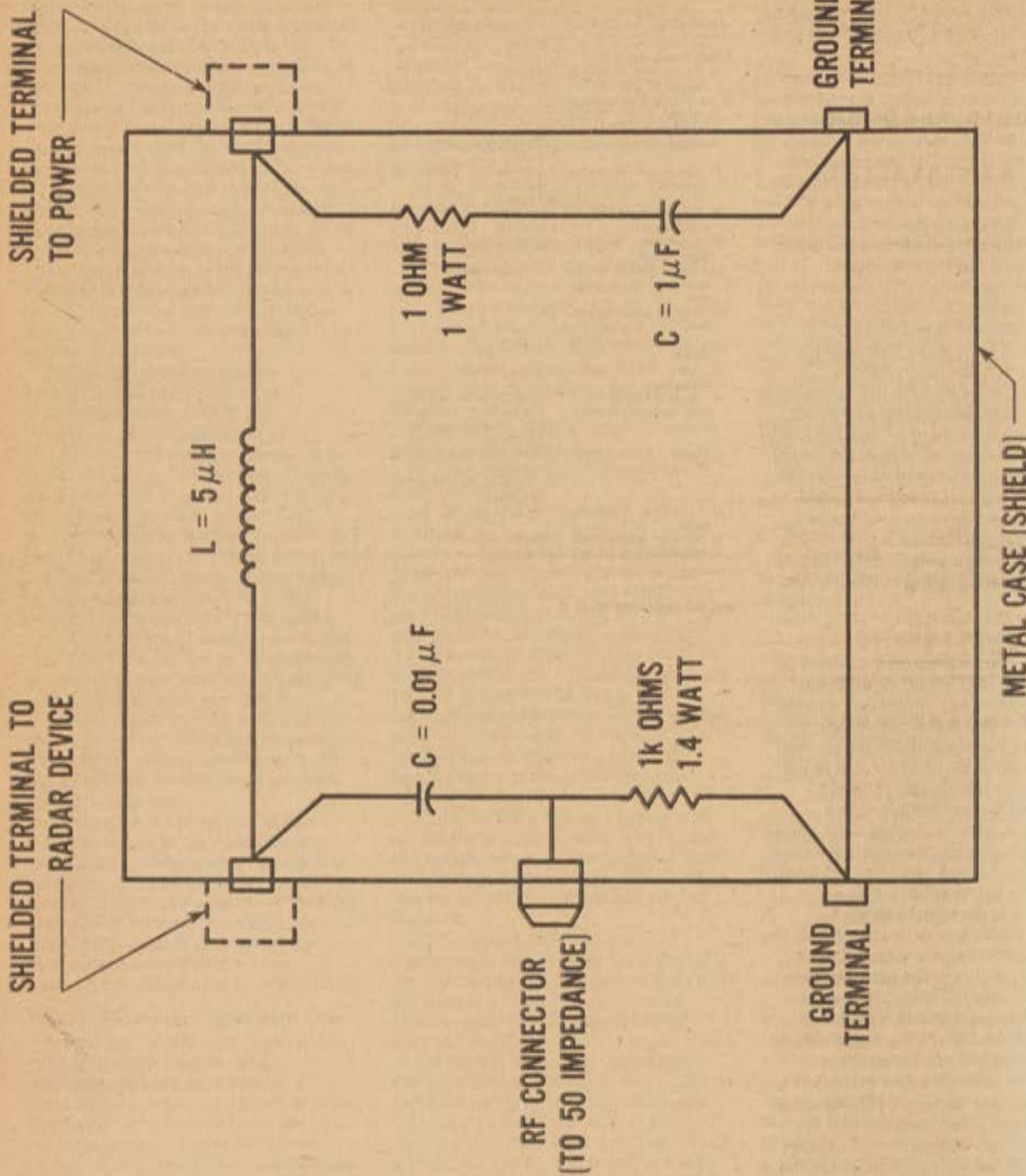

SHIELDED TERMINAL TO POWER
SHIELDED TERMINAL TO RADAR DEVICE
L = 5 μH
1 OHM 1 WATT
C = 1 μF
C = 0.01 μF
1k OHMS 1.4 WATT
GROUND TERMINAL
GROUND TERMINAL
RF CONNECTOR (TO 50 IMPEDANCE)
METAL CASE (SHIELD)

Figure No. 1

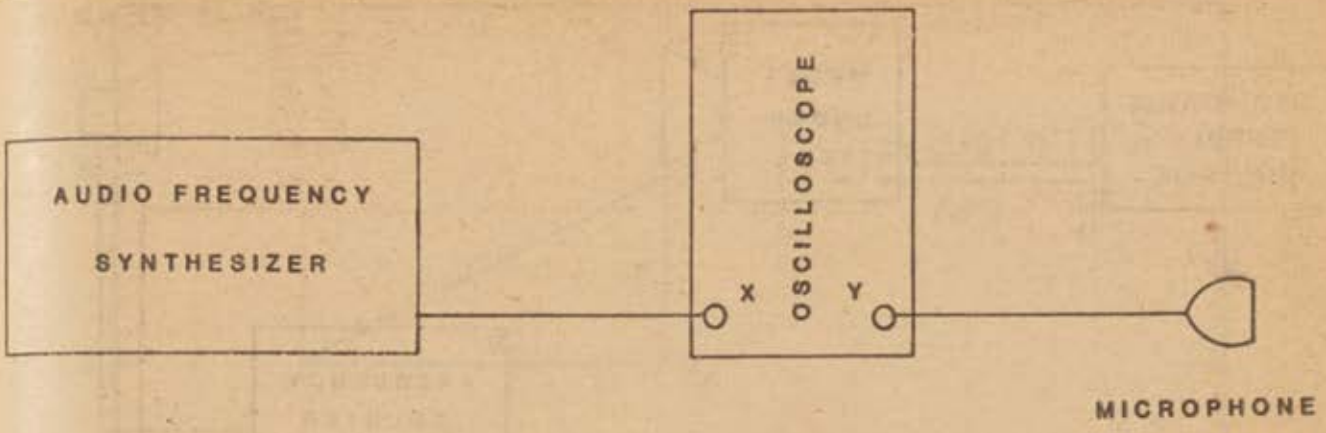


Figure No. 2

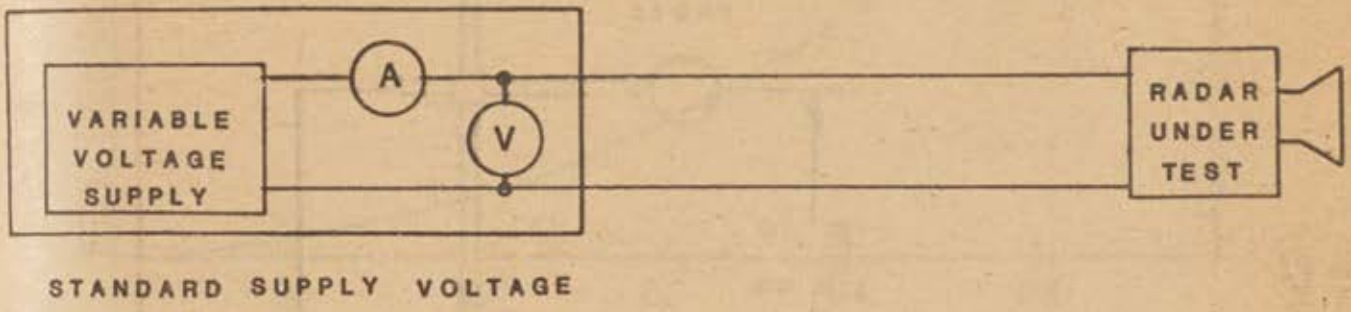


Figure No. 3

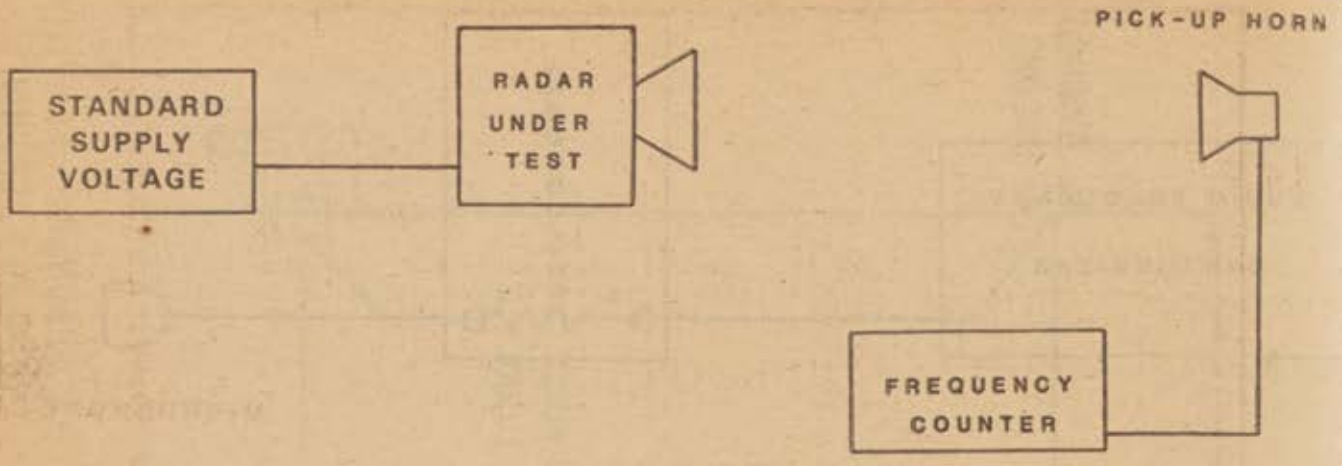


Figure No. 4

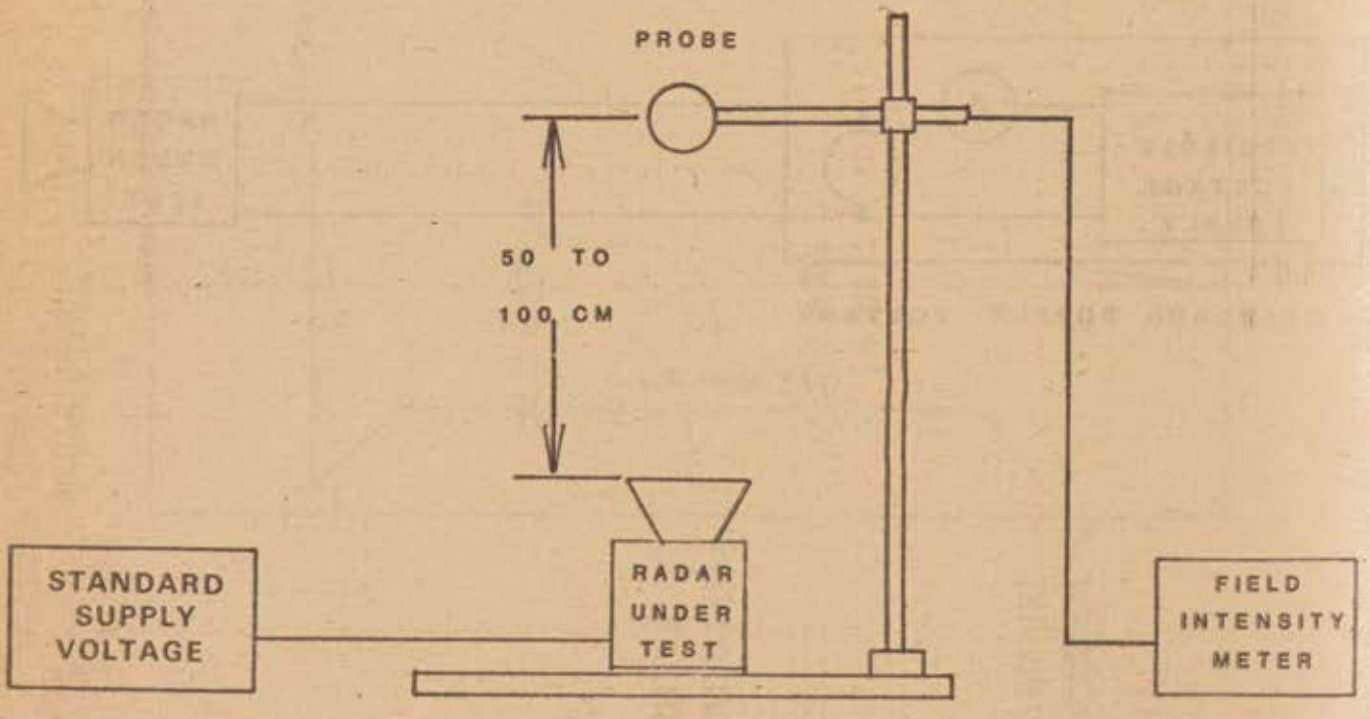


Figure No. 5

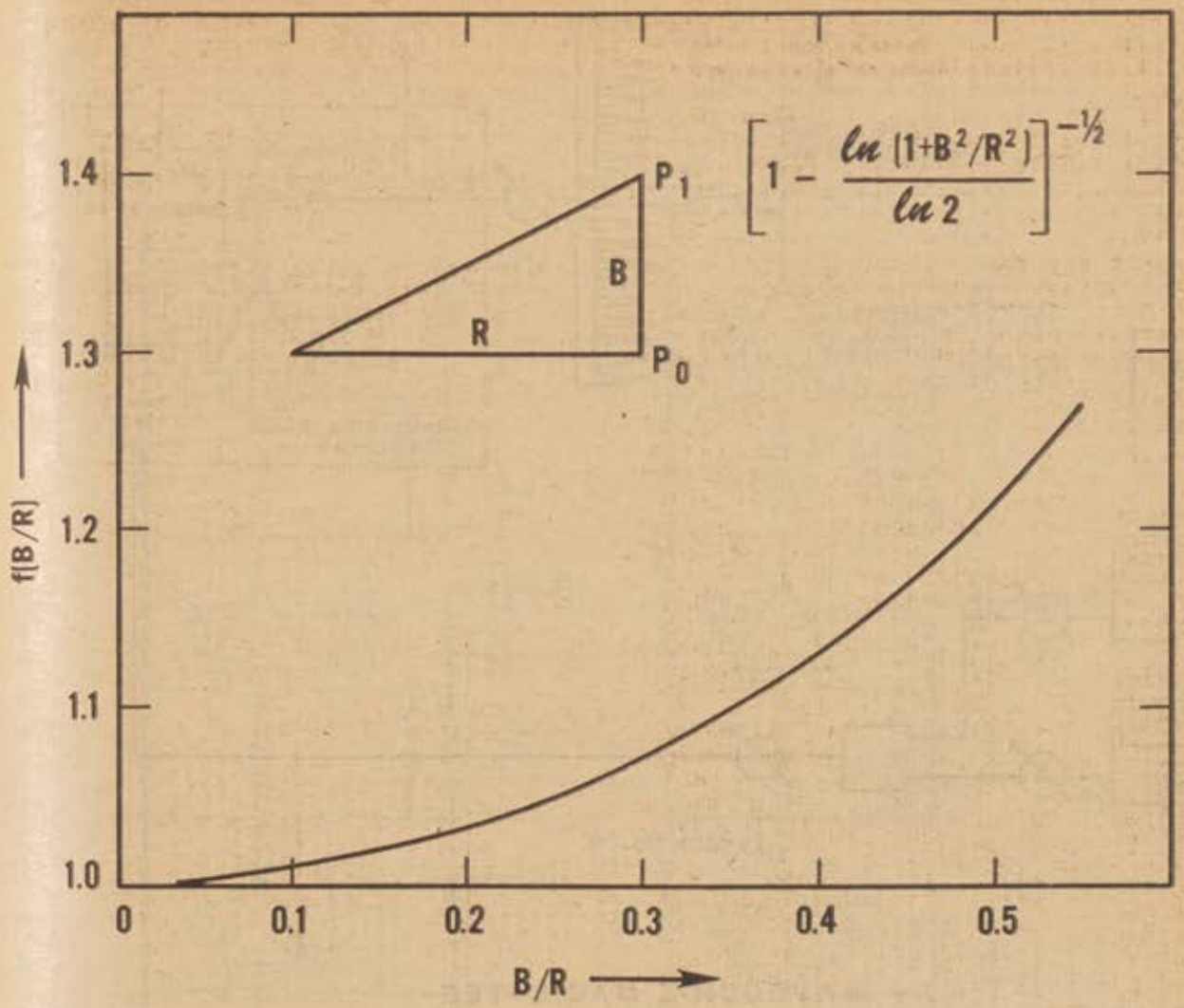


Figure No. 6

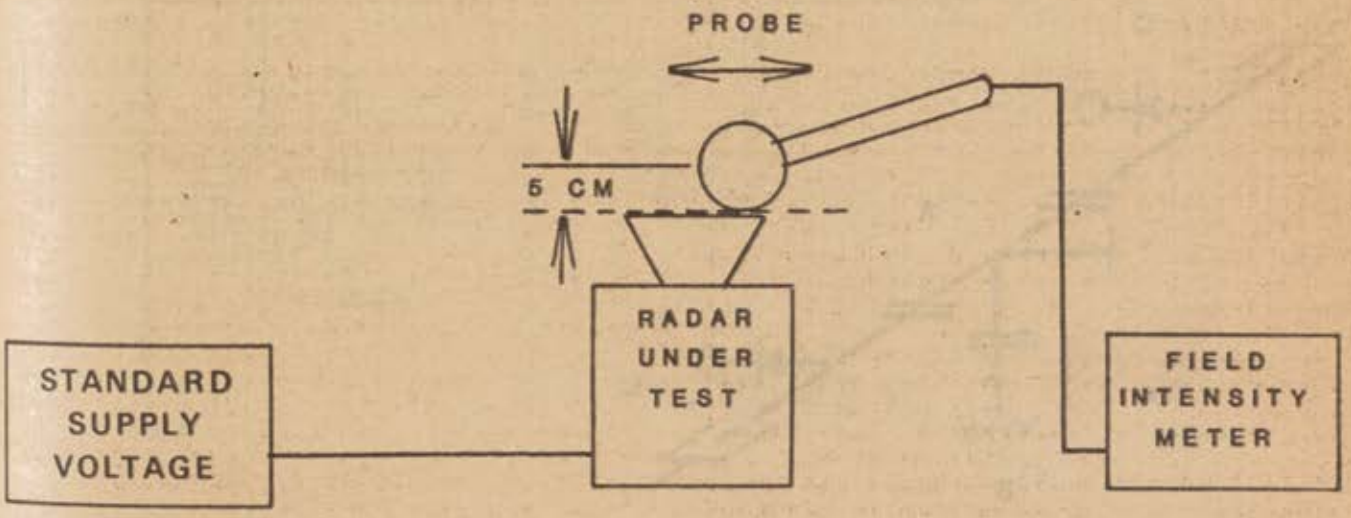


Figure No. 7

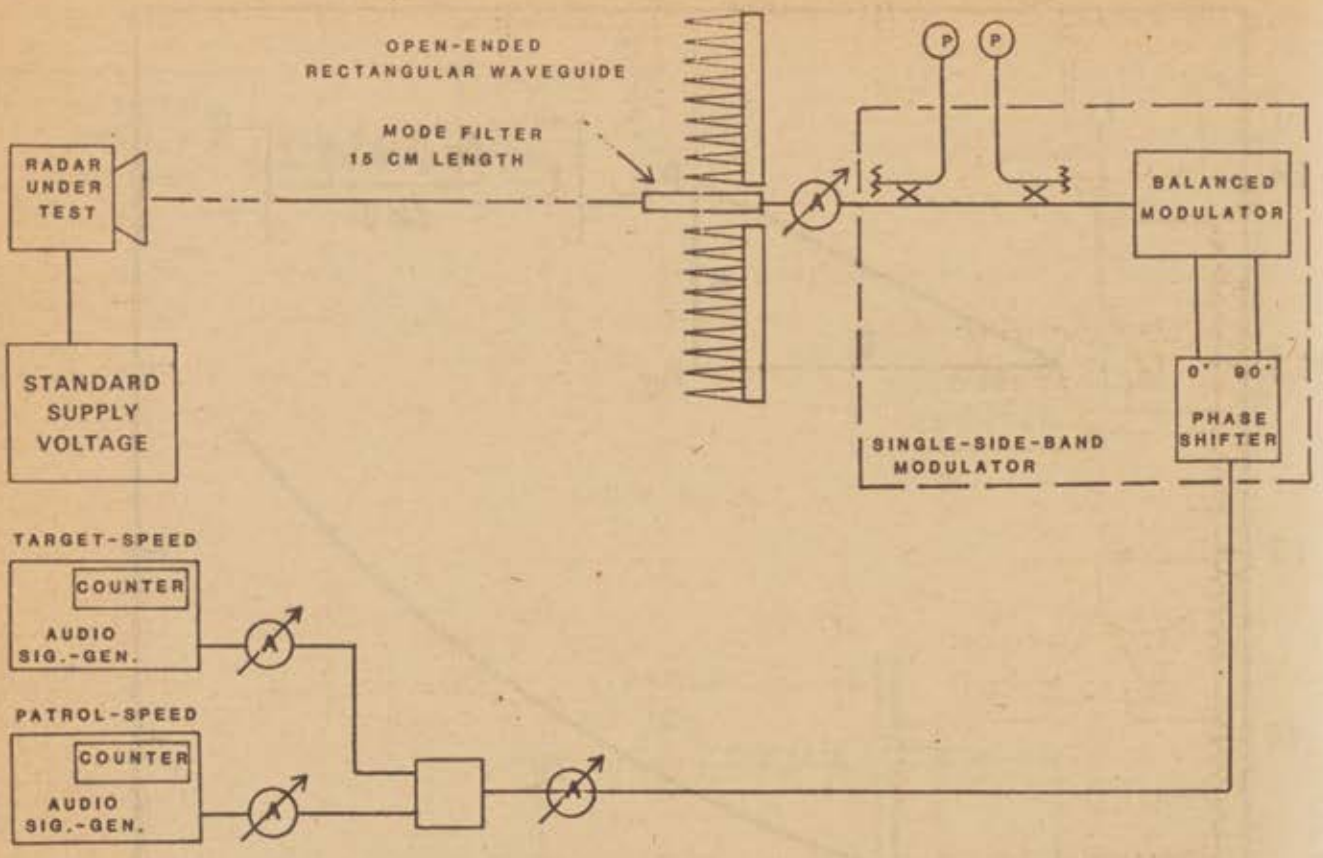


Figure No. 8

A- WAVEGUIDE MAGIC-TEE

B- WAVEGUIDE TERMINATION

C- TUNABLE DIODE DETECTORS

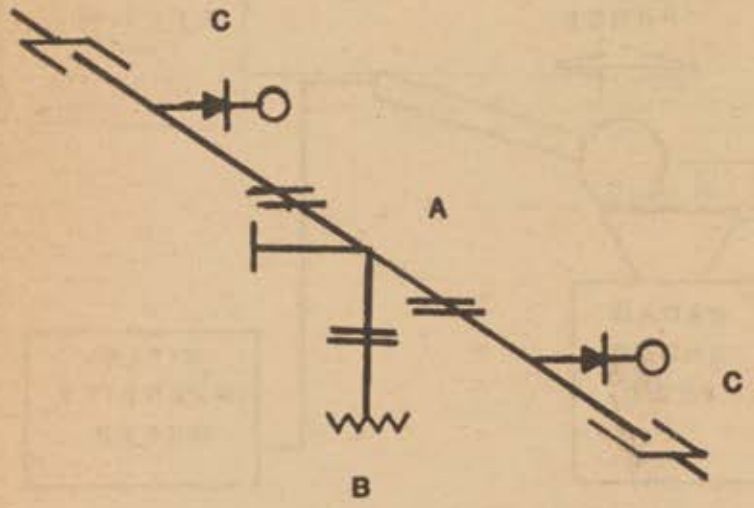


Figure No. 8a

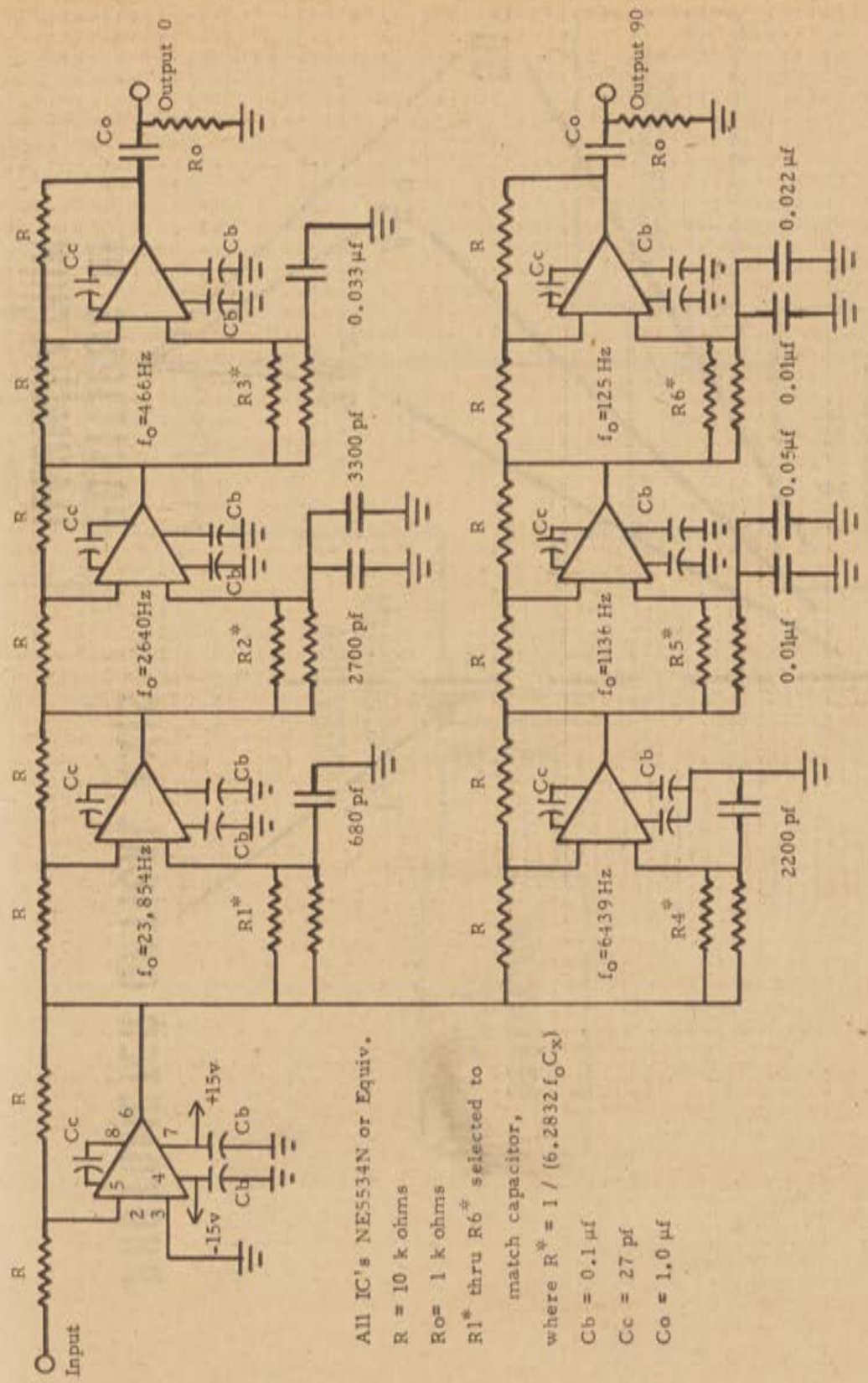

ALL-PASS 90 DEGREE PHASE-SHIFTER
300 Hz to 10,000 Hz
Input
Output 0
Output 90
Co
Ro
Cc
Cb
R
+15v
-15v
f_o=23,854Hz
f_o=2640Hz
f_o=466Hz
f_o=6439 Hz
f_o=1136 Hz
f_o=125 Hz
R1*
R2*
R3*
R4*
R5*
R6*
680 pf
2700 pf
3300 pf
2200 pf
0.01µf
0.05µf
0.01µf
0.022 µf
0.033 µf
All IC's NE5534N or Equiv.
R = 10 k ohms
Ro= 1 k ohms
R1* thru R6* selected to match capacitor,
where R* = 1 / (6.2832 $f_o C_x$)
Cb = 0.1 µf
Cc = 27 pf
Co = 1.0 µf

Figure No. 8b

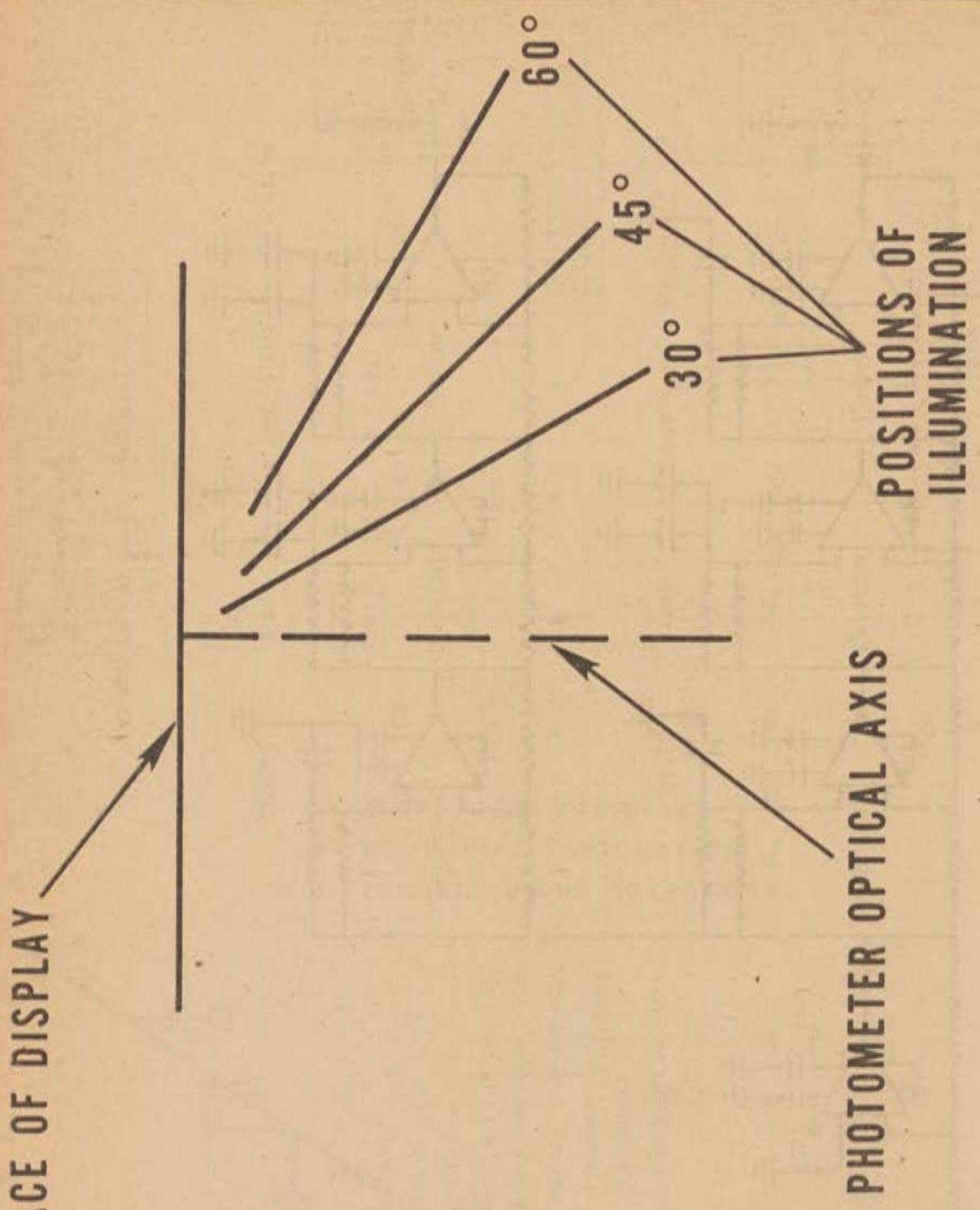

60°
45°
30°
POSITIONS OF ILLUMINATION
FACE OF DISPLAY
PHOTOMETER OPTICAL AXIS

Figure No. 9

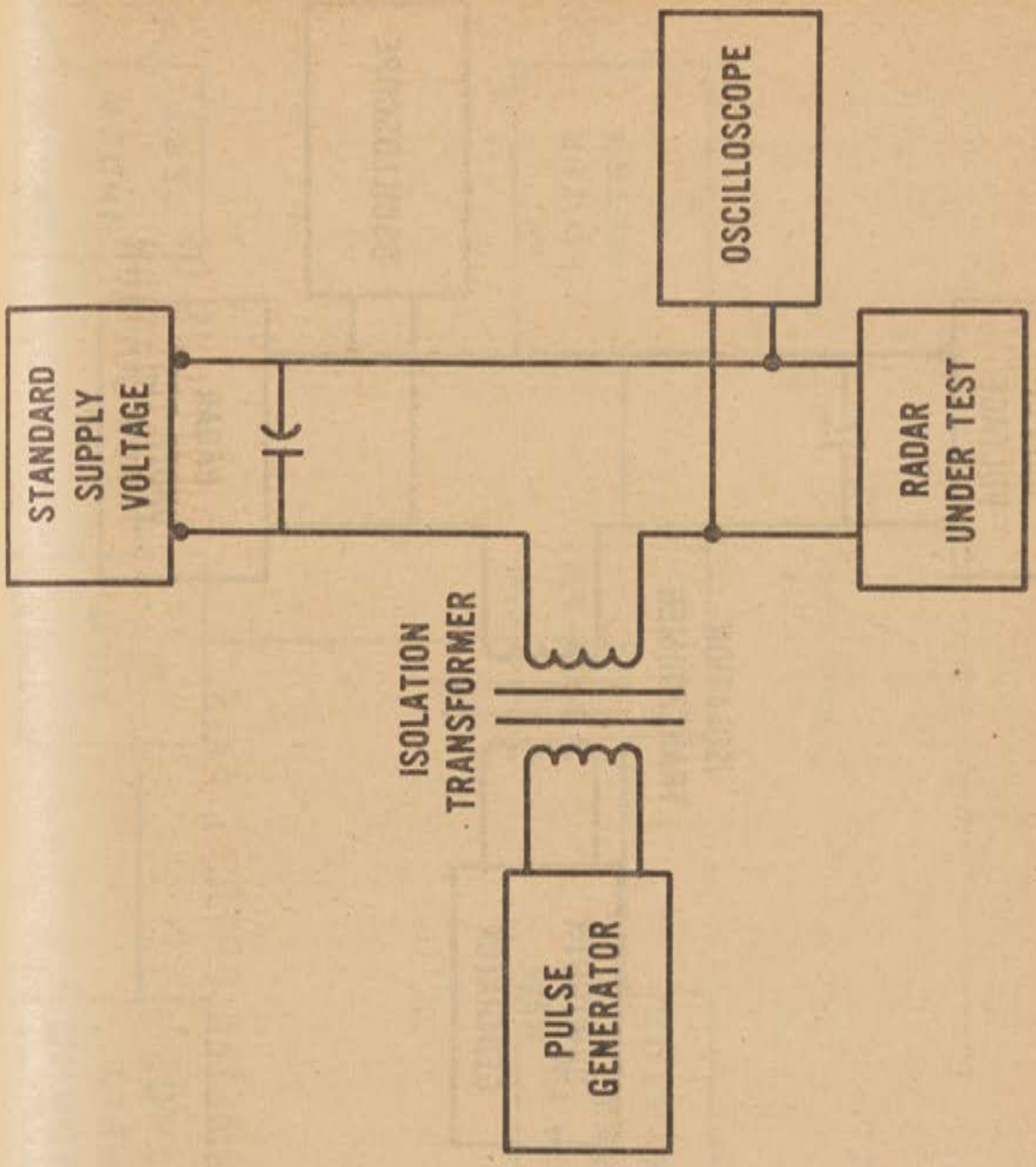

OSCILLOSCOPE
STANDARD SUPPLY VOLTAGE
RADAR UNDER TEST
ISOLATION TRANSFORMER
PULSE GENERATOR

Figure No. 10

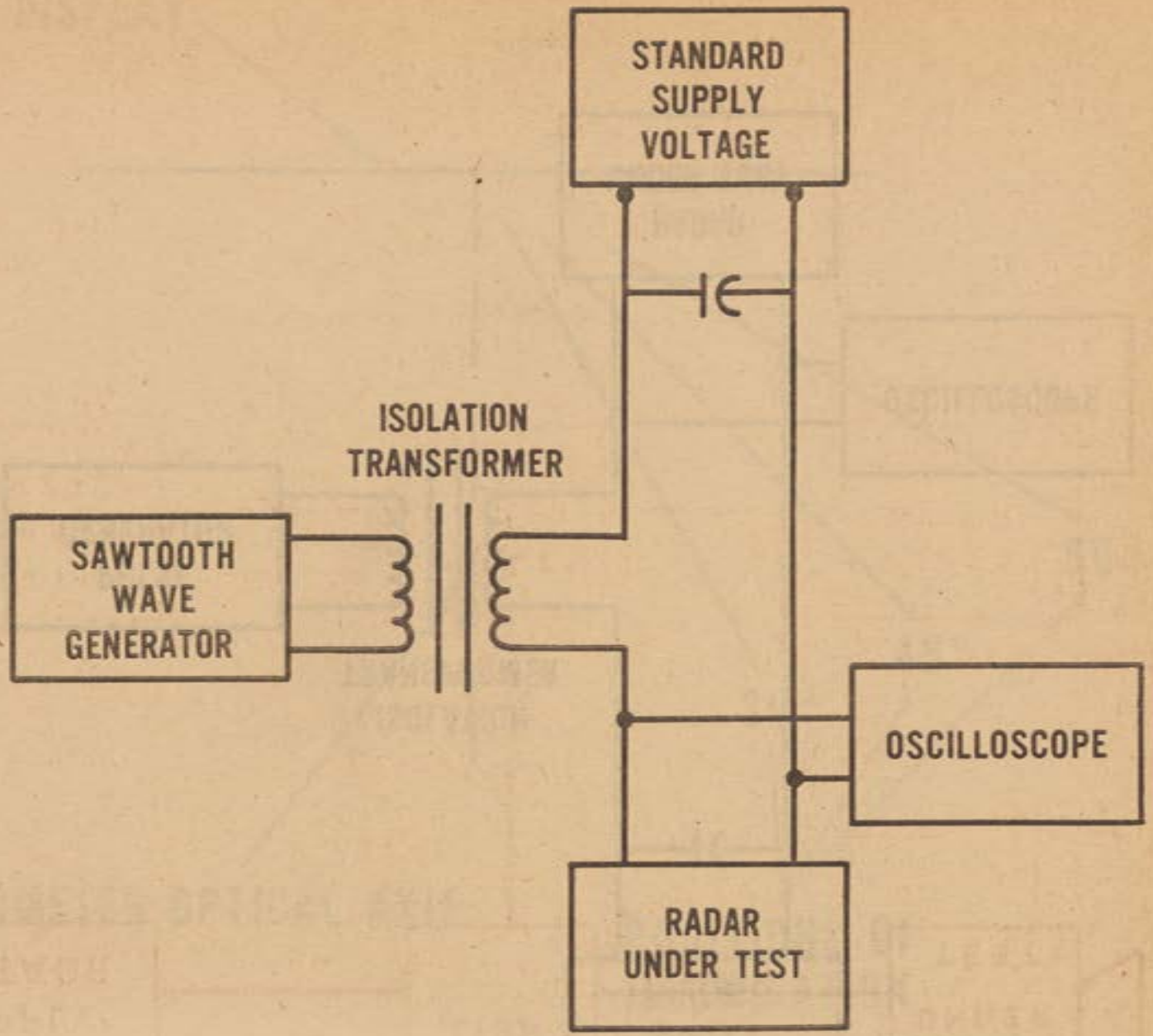

STANDARD
SUPPLY
VOLTAGE
ISOLATION
TRANSFORMER
SAWTOOTH
WAVE
GENERATOR
OSCILLOSCOPE
RADAR
UNDER TEST

Figure No. 11

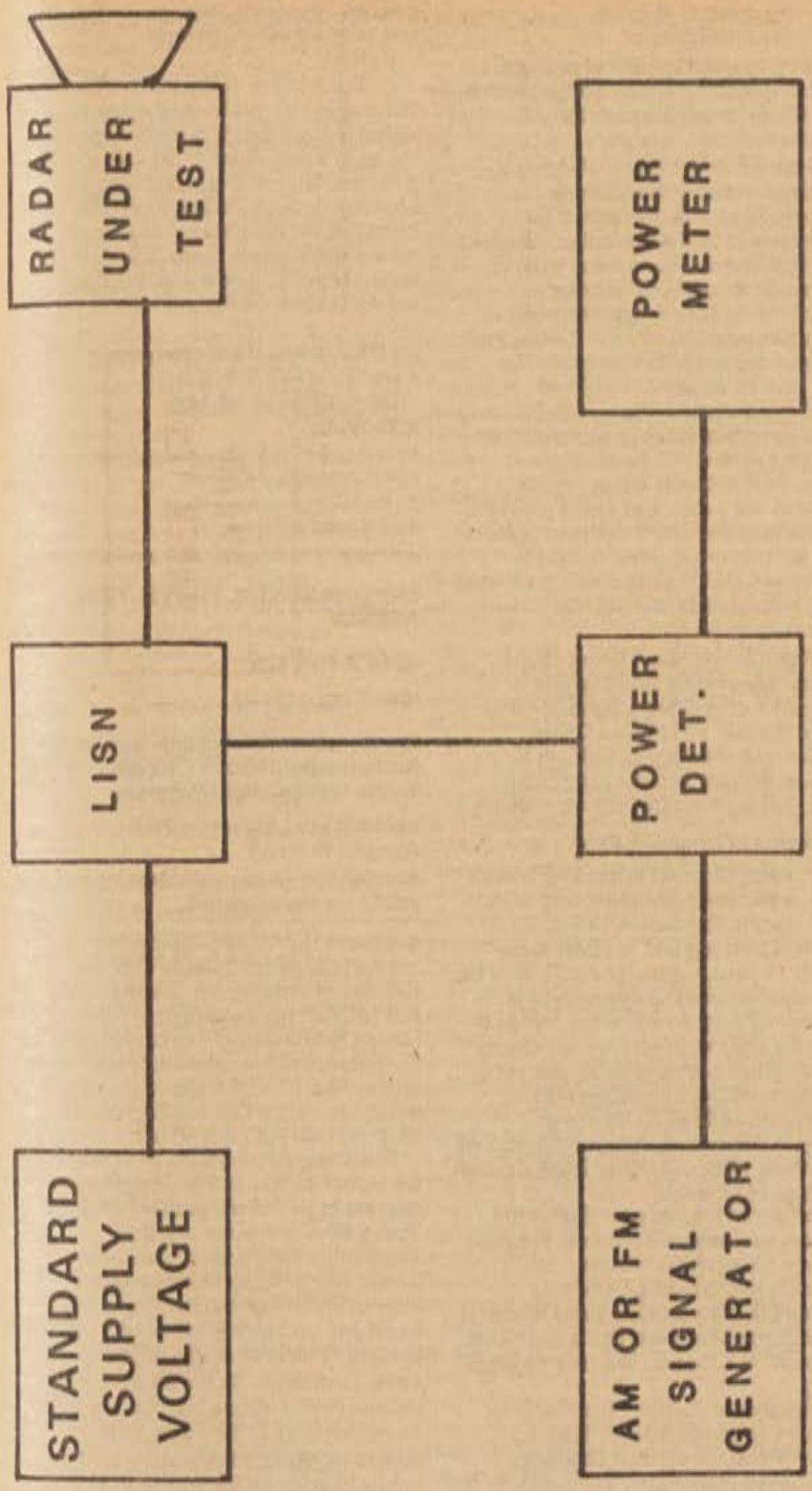


Figure No. 12

BILLING CODE 4910-59-C

Appendix A—Bibliography

Editorial Note.—This appendix will not appear in the Code of Federal Regulations.

1. Allen, D. W. and Brzoticky, F. H., Calibration of Police Radar Instruments, NBS SP-442, Report of the 60th National Conference on Weights and Measurements, 1975, pp. 42-47, (May 1972).

2. Federal Communications Commission, Rules and Regulations, Part 90, Subpart F.

3. Federal Communications Commission, Bulletin OCE 37, Criteria to be met by Doppler Radars Operating in the 24.05-24.05 GHz Frequency Band, (Revised May 1979).

4. SAE Recommended Practice J1113A, Electromagnetic Susceptibility Procedures for Vehicle Components, (Revised June 1978).

5. NDS Nomograph 92, Radio Metrology, pages 102-103, (March 1966).

6. 90° Phase Shifter, 300-10,000 Hz, Electronic Design, p. 90 (September 13, 1976).

7. American National Standard for Temperature Measuring Thermocouples, ANSI MC96.1-1975.

8. ANSI/ASTM E 230-77, Standard Temperature—Electromotive Force (EMF) Tables for Thermocouples.

[FR Doc. 81-338 Filed 1-7-81; 8:45 am]

BILLING CODE 4910-59-M

Coast Guard

33 CFR Part 117

[CGD 81-002]

Drawbridge Operation Regulations; Northern Avenue, Fort Point Channel, Boston, Mass.

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the City of Boston, the U.S. Coast Guard is considering amending the regulations governing the Northern Avenue drawbridge, across Fort Point Channel. The draw presently is required to open on signal from 6 a.m. to 8 p.m.; except that Monday through Friday, excluding legal holidays, the drawspan need not open from 7 a.m. to 9 a.m., and from 4:30 p.m. to 6:30 p.m. for vessels whose draft is less than 5.5 meters (18 feet). The draw need not open from 8 p.m. to 6 a.m. The proposed change would all another closure, from 11:30 a.m. to 1:30 p.m., to the existing regulations. This proposal is intended to relieve the vehicular traffic congestion that occurs when the drawspan is open from 11:30 a.m. to 1:30 p.m., but still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before 11 February 1981.

ADDRESS: Comments should be mailed or hand-delivered to, and will be available for inspection or copying at the office of, the Commander (obr), First Coast Guard District, 150 Causeway Street (Room 432), Boston Massachusetts 02114.

FOR FURTHER INFORMATION CONTACT: William J. Naulty, Chief, Bridge Branch, First Coast Guard District, 150 Causeway Street, Boston, Massachusetts 02114 (617-223-0645).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rule making by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for each comment. The rules may be changed in light of comments received. 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 if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information: The principal persons involved in drafting this proposal are: William J. Naulty, Chief Bridge Branch, First Coast Guard District, and Lieutenant William B. O'Leary, Project Attorney, Assistant Legal Officer, First Coast Guard District.

Discussion of Proposed Rule

Fort Point Channel is used by lobster boats, a commercial sightseeing boat, and a marine contractor. When the drawbridge is opened to allow these vessels to pass, vehicular traffic may be severely disrupted. This problem is particularly intense when the bridge is opened for the sightseeing boat during the lunchtime hours, tying up the many motorists driving to and from the restaurants and fish piers along Northern Avenue. During the summer of 1980, there were usually at least six such openings each week.

The City of Boston sees this traffic problem as a severe economic hardship to many commercial interests, and wishes to resolve the problem by keeping the drawbridge closed to vessel traffic during the lunchtime period from 11:30 a.m. to 1:30 p.m., Monday through Friday.

In the closed position, the Northern Avenue bridge provides at least 2.1 meters (7 feet) of vertical clearance above mean high water. The mean tidal range at the bridge is 2.9 meters (9.5 feet).

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by revising § 117.75(i)(2) to read as follows:

§ 117.75 Boston Harbor, Massachusetts, and adjacent waters; bridges.

(i) * * *

(2) From 6 a.m. to 8 p.m. the Northern Avenue bridge draw shall open on signal, except that it need not open from 7 a.m. to 9 a.m.; from 11:30 a.m. to 1:30 p.m.; and from 4:30 p.m. to 6:30 p.m., Monday through Friday, excluding legal holidays, for the passage of vessels whose draft is less than 5.5 meters (18 feet). From 8 p.m. to 6 a.m. the draw need not open for the passage of vessels.

* * * * *

(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: December 29, 1980.

R. H. Wood,

Rear Admiral, U.S. Coast Guard Commander, First Coast Guard District.

[FR Doc. 81-601 Filed 1-7-81; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 123

[SW-1-FRL 1721-6]

Rhode Island Application for Interim Authorization, Phase I, Hazardous Waste Management Program

AGENCY: Environmental Protection Agency, Region I.

ACTION: Notice of public hearing and public comment period.

SUMMARY: EPA has promulgated regulations under Subtitle C of the Resource Conservation and Recovery Act (RCRA) (as amended) to protect human health and the environment from the improper management of hazardous waste. Phase I of the regulations were published in the **Federal Register** on May 19, 1980 (45 FR 33063).

These regulations include provisions for authorization of State programs to operate in lieu of the Federal program. Today EPA is announcing the availability for public review of the Rhode Island application for Phase I interim authorization, inviting public comment, and giving notice of a public hearing to be held on the application.

DATE: Comments on the Rhode Island interim authorization application must be received by 17 February 1981.

PUBLIC HEARING: EPA will conduct a public hearing on the Rhode Island interim authorization application at 10:00 AM on 12 February 1981. EPA reserves the right to cancel the public hearing if significant public interest in a hearing is not expressed. The State of Rhode Island will participate in the public hearing.

ADDRESSES: The public hearing will be held at: Cannon Building Auditorium, 75 Davis Street, Providence, Rhode Island 02908.

Copies of the Rhode Island interim authorization application are available at the following addresses for inspection and copying by the public:

(1) Department of Environmental Management, Solid Waste Management Program, 75 Davis Street, Providence, Rhode Island 02908 (telephone (401) 277–2797).

(2) Environmental Protection Agency, Region I Office Library, Room 2100 B, John F. Kennedy Federal Building, Boston, Massachusetts 02203 (telephone (617) 223–5791/4017).

(3) EPA Headquarters Library, Room 2404, 401 M Street, S.W., Washington, D.C. 20460. Written comments and requests to speak at the hearing should be sent to: Kenneth E. Wenger, Rhode Island State Coordinator, Waste Management Branch, U.S. EPA, Region I, John F. Kenndey Federal Building, Boston, Massachusetts 02203 (telephone (617) 223–5775).

FOR FURTHER INFORMATION CONTACT: Kenneth E. Wenger, Rhode Island State Coordinator, Waste Management Branch, U.S. EPA, Region I, John F. Kennedy Federal Building, Boston, Massachusetts 02203 (telephone (617) 223–5775).

SUPPLEMENTARY INFORMATION: In the May 19, 1980 **Federal Register** (45 FR 33063), the Environmental Protection Agency promulgated Phase I of its regulations pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (as amended), to protect human health and the environment from the improper management of hazardous waste. EPA's Phase I regulations establish, among other things: the initial identification and listing of hazardous wastes; the standards applicable to generators and transporters of hazardous waste, including manifest system; and the "interim status" standards applicable to existing hazardous waste management facilities before they receive permits.

The May 19 regulations also include provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified State programs can be granted interim authorization. The interim authorization program is being implemented in two phases corresponding to the two states in which the underlying Federal program will take effect. In order to qualify for interim authorization, the State hazardous waste program must, among other things:

(1) Have had enabling legislation in existence prior to August 17, 1980, and,

(2) Be "substantially equivalent" to the Federal program.

A full description of the requirements and procedures for State interim authorization is included in 40 CFR Part 123 Subpart F, (45 FR 33479). The State of Rhode Island has submitted a complete application to EPA for Phase I interim authorization. Copies of the State submittal are available for public inspection and comment as noted above. A public hearing is to be held on the submittal, unless significant public interest is not expressed, as also noted above.

Conduct of Hearing

The hearing is intended to provide an opportunity for interested persons to present their views and submit information for consideration by EPA in the decision whether to grant Rhode Island interim authorization for Phase I of the RCRA program. A panel of EPA employees involved in relevant aspects of the decision will be present to receive the testimony.

The hearing will be informally structured. Individuals providing oral comments will not be sworn in, nor will formal rules of evidence apply. Questions may be posed by panel members to persons providing oral comments; however, no cross-examination by other participants will be allowed.

Representatives from the State of Rhode Island will testify first and present a short overview of the State program. Other commenters will then be called in the order in which their requests were received by EPA. As time allows, persons who did not sign up in advance but who wish to comment on the State's application for Phase I interim authorization will also be given an opportunity to testify. Each organization or individual will be allowed as much time as possible for oral presentation based on the number of requests to participate and the time available for the hearing. As a general rule, in order to ensure maximum participation and allotment of adequate time for all speakers, participants should limit the length of their statements to 10 minutes. The public hearing will be followed, as time permits, by a question and answer session during which participants may pose questions to members of the panel.

Preparation of Transcripts

A transcript of the comments received at the hearing will be prepared. To ensure accurate transcription, participants should provide written copies of their statements to the hearing chairperson. Transcripts will be available upon request from Kenneth E. Wenger, Rhode Island State Coordinator, Waste Management Branch, Region I, U.S. Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Massachusetts 02203 (telephone (617) 223–5775) approximately three days after the hearing at cost.

Dated: December 31, 1980.

William R. Adams, Jr.,

Regional Administrator, Region I.

[FR Doc. 81–654 Filed 1–7–81; 8:45 am]

BILLING CODE 6560–30–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 172 and 173

[Docket No. HM–166H; Notice No. 80–10]

Hazardous Materials Tables and Hazardous Materials Communications Regulations; Shippers—General Regulations for Shipments and Packagings; Dispersant and Refrigerant Gases

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The Materials Transportation Bureau (MTB) is proposing to make several amendments to the Department's Hazardous Materials Regulations pertaining to the shipment of Dispersant gas and Refrigerant gas. This action is necessary to update the regulations and reduce MTB's backlog of rulemaking petitions.

DATE: Comments must be received on or before February 23, 1981.

ADDRESS: Address comments to Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. It is requested that the docket number be identified and that five copies be submitted. The Dockets Branch is located in Room 8426 of the Nassif Building, 400 7th Street, SW, Washington, D. C. Office hours are 8:30 a.m. to 5:00 p.m., Monday through Friday. Telephone (202) 426–3148.

FOR FURTHER INFORMATION CONTACT: Darrell L. Raines, Chief, Exemptions and Regulations Termination Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau,

Research and Special Programs Administration, Washington, D.C. 20590, (202–472–2726).

SUPPLEMENTARY INFORMATION: This document is the tenth in a series of notices and amendments to incorporate changes in the Hazardous Materials Regulations based on either petitions for rulemaking submitted in accordance with 49 CFR 106.31 or on MTB's own initiative.

These changes are based on a petition from the Compressed Gas Association on October 26, 1972 which would authorize shipments of fluorinated hydrocarbons and their many mixtures under a group category of Dispersant gas, n.o.s., or Refrigerant gas, n.o.s. and on several exemptions which have been issued during the past several years. these proposed changes should not have any affect on the safe handling and transportation of these gases.

In consideration of the foregoing, Parts 172 and 173 or 49 CFR would be amended as follows:

PART 172—HAZARDOUS MATERIALS TABLES AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

§ 172.101 [Amended]

1. In § 172.101 the Hazardous Materials Table would be amended by changing the following entries in Column 2, Hazardous materials description and proper shipping names, to read as follows; the other table entries for these commodities would be deleted:

Present—Col. (2)	Proposed—Col. (2)
Dichlorodifluoromethane and difluoroethane mixture (*constant boiling mixture*).	Dichlorodifluoromethane and difluoroethane mixture (*constant boiling mixture R-500*). *See* Refrigerant gas, n.o.s. *or* Dispersant gas, n.o.s.
Dichlorodifluoromethane-dichlorotetrafluoroethane mixture	Dichlorodifluoromethane (*R-12*) and dichlorotetrafluoroethane (*R-114*) mixture. *See* Refrigerant gas, n.o.s. *or* Dispersant gas, n.o.s.
Dichlorodifluoromethane-monochlorodifluoromethane mixture	Dichlorodifluoromethane (*R-12*) and chlorodifluoromethane (*R-22*) mixture. *See* Refrigerant gas, n.o.s. *or* Dispersant gas, n.o.s.
Dichlorodifluoromethane-trichloromonofluoromethane mixture	Dichlorodifluoromethane (*R-12*) and trichlorofluoromethane (*R-11*) mixture. *See* Refrigerant gas, n.o.s. *or* Dispersant gas, n.o.s.
Dichlorodifluoromethane-trichloromonofluoromethane-monochlorodifluoromethane mixture.	Dichlorodifluoromethane (*R-12*), trichlorofluoromethane (*R-11*) and chlorodifluoromethane (*R-22*) mixture. *See* Refrigerant gas, n.o.s. *or* Dispersant gas, n.o.s.
Dichlorodifluoromethane-trichlorotrifluoroethane mixture	Dichlorodifluoromethane (*R-12*) and trichlorotrifluoroethane (*R-113*) mixture. *See* Refrigerant gas, n.o.s. *or* Dispersant gas, n.o.s.
Dispersant gas *or* Refrigerant gas. *See* § 173.314 Note 13 and § 173.315 Note 9.	Dispersant gas, n.o.s. *See* Refrigerant gas, n.o.s.
Refrigerant gas. *See* Dispersant gas	
	Add
	Chlorodifluoromethane and chloropentafluoroethane mixture (*constant boiling mixture*) (*R-502*). *See* Refrigerant gas, n.o.s.

2. In § 172.101 the Hazardous Materials Table would be amended by changing the following entries in Column 2, Hazardous materials description and proper shipping names, to read as follows; appropriate identification number would be assigned to each entry; all other table entries for these commodities would remain unchanged:

Present—Col. (2)	Proposed—Col. (2)
Dichlorodifluoromethane	Dichlorodifluoromethane (*R-12*).
1,1-Difluoro-1-chloroethane. *See* Difluoromonochloroethane	1-Chloro-1,1-difluoroethane. *See* Chlorodifluoroethane (*R-142b*).
Difluoroethane	Difluoroethane (*R-152a*).
Difluoromonochloroethane	Chlorodifluoroethane (*R-142b*) *or* (1-Chloro-1,1-difluoroethane).
Monobromotrifluoromethane	Bromotrifluoromethane (*R-13B1 or H-1301*).
Monochlorodifluoromethane	Chlorodifluoromethane (*R-22*).
Monochloropentafluoroethane	Chloropentafluoroethane (*R-115*).
Monochlorotetrafluoroethane	Chlorotetrafluoroethane (*R-124*).
Monochlorotrifluoromethane	Chlorotrifluoromethane (*R-13*).

3. In § 172.101 the Hazardous Materials Table would be amended by adding the following entries:

BILLING CODE 4910-60-M

(1)	(2)	(3)	(3A)	(4)	(5) Passenger		(6) Maximum net quantity in one package		(7) Water shipments		
+/ E/ A/ W/	Hazardous materials description and proper shipping names	Hazard class	Identification number	Label(s) required (if not excepted)	(a) Exception	(b) Specific requirements	(a) Passenger carrying aircraft or railcar	(b) Cargo only aircraft	(a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Refrigerant gas, n.o.s. or Dispersant gas, n.o.s.	Nonflammable gas	UN1078	Nonflammable gas	173.306	173.304 173.314 173.315	150 pounds	300 pounds	1,2	1,2	
	Refrigerant gas, n.o.s. or Dispersant gas, n.o.s.	Flammable gas	NA1954	Flammable gas	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1,2	1	

BILLING CODE 4910-60-C

PART 173—SHIPPERS—GENERAL REGULATIONS FOR SHIPMENTS AND PACKAGINGS

4. In § 173.300 paragraph (i) would be added to read:

§ 173.300 Definitions.

* * * * *

(i) *Refrigerant gas or Dispersant gas.* The term "Refrigerant gas" or "Dispersant gas" shall apply to all flammable or nonflammable, nonpoisonous refrigerant gases, dispersant gases and mixtures thereof (fluorocarbons) listed in §§ 172.101, 173.304(a)(2), 173.314(c), 173.315(a)(1) and 173.315(h), or any other compressed gas, meeting one of the following:

(A) A nonflammable mixture contining not less than 50% fluorocarbon content, having a vapor pressure not exceeding 260 psig at 130°F.

(B) A flammable mixture containing not less than 50% fluorocarbon content, not over 40% by weight of a flammable component, having a vapor pressure not exceeding 260 psig at 130°F.

§ 173.304 [Amended]

5. In § 173.304 the Table in paragraph (a)(2) would be amended by changing the following entries (see proposed change in item number 2 above) to read:

Kind of gas	Maximum permitted filling density (see Note 1)	Containers marked as shown in this column or of the same type with higher service pressure must be used except as provided in § 173. 34(a), (b), § 173.301(j) (see notes following table)
(Proposed)	*Percent*	
Chlorodifluoroethane (*R-142b*) (1-chloro-1, 1-difluoroethane) (see Note 8).	100	DOT-3A150, DOT-3AA150, DOT-3B150, DOT-4B150, DOT-4BA225, DOT-4BW225, DOT-3E1800, DOT-39.
Chlorodifluoromethane (*R-22*) (see Note 8).	105	DOT-3A240; DOT-3AA240; DOT-3B240; DOT-4B240; DOT-4BA240; DOT-4BW240; DOT-4B240ET; DOT-4E240; DOT-39; DOT-41; DOT-3E1800.
Chloropentafluoroethane (*R-115*) (see Note 8).	110	DOT-3A325; DOT-3AA225; DOT-3B225; DOT-4A225; DOT-4B225; DOT-4BA225; DOT-4BW225; DOT-3E1800; DOT-39.
Chlorotrifluoromethane (*R-13*) (see Note 8).	100	DOT-3A1800; DOT-3AA1800; DOT-3; DOT-3E1800; DOT-39.
(Add)		
Refrigerant gas, n.o.s. *or* Dispersant gas, n.o.s. (see Note 8).	Not liquid full at 130°F.	DOT-3A240; DOT-3AA240, DOT-3B240; DOT-3E1800; DOT-4A240; DOT-4B240; DOT-4BA240; DOT-4BW240; DOT-4E240; DOT-9; DOT-39.

§ 173.314 [Amended]

6. In § 173.314 the following named commodities in the Table in paragraph (c) would be deleted or revised, Note 4 would be revised, Notes 27 and 28 would be added to read as follows:

Kind of gas	Maximum permitted filling density (see Note 1)	Required tank car, see § 173.31(a) (2) and (3)
(Delete)		
Dichlorodifluoromethane and difluoroethane mixture (constant boiling mixture); Note 13.	Note 22	DOT-106A500X, 110A500W, Note 25. DOT-105A300W.
Dichlorodifluoromethane-dichlorotetrafluoroethane mixture; Note 13.	119	DOT-106A500X, 110A500W, Note 25.
	125	DOT-105A300W.
	Note 21	DOT-112A340W-114A340W.
Dichlorodifluoromethane-monochlorodifluoromethane mixture; Note 13.	119	DOT-106A500X, 110A500W, Note 25.
	125	DOT-105A300-W.
	123	DOT-112A340W, 114A340W.
Dichlorodifluoromethane-monofluorotrichloromethane mixture; Note 13.	Note 22	DOT-106A500X, 110A500-W, Note 25.
	Note 21	DOT-105A300-W. DOT-112A340W, 114A340W.
Dichlorodifluoromethane-trichloromonofluoromethane-monochlorodifluoromethane mixture; Note 13.	119	DOT-106A500X, 110A500W, Note 25.
	125	DOT-105A300-W.
	123	DOT-112A340W, 114A340W.
	Note 21	
Dichlorodifluoromethane-trichlorotrifluoroethane mixtures; Note 13.	119	DOT-106A500X, 110A500-W, Note 25.
	125	DOT-105A300-W.
	123	DOT-112A340W, 114A340W.
(Revise)		
Dichlorodifluoromethane (*R-12*); Note 13.	119	DOT-106A500X, 110A500W, Note 25.
	123	DOT-112A340W, 114A340W, Note 23.
	125	DOT-105A300W.
Difluoroethane (*R-152a*); Note 4, Note 13.	79	DOT-112A400W, 114A340W, Note 23, and 27.
	79	DOT-106A500X, 110A500W, Note 25.
	84	DOT-105A300W.
Chlorodifluoroethane; (*R-142b*) (1-Chloro1,1-difluoroethane); Note 4, Note 13.	100	DOT-106SA500X, 110A500W, Note 25. DOT-105A100W. DOT-114A340W, Note 23.
Bromotrifluoromethane (*R-1381 or H-1301*).	124	DOT-110A800W, Note 7 and 13.
	140	DOT-105A500W, Note 13.
Chlorodifluoromethane (*R-22*)	105	DOT-106A500X, 110A500W, Note 25.
	110	DOT-105A300W.
	108	DOT-112A400W.
	Note 21	DOT-114A340W, Note 7.

Kind of gas	Maximum permitted filling density (see Note 1)	Required tank car, see § 173.31(a) (2) and (3)
Chlorotetrafluoroethane (*R-124*); Note 13	125	DOT-106A500X, 110A500W, Note 25.
	126	DOT-112A400W.
(Add)		
Refrigerant gas n.o.s. or Dispersant gas, n.o.s.	Note 21	DOT-106A500X, 110A500W, Note 25. DOT-105A300W. DOT-112A340W, 114A340W, Notes 23 and 27.

NOTE 4: For tank cars other than DOT-106A and DOT-110A used for the transportation of liquefied flammable gases, interior pipes of loading and unloading valves must be equipped with excess-flow valves of approved design.

* * * * * * *

NOTE 27: DOT-112A340W, 112A400W, 114A340W tank cars may be equipped with bottom outlets, except that the bottom outlets must be rendered inoperative and effectively sealed to preclude bottom unloading when transporting flammable gases.
NOTE 28: A maximum safety relief valve setting of 280.5 psi is authorized on DOT Specification 114A340W tank car tanks.

* * * * * * *

7. In § 173.315 the Table in paragraph (a)(1) would be revised by deleting the following entries and adding Refrigerant gas, n.o.s. or Dispersant gas, n.o.s. The Table in paragraph (h) would be revised by changing the heading in the second column, three entries would be deleted and Refrigerant gas, n.o.s. or Dispersant gas, n.o.s. would be added to read:

§ 173.315 Compressed gases in cargo tanks and portable tank containers.

* * * * * * *

Kind of gas	Maximum permitted filling density		Specification container required	
	Percent by weight (see Note 1)	Percent by volume (see par. (f) of this section)	Type (see Note 2)	Minimum design pressure (psig)
(Delete)				
Dichlorodifluoromethane and difluoroethane mixture (*constant boiling mixture*) (see Note 9).	See para. (c) of this section.	do	MC-330, MC-331	250.
Dihlorodifluoromethane-dichlorotetrafluoroethane mixture (see Note 9).	119	do	DOT-51, MC-330, MC-331.	150.
Dichlorodifluoromethane-monofluorotrichloromethane mixture (see Note 9).	See para. (c) of this section.	do	do	150.
(Add)				
Refrigerant gas n.o.s. or Dispersant, gas n.o.s.	See par. (c) of this section.	See Note 7	DOT-51, MC-330, MC-331.	See par. (c)(1) of this section.
(Revise)				
Dichloromonochloroethane (see Note 9) would be changed to read as follows.	See Note 7		MC-330, MC-331	100.
Chlorodifluoroethane (*R-142b*) (1-chloro 1,1-difluoroethane) (see Note 9).	100	See Note 7	MC-330, MC-331	100.
Monochlorodifluoromethane (see Note 9) would be changed to read as follows.	105	See Note 7	DOT-51, MC-330, MC-331.	250.
Chlorodifluoromethane (*R-22*) (see Note 9).	105	See Note 7	DOT-51, MC-330, MC-331.	250.

* * * * * * *

(h) * * *

Kind of gas	Gaging device permitted for filling purposes
(Delete)	
Dichlorodifluoromethane and difluoroethane mixture (*constant boiling mixture*).	None.
Dichlorodifluoromethane-dichlorotetrafluoroethane mixture.	None.
Dichlorodifluoromethane-monofluorotrichloromethane mixture.	None.
(Add)	
Refrigerant gas, n.o.s. or Dispersant gas, n.o.s..	None.

* * * * *

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A to Part 1 and paragraph (a)(4) of App. A to Part 106)

Note.—The Materials Transportation Bureau has determined that this document will not have a major impact under Executive Order 12221 and DOT implementing procedures (44 FR 11034), nor an Environmental impact under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). A regulatory evaluation and environmental assessment are available for review in the docket.

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

Alan I. Roberts,

Associate Director, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 81-258 Filed 1-7-81; 8:45 am]

BILLING CODE 4910-60-M

49 CFR Parts 172, 173, 175, 178, and 179

[Docket No. HM-166G; Notice No. 80-9]

Shipment of Hazardous Materials; Proposed Miscellaneous Amendments

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The Materials Transportation Bureau (MTB) is proposing to make several miscellaneous amendments to the regulations pertaining to the shipment of hazardous materials. This action is necessary to update the regulations and to reduce MTB's backlog of rulemaking petitions.

DATE: Comments must be received on or before February 23, 1981.

ADDRESS: Address comments to Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. It is requested that the docket number be identified and that five copies be submitted. The Dockets Branch is located in Room 8426 of the Nassif Building, 400 7th St., SW. Washington, D.C. Public dockets may be reviewed between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Darrell L. Raines, Chief, Exemptions and Regulations Termination Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Research and Special Programs Administration, Washington, D.C. 20590 (202-472-2726).

SUPPLEMENTARY INFORMATION: This document is the ninth in a series of notices and amendments to incorporate changes in the Hazardous Materials Regulations based on either petitions for rulemaking submitted in accordance with 49 CFR 106.31 or on MTB's own initiative. On November 30, 1978, MTB published the first notice of proposed rulemaking under Docket HM-166; Notice 78-11 (43 FR 56070).

In summary, these proposed amendments would (1) remove Rosin *or* Resin from the Hazardous Materials Table; (2) change § 173.118 to read "None" in column (5)(a) of § 172.101 for Ally alcohol; n-Butyle isocyanate; Crotonaldehyde; Flammable liquid, corrosive, n.o.s.; and Flammable liquid, poisonous, n.o.s.; (3) amend § 172.101 by adding Potassium superoxide and Sodium superoxide, change Peroxide of sodium to read Sodium peroxide and change the packaging reference in Column (5)(b) for Potassium peroxide from § 173.154 to § 173.187; (4) update § 173.31(a)(5) by removing the January 1, 1978 date; (5) require strict inspection of closures on tank cars; (6) authorize the use of DOT Specification 19B wooden boxes where the DOT Specification 15A wooden box is now authorized; (7) authorize the use of DOT Specification 112A200W tank cars for the shipment of Dichlorobutene which may be flammable and corrosive; (8) clarify the exception for Lithium batteries and devices containing lithium batteries, (9) delete Phosphorus pentasulfide from paragraph (a) of § 173.225(a); (10) remove an obsolete restriction in § 173.225(b)(2) regarding the use of non-DOT specification metal portable tanks; (11) authorize the shipment of Ammonium hydroxide containing not more than 26 percent ammonia in cargo tanks and portable tanks having a capacity of 3,000 gallons or less and all DOT Specification cargo tanks listed in § 173.33(b); (12) extend the maximum service life of DOT Specification 3HT cylinders in § 173.302(a)(2) and Note 7 of the Table in § 173.304(a)(2) to 24 years; (13) eliminate the need for shipping papers for vehicles transporting Anhydrous ammonia in nurse tanks by private carriers under specified conditions; (14) authorize the use of additional outside packaging for the shipment of Poison B liquids in limited quantities; (15) correct an oversight in Docket HM-148 regarding the shipment of an ORM-B material; (16) clarify the number of rabbits to be used in testing corrosion to skin; (17) expand the provisions of § 175.10a to include flood control; (18) reduce the minimum height of the lettering required on the name plate of DOT Specification 51, 56, 57 and 60 portable tanks from at least ⅜ inches high to at least ⅛ inch high; (19) authorize the use of stainless steel anchor legs in tank cars used to transport liquefied carbon dioxide; (20) provide for additional testing methods to insure that certain welds on tank cars are free from cracks and other detrimental weld defects; (21) remove the reference to ASTMA-240-70, Type 430A steel for tank shell fabrication; (22) require reinforcement of the dome on tank cars that do not have a flued-type opening and (23) reduce the possibility of a static electrical charge in the loading of flammable liquids in DOT Specification 115 tank cars.

Regulation affected	Reason(s) for proposed change	Proposed amendment
§ 172.101 Rosin (*colophony*) *or* Resin § 173.1060	Rosin *or* Resin is listed in § 172.101 as an ORM-C. Based on the information MTB has on file and that furnished by Hercules, Inc., we are unable to justify the need for continuing to specifically regulate Rosin *or* Resin as a hazardous material.	To delete Rosin (*colophony*) *or* Resin from § 172.101 and delete § 173.1060 in its entirety.
§ 172.101 Column (5)(a)	Ally alcohol (*RQ-100/45.4*), n-Butyl isocyanate, Crotonaldehyde (*RQ-100/45.4*), Flammable liquid, corrosive, n.o.s., and Flammable liquid, poisonous, n.o.s. are classed as a flammable liquid but have more than one hazard as indicated in Column (4) of § 172.101. Column (5)(a) of § 172.101 references a packaging exception in § 173.118. However, the introductory text of § 173.118(a) limits the exception to flammable liquids that do not meet the definition of another hazard class. Therefore, the reference to § 173.118 in Column (5)(a) of § 172.101 should read "None" instead of § 173.118 for the above commodities.	To amend Column (5)(a) of § 172.101 to read "None" instead of § 173.118 for the following commodities. Ally alcohol (*RQ-100/45.4*); n-Butyl isocyanate; Crotonaldehyde (*RQ-100/45.4*); Flammable liquid, corrosive, n.o.s.; and Flammable liquid, poisonous, n.o.s.
§ 172.101	Potassium superoxide and Sodium superoxide are currently shipped as Oxidizer, n.o.s. or Oxidizing material, n.o.s. Based on their properties, the MTB believes that these superoxides should be identified by their technical name instead of a generic description and that the requirements for these two commodities should be the same as for Sodium peroxide. Also, the MTB proposes to change the packaging requirement for Potassium peroxide from § 173.154 to § 173.187.	To amend the Hazardous Materials Table as follows

BILLING CODE 4910-60-M

§ 172.101 Hazardous materials table.

(1)	(2)	(3)	(3A)	(4)	(5) Passenger		(6) Maximum net quantity in one package		(7) Water shipments		
+1 E/ A/ W/	Hazardous materials description and proper shipping names	Hazard class	Identification number	Label(s) required (if not excepted)	(a) Exception	(b) Special requirements	(a) Passenger carrying aircraft or railcar	(b) Cargo only aircraft	(a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	(Add)										
	Potassium superoxide	Oxidizer	UN 2466	Oxidizer	None	173.187	Forbidden	100 pounds	1,2	1	Keep dry. Stow away from powdered metals, permanganates and combustible packaging and cargo.
	Sodium superoxide	Oxidizer	UN 2547	Oxidizer	None	173.187	Forbidden	100 pounds	1,2	5	Keep dry. Stow away from powered metals, permanganates and combustible packaging and cargo.
	(Amend)										
	Potassium peroxide	Oxidizer	UN 1491	Oxidizer	None	173.187	Forbidden	100 pounds	1,2	1,2	Keep dry.

BILLING CODE 4910-60-C

Regulation affected	Reason(s) for proposed change	Proposed amendment
§ 173.31(a)(5)	To update the regulations by deleting the January 1, 1978 date in the third line	To revise § 173.31(a)(5) to read: (5) After December 31, 1978, each Specification 112 and 114 tank car must be equipped with shelf couplers in accordance with § 179.105-6 of this subchapter.
§ 173.31(b)(6)(i)	To improve safety in rail transportation by requiring strict inspection of closures in tank cars and the replacement of defective packing, gaskets, bolting and threaded elements.	To amend § 173.31(b)(6)(i) by adding the following two sentences: All closures of openings in tank cars must be inspected to the extent practical for corrosion of or damage to the gasket seating surfaces and for serviceability of packing, gaskets and hold-down bolts. All defective packing, gaskets, bolting or threaded elements must be replaced.
§ 173.60(a)(4), § 173.60(a)(5), § 173.60(b)(1), § 173.60(c)(1), § 173.60(d)(1), § 173.60(d)(3), § 173.63(a)(2), § 173.63(b), § 173.63(c)(1), § 173.63(c)(2), § 173.63(d)(2), § 173.63(e)(1), § 173.64(a)(1), § 173.65(a)(1), § 173.65(b)(1), § 173.65(c)(1), § 173.65(g), § 173.65(h)(1), § 173.65(i)(1), § 173.65(i)(2), § 173.66(e)(1), § 173.66(q)(1), § 173.79(a)(1), § 173.92(a)(1), § 173.93(a)(5), § 173.93(a)(6), § 173.93(a)(9), § 173.93(a)(11), § 173.93(b)(3), § 173.93(d)(3), § 173.93(e)(1), § 173.93(g)(1), § 173.94(a)(1), § 173.95(a)(1), § 173.124(a)(1), § 173.134(a)(2), § 173.135(a)(1), § 173.136(a)(1), § 173.137(a)(1), § 173.139(a)(1), § 173.139(a)(2), § 173.140(a)(1), § 173.145(a)(2), § 173.154(a)(7), § 173.157(a)(1), § 173.158(a)(1), § 173.161(a)(1), § 173.164(a)(3), § 173.176(d)(1), § 173.177(a)(2), § 173.184(a)(2), § 173.188(a)(1), § 173.189(a)(1), § 173.190(a)(1), § 173.190(c)(1), § 173.191(a)(1), § 173.193(a)(1), § 173.195(a)(1), § 173.195(b)(2), § 173.201(a)(2), § 173.202(a)(1), § 173.203(a)(1), § 173.206(b)(1), § 173.206(e)(1), § 173.207(a)(1), § 173.207(b)(1), § 173.208(a)(1), § 173.208(b)(1), § 173.214(a)(1), § 173.214(c)(1), § 173.225(a)(1), § 173.226(a)(1), § 173.230(a)(4), § 173.231(a)(1), § 173.233(a)(1), § 173.251(b)(1), § 173.252(a)(1), § 173.260(a)(1), § 173.276(a)(2), § 173.277(a)(1), § 173.280(a)(1), § 173.288(e)(1), § 173.293(a)(1), § 173.329(a)(2), § 173.331(a), § 173.331(a)(1).	To expand the use of DOT Specification 19B (§ 178.191) wooden boxes. At the present time, DOT Specification 15A (§ 178.168) wooden boxes and 19B are both authorized in 79 paragraphs in Parts 173. Specification 15A is authorized in 88 paragraphs. This proposed change would authorize the use of Specification 19B in each of those 88 paragraphs for shipments having a maximum gross weight of 35 pounds or 150 pounds, depending on whether the box has corner posts.	To amend each of the paragraphs listed in the first column to include DOT Specification 19B wooden boxes.
§ 173.119(m)(14)	Dichlorobutene was formerly classed as a corrosive material as indicated by its reference in § 173.245a. Since Docket HM-103/112 changed the hazard class to flammable the 112A200W tank car is not authorized as the material may also be corrosive or combustible.	To revise § 173.119(m)(14) to read: (14) Specification 112A200W or 114A340W (§§ 179.100, 179.101 of this subchapter). Tank cars Authorized only for propylene oxide except 112A200W also authorized for acrylonitrile and dichlorobutene.
§ 173.187	To change the heading of § 173.187 and the introductory text of paragraph (a) to read the same as proposed in § 172.101.	To revise the heading of § 173.187 and the introductory text of paragraph (a) to read: § 173.187 *Potassium peroxide, Potassium superoxide, Sodium peroxide or Sodium superoxide* (a) Potassium peroxide, potassium superoxide, sodium peroxide or sodium superoxide must be packed in specification containers as follows: * * * * *
§ 173.206(f)	To clarify the exception for lithium batteries and to declare a device which contains a lithium battery not regulated because even when the battery decomposes in the device, no hazardous materials are released. If no hazard is created by the device, there is little or no basis for the device, to be regulated.	To revise § 173.206(f) and add paragraph (g) to read: (f) Lithium batteries comprised of one or more cells are not subject to the requirements of this subchapter, if they meet the following requirements: (1) Each cell may contain no more than 0.5 gram of lithium or lithium alloy. (2) Each battery may contain an aggregate quantity of no more than 1 gram of lithium or lithium alloy. (3) Each cell must be hermetically sealed. (4) Cells must be separated so as to prevent short circuits. (5) Batteries must be packed in strong outside packagings except when installed in electronic devices. (6) If a battery contains more than 0.5 gram of lithium or lithium alloy, it may not contain a liquid or gas that is a hazardous material according to this subchapter unless the liquid or gas, if free, would be completely absorbed or neutralized by other materials in the battery. (g) Devices containing lithium batteries comprised of one or more cells which have been tested and shown to completely contain all gases and other products of decomposition when the batteries are deliberately short circuited through a resistance of not more than 0.1 ohm are not subject to any other requirement of this subchapter.

Regulation affected	Reason(s) for proposed change	Proposed amendment
§ 173.225(a)	To delete phosphorus pentasulfide from paragraph (a) because it is specifically listed in paragraph (b).	To revise the introductory text of § 173.225(a) to read: (a) Phosphorus trisulfide, phosphorus sesquisulfide and phosphorus heptasulfide must be packaged as follows:
§ 173.225(b)(2) and Note 1	To update paragraph (b)(2) by deleting the reference to Note 1. Also, Note 1 would be deleted.	In § 173.225(b)(2), Note 1 is removed.
§ 173.245(a)(36)	To authorize the transportation of ammonium hydroxide containing no more than than 26 percent ammonia in cargo tanks and portable tanks having a capacity of 3,000 gallons or less and in all of the DOT specification cargo tanks listed in § 173.33(b). All portable tanks and cargo tanks must be made from aluminum or steel.	To amend § 173.245(a) by adding paragraph (36) to read: (36) For ammonium hydroxide containing no more than 26 percent ammonia, any specification cargo tank listed in § 173.33(b) or any non-specification cargo tank or portable tank having a capacity of 3,000 gallons or less. Tanks must be made from aluminum or steel.
§ 173.302(a)(2)	To extend the maximum service life of DOT Specification 3HT cylinders in § 173.302(a)(2) to read 24 years instead of 15 years. In § 173.34(e)(13)(iii) the DOT-3HT cylinder must be condemned at the termination of a 24-year period following the date of the original test or after 4,380 pressurizations, whichever occurs first.	To amend the first sentence of § 173.302(a)(2) to read: (2) Specification 3HT (§ 178.44 of this subchapter) cylinder for aircraft use only, having a maximum service life of 24 years.
§ 173.304(a)(2) Note 7 of Table	To extend the maximum service life from 15 years to 24 years as proposed in § 173.302(a)(2).	To amend Note 7 of § 173.304 to read 24 years instead of 15 years.
§ 173.315(m)	To eliminate the need for shipping papers for vehicles transporting anhydrous ammonia in nurse tanks by a private carrier from the loading facility to the farm customer. In view of the controlled conditions under which the nurse tanks are operated and the limited amount of time during the year that the farmer has to apply the anhydrous ammonia to the soil, the need for shipping papers under these circumstances is not warranted.	To add paragraph (7) to § 173.315(m) to read: (7) Is operated in conformance with the requirements of Part 172 of this subchapter except that shipping papers are not required.
§ 173.345(a)(1)	To authorize the use of additional outside packages for the shipment of limited quantities of Poison B liquids.	To revise § 173.345(a)(1) to read: (1) In glass packagings not over 1-quart capacity each, or in metal containers or polyethylene bottles not over 1-gallon capacity each, packed in outside steel, or wooden boxes, barrels, or drums.
§ 173.500(b)(2)	Docket HM-148 deleted the "W" notation from the ORM-A and ORM-B, n.o.s. entries in § 172.101. However, the reference to vessel was not deleted from the ORM definition section.	To revise the introductory text of § 173.500(b)(2) to read: (2) An ORM-B material is a material (including a solid when wet with water) capable of causing significant damage to a transport vehicle from leakage during transportation. Materials meeting one or both of the following criteria are ORM-B materials:
Paragraph (8) of Appendix A, Part 173	To clarify how many of the six rabbits tested must show irreversible tissue destruction to require that the material under test be classed as corrosive. Based on reports from testing laboratories under contract to DOT and on conversations with shippers who do their own corrosion testing, the answer is two rabbits. Using a criterion of one rabbit could give misleading results of possible individual variations among the animals undergoing tests.	To amend the first sentence of paragraph 8, Appendix A, Part 173 to read: 8. Corrosion will be considered to have resulted if the substances in contact with the rabbit skin has caused destruction or irreversible alteration of the tissue on at least two out of each six rabbits tested.
§ 175.10(a)(12)	At present, the provisions of Subchapter C of 49 CFR do not apply, under specified conditions, to the shipment of hazardous materials which are loaded and carried on or in cargo aircraft only and which are to be dispensed or expended during flight for weather control, forest preservation and protection, or avalanche control. There is a definite need to expand this paragraph (8) to include "flood control", in order to break up ice jams and to avoid unnecessary flooding.	To amend the introductory text of § 175.10(a)(12) to include "flood control".
§ 178.245-6(a), § 178.251-7(a), § 178.255-14(a)	To standardize the minimum marking requirements on DOT Specifications 51, 56, 57, and 60 portable tanks with those of the IMCO Dangerous Goods Code which requires the markings to be at least ¼ inch high for IMCO Types 1 and 2 portable tanks. Also it is anticipated that the proposed amendments of § 178.270-14(a) of Docket HM-167; Notice No. 78-12 (43 FR 58050) will be changed from ⅓ inch high to ⅛ inch high.	To amend §§ 178.245-6(a), 178.251-7(a) and 178.255-14(a) by changing the size of the marking requirements from at least ⅜ inch high to at least ¼ inch high.
§ 179.102-1	To authorize the use of stainless steel anchor legs as well as carbon steel. The reasons are: 1. The thermal conductivity of Type 304 or 316 stainless steel is approximately one-third of carbon steel; the anchor rivets to the center sill may be exposed for inspection at rail interchange points or shipper plants and easily replaced. Steel anchors have the rivets enclosed in insulation and flashing to reduce heat input. 2. Mechanical properties are comparable to ASTM A-516. 3. Experience has been good on eight HCL 105A600W tank cars with Type 304 stainless steel anchors constructed in 1969. 4. These materials should be exempt from impact tests, since they have excellent impact properties at temperatures well below minus 50° F.	To amend § 179.102-1 by adding the following sentence: As an alternate, anchor legs may be fabricated of stainless steel ASTM A-240, Types 304, 304L, 316, or, 316L, in which case impact tests are not required.
§ 179.102-1(a)(6) and § 179.102-4(a)(4)	The Association of American Railroads has pointed out that this weld cannot be X-rayed because of its location, but may be magnafluxed to determine if welds are free from cracks and other detrimental defects.	To amend § 179.102-1(a)(6) and § 179.102-4(a)(4) by adding the following sentence: Tank anchor to tank shell fillet welds must be examined by a suitable non-destructive testing method to insure that welds are free from cracks and other detrimental weld defects.
§ 179.200-7(d) Table, § 179.220-7(d) Table	The AAR Committee on Tank Cars no longer feels that ASTM A240-70 Type 430A steel is suitable for tank shell fabrication and should be removed from the approved list.	To delete the reference to Type 430A steel in § 179.200-7(d) and 179.220-7(d).
§ 179.200-14(c)	Experience has shown that tank cars which have flued-type domes have performed satisfactorily. Experience with tank cars that do not have a flued-type opening has shown a need for reinforcement in the dome.	To revise § 179.200-14(c) to read: (c) The opening in the tank shell within the dome shall be at least 29 inches in diameter. When the opening in the tank shell exceeds 30 inches in diameter, the opening shall be reinforced in an approved manner. This additional reinforcement may be accomplished by the use of a dome opening of the flued-type as shown in Appendix E, Figure E10C of the AAR Specification for Tank Cars or by the use of reinforcing as outlined in Appendix E, E3.04 and Figures E10K and E10L. When the opening in the tank shell is less than the inside diameter of the dome, and the dome pocket is not closed off in an approved manner, dome pocket drain holes shall be provided in the tank shell with nipples projecting inside the tank at least 1 inch.
§ 179.220-15(b)	To provide less exposure in the loading of flammable liquids in DOT Specification 115 tank cars, to the hazards incipient in the accumulation of static electrical charge. In the transportation of flammable liquids in DOT Specification 115 tank cars, the design of the car necessitates a thermal isolation between the inner container and the outer shell. Because of this thermal isolation, it is also possible that the containers may be isolated electrically.	To amend § 179.220-15(b) by adding the following sentence: The inner container and outer shell must be permanently bonded to each other electrically either by the support system used, piping, or by a separate electrical connection of approved design.

(49 U.S.C. 1803, 1804, 1808, 49 CFR 1.53 App. A to Part 1, and paragraph (a)(4) of App. A to Part 106)

Note.—The Materials Transportation Bureau has determined that this document will not result in a major economic impact under the terms of Executive Order 12221 and DOT implementing procedures (44 FR 11034) nor require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). A regulatory evaluation and environmental assessment are available for review in the docket.

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

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 81-259 Filed 1-7-81; 8:45 am]

BILLING CODE 4910-60-M

49 CFR Part 195

[Notice 4; Docket PS-53]

Transportation of Liquids by Pipeline; Valve Spacing on Pipelines Carrying Highly Volatile Liquids

AGENCY: Materials Transportation Bureau.

ACTION: Withdrawal of proposals to require remotely controlled valves on pipelines transporting highly volatile liquids (HVL).

SUMMARY: In an effort to reduce the effects of HVL pipeline accidents, a notice of proposed rulemaking (43 FR 39402) was published on September 5, 1978, proposing a requirement to install remotely controlled, closely spaced valves on new pipelines and certain existing pipelines. An amended notice of proposed rulemaking (44 FR 53187) was published on September 13, 1979, proposing two alternative schemes to locate valves on HVL pipelines. A public hearing was held on this matter on December 12, 1979.

Based on the information gained through these proceedings and its own analysis and evaluation of that information, the MTB has concluded that remotely controlled, closely spaced valves are not an effective means to reduce the effects of HVL pipeline ruptures. Therefore, the proposals to install valves on HVL pipelines are being withdrawn.

FOR FURTHER INFORMATION CONTACT: Frank Robinson, 202-426-2392.

SUPPLEMENTARY INFORMATION:

Development of Notice 1

Notice 1, Docket No. PS-53, "Valve Spacing on Pipelines Carrying Highly Volatile Liquids", was published on September 5, 1978, proposing requirements to install closely spaced, remotely controlled valves on HVL pipelines. This proposal was prompted by statistics which illustrate HVL spills to be more hazardous than spills of other liquids. The record of pipeline accidents report to the MTB on Form 7000-1 for the 12-year period from 1968 through 1979 shows that although HVL pipeline accidents comprise only 12 percent (421) of the 3,603 reported accidents involving liquid pipelines, the HVL accidents caused 69 percent of the deaths (47 of 68) and 52 percent of the injuries (88 of 168)—an average of four deaths and seven injuries per year.

The notion of installing closely spaced, remotely controlled valves to decrease the amount of HVL spilled and thereby reduce the accident effects was supported by the following:

(1) A National Transportation Safety Board (NTSB) study (PSS-71-1) which states on page 19: "A large proportion of the losses in the accidents was due to the inability or failure to shut down rapidly not to the original failure * * * By reducing the time to shut down a failed pipeline system to minimize the loss of material, the hazardous effects to the public, to persons working near the pipeline and to property can be minimized or eliminated * * *"

(2) A Department of Transportation study performed by Mechanics Research, Inc. (DOT-AS-30008) which states in paragraph 5.3.1.3 " * * * it is obvious that the use of remotely controlled valves could drastically reduce the amount of product loss compared to the use of manual valves." And in paragraph 5.2.3.1.2: "Strong correlations were found to exist between accident effects (the number of fatalities, the number of injuries, and the amount of property damage) and the amount of product discharge."

(3) A Department of Transportation study prepared by the Columbus Laboratories (DOT/OPSO-75/06) which states on page 93: "The time to isolate a pump station and/or shut down the pipeline system varies with the degree of automatic controls * * * The fact that a majority of block valves must be manually closed indicates a very long time lag in closing off a section of damaged pipeline * * * One remedy would be to install remote control operators on the block valves. This is only a partial solution however, since the spacing of the valves is also a factor."

(4) The American National Standards Institute (ANSI) B31.4 Code "Liquid Petroleum Transportation Piping Systems" which requires remotely controlled valves at 7.5 mile maximum spacing in industrial, commercial, or residential areas on HVL pipelines.

Response to Notice 1

Sixteen commenters responded to Notice 1. There was a great disparity of conflicting views in the response to the notice. Some commenters totally

rejected the idea of installing valves. Others recommended installing valves only at pump stations and terminals. Still others recommended adopting the valve spacing requirements of Part 192 for gas transmission pipelines or some variation thereof. Few of the recommendations were well supported with information demonstrating how the recommendation would be effective.

Development of Notice 3

In view of the disparity of views and the general lack of supporting information, an amended notice of proposed rulemaking (Notice 3) was published on September 13, 1979, seeking further information and proposing two alternative schemes for valve spacing. The first alternative would have applied a class location concept and valve spacing requirements similar to the requirements of Part 192 for new HVL pipelines and for HVL pipelines which are relocated, replaced, or otherwise changed. The second alternative would have required installation of remotely controlled valves from attended locations on both new and existing HVL pipelines to permit isolation of pipeline segments from pump station to pump station and from pump station to terminal. The amended notice of proposed rulemaking also gave notice of a public hearing to give interested persons ample opportunity to furnish further supporting information.

Results of Public Hearing

A public hearing was held on December 12, 1979. Spokesmen for the NTSB, the American Petroleum Institute (API), and the ANSI B31.4 subcommittee presented arguments for and against the effectiveness and adoption of the amended proposed rule as follows:

The NTSB recommended that valve spacing based on population density (first alternative) be adopted arguing that only this scheme is consistent with the findings of the NTSB study and the MRI sudy as well as the requirements of the B31.4 Code, all of which are cited above as support for the original position that remotely controlled valves could be an effective means to limit the effects of an HVL pipeline rupture.

The API argued that other paragraphs in the cited studies cast doubt on the cost-effectiveness of any scheme involving closely spaced valves and quoted portions of these studies supporting this view. The API argued that since compliance with the B31.4 Code is optional, the designer is free to comply with portions of the B31.4 Code where compliance is cost-effective, and contrasted this type of cost-effective application of a portion of the code to a rigid requirement of Part 195 to install closely spaced valves in all pipelines regardless of whether the requirement is cost-effective. The API cited a study submitted by API in response to Notice 1 which concluded that installing remotely controlled valves every 7.5 miles on existing HVL pipelines would cost $160 million with the costs outweighing the benefits by a ratio of forty to one and argued that the same ratio of costs to benefits would hold for new HVL pipelines as well. However, the API did continue to support the second alternative which would require remotely controlled valves at pump stations and terminals as it had supported in response to Notice 1. The API stated that an engineering study concerning the effectiveness of the two alternatives given in Notice 3 together with the respective costs and benefits would be submitted as formal comments when these studies were completed.

The ANSI B31.4 subcommittee representative presented engineering computations which demonstrated that an ordinary HVL leak would create a hazardous area extending 400–500 feet from the leak site (depending on wind and terrain) usually within 20 minutes from the time of rupture and the hazardous area would tend to stabilize at this distance so long as the spill continued at a constant rate. The B31.4 representative argued that the leak cannot be detected, pumps shut down, and valves closed quickly enough to preclude the formulation of a hazardous vapor cloud or reduce the size of the hazardous area; hence, valves will not substantially affect the resulting risk of explosion. Although closely spaced valves will not prevent or reduce the magnitude of the hazard, closing such valves can reduce the time the hazard is present, according to a B31.4 committee spokesman. The reason the B31.4 Code requires closely spaced valves in industrial, commercial, and residential areas is to reduce the duration of the hazard and facilitate pipeline repair, according to the spokesman.

Response to Notice 3

Twelve commenters submitted comments to the docket in response to Notice 3. Among these were the NTSB, API, and ANSI B31.4 subcommittee all of whom commented at the public hearing.

One industry commenter, the NTSB, and the Iowa State Commerce Commission argued that valves are an effective means to limit the hazard created by an HVL spill. However, none of these commenters gave computations or demonstrated why valves would be effective.

Six industry commenters, the API, and the ANSI B31.4 committee argued that valves are not an effective means to limit the hazard created by an HVL spill. The ANSI B31.4 subcommittee presented an engineering study which demonstrated that (1) a hazardous vapor cloud will form shortly after a spill occurs, and (2) this hazardous vapor cloud will not continue to increase in size, but will soon stabilize at its maximum size. The study goes on to demonstrate that valve spacing will not affect the size of the hazardous vapor cloud and, hence, will not affect the potential accident effects, but will only affect the time the hazard exists. Since a vapor cloud is usually ignited shortly after pipeline rupture, the study shows that valve spacing has little if any effect on the risk presented by an HVL pipeline rupture and release.

The API submitted an engineering study concerning the effectiveness of valve spacing and an economic study concerning the costs and benefits of the two alternatives given in Notice 3.

The engineering study included an analytical model for predicting the flow rate from a ruptured HVL pipeline and the associated downwind flammable boundaries together with the results of its application to 32 separate pipeline rupture situations. The variables considered were the distance between pipeline isolation valves, pump shutdown time, isolation valve closure time, pumping rates, and rupture configuration. The study showed that the closely spaced and remotely controlled valves cannot reduce the severity of a hazard because the addition of such valves will not decrease the downwind flammable boundary of the vapor cloud. Although closely spaced valves will cause the vapor cloud to recede faster from its maximum size, the time saved is small in the absolute sense and small compared to the rate of growth and rate of recession of the vapor cloud if the valves were not present. Consequently, closely spaced valves have no significant effect on the number of fatalities, or injuries, or the amount of property damage that might be caused by an HVL spill according to this study.

The economic study submitted by the API estimated the costs and benefits of alternative No. 1 (install valves according to a class location concept and spacing requirements similar to Part 192) and alternative No. 2 (install valves at pump stations and terminals). Cost estimates were constructed by aggregating individual carrier estimates in response to a questionnaire

distributed by the API. The benefits were estimated by an examination of the record of past accidents to determine the effect of each alternative if the regulation had been in effect at the time of the accident. The first alternative was estimated to cost $23 million annually and would produce benefits valued at $2.2 million annually resulting in a cost benefit ratio of 10:1. The second alternative was estimated to cost $2.3 million annually with an annual benefit of $0.8 million resulting in a cost benefit ratio of 3:1.

Contrary to its recommendation to install valves at pump stations and terminals in the response to Notice 1 and at the public hearing, the API, in response to Notice 3, recommended that no additional valves be installed on HVL pipelines on the basis of the results of the engineering and economic studies.

Analysis

The studies (PSS-71-1, DOT-AS-30008, DOT/OPSO-75/06) cited in Notice 1 imply that closely spaced valves on HVL pipelines can significantly reduce the effects of an HVL accident and that the capability to remotely control these valves for faster closure will reduce the accident effects even further. Additionally, the B31.4 Code requires HVL pipelines in certain populated areas to have remotely operable valves every 7.5 miles, presumably for the purpose of reducing the potential damage of an HVL spill. However, the inference drawn from the cited studies and the B31.4 Code that remotely controlled valves are an effective means to reduce the accident effects of an HVL spill is contradicted by the results of two different engineering studies prepared by the B31.4 subcommittee and the API.

The studies cited in Notice 1 were of a general nature and offered nothing in the way of specific analysis or other demonstrative evidence in support of the statements alluding to the effectiveness of remotely controlled closely spaced valves.

The B31.4 subcommittee study and the API study, on the one hand, were specifically designed to examine in detail and determine the effectiveness of valve spacing and to derive the results from computations. The engineering computations and studies presented by the B31.4 subcommittee and the API demonstrating the ineffectiveness of closely spaced valves are based on sound engineering principles and reasonable assumptions. For example, the B31.4 study bases the amount of HVL spilled on very basic and well known formulae. Further, the assumptions made in the B31.4 study, such as a 4 mph wind and the time to recognize that a leak has occurred and pumps have shut down (30 minutes) are reasonable. Similarly, in the API study, the use of a mathematical model is an often used technique to solve this problem, and, again, the assumptions made are reasonable. As a consequence, the B31.4 subcommittee study and the API study present a much more convincing argument than the other studies.

The cost/benefit study presented by the API estimates the costs and benefits of each proposal on existing pipelines. The API reviewed 269 accidents which occurred during the period 1970-1979, and eliminated from further consideration those accidents on which valves would not have made a difference in the outcome (i.e., accidents which occurred within a pump station, accidents in which the commodity was ignited before the accident was detected, accidents in which the segment of pipeline was in compliance with one or more of the proposals, etc.). Additionally, although the engineering study demonstrated that valves are not an effective means to reduce the accident effects, the API assumed that on the remaining accidents all of the deaths, injuries, and property damage would have been prevented. Estimating the benefits on this basis will give benefits as great as can reasonably be expected. Further, judging by the magnitude of the cost/benefit ratios (10:1 and 3:1), it is unlikely that making minor changes in the methodology or the assumptions would alter the end result to the point that a changed course of regulatory action would be indicated.

The MTB learned after the hearing that the B31.4 subcommittee plans to review the requirement in the B31.4 Code to install remotely controlled valves at certain locations on HVL pipelines as a result of the information developed during the hearing. It is interesting to note that an industry code might be changed in view of information developed pursuant to a regulatory proposal. Further, it is encouraging to see at work this confluence of technical and regulatory ideas between government and industry developing better pipeline safety regulations as well as industry codes.

Conclusions

The engineering studies prepared by the B31.4 subcommittee and the API demonstrate the importance of rapid leak detection and pump shutdown in reducing the hazard created by an HVL spill. A recent final rule concerning procedures for operations, maintenance, and emergencies (Docket PS-51; 44 FR 41197, July 16, 1979, and 44 FR 70164, December 6, 1979) recognized the importance of rapid leak detection and pump shutdown by requiring that pipeline operations data be monitored at attended locations and that established procedures be followed.

Heretofore, there was no study to determine the effectiveness of closely spaced valves to reduce the accident effects of an HVL spill. The studies prepared by the B31.4 subcommittee and the API clearly demonstrate that valves are not an effective means to reduce the accident effects and that a highly unfavorable cost/benefit result could be expected.

Because valves are not an effective means to reduce the accident effects of an HVL spill, the proposal to install valves along the pipeline and the proposal to install valves at pump stations and terminals as contained in Docket PS-53 are hereby withdrawn.

(Hazardous Liquid Pipeline Safety Act of 1979 (Title II of Pub. L. 96-129, November 30, 1979); 49 CFR 1.53 and Appendix A of Part 1)

Issued in Washington, D.C., on December 31, 1980.

I. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 81-472 Filed 1-7-81; 8:45 am]

BILLING CODE 4910-60-M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 81-02; Notice 1]

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes that Safety Standard No. 108 be amended to require installation of a single center, high-mounted stoplamp on passenger cars, in addition to the stoplamps presently required. The primary purpose of the amendment would be to reduce rear end collisions by providing a more effective indication to following drivers that the brake pedal in the car ahead has been depressed. The proposal is supported by test data generated under NHTSA contracts that indicate a system of this nature has the potential of significantly improving motor vehicle safety.

DATES: Comment closing date: April 10, 1981. Proposed Effective date: September 1, 1983.

ADDRESS: Comments should refer to the docket number and notice number and be submitted to: Docket Section, Room 5108 Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590 (Docket Hours 8 a.m. to 4 p.m.)

FOR FURTHER INFORMATION CONTACT: Marx Elliott, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, Department of Transportation, Washington, D.C. 20590 (202–426–1714).

SUPPLEMENTARY INFORMATION: Safety Standard No. 108 *Lamps, Reflective Devices and Associated Equipment* (49 CFR 571.108) presently requires passenger cars to be equipped with two stoplamps, mounted on the rear, one one each side of the vertical centerline, as far apart as practicable, and at the same height, which is not less than 15 inches, nor more than 72 inches above the road surface. Research conducted by NHTSA supports the conclusion that rear end collisions may be significantly lessened when a passenger car is equipped with an additional stop lamp, mounted on the vertical centerline of the vehicle and at a height approximately that of the eye height of a driver in a following passenger car. The reason that accidents are reduced is that the activation of the additional lamp provides a more effective indication of driver action than that of the conventional lower mounted stoplamps. As a result, following drivers are afforded an earlier opportunity to apply their own brakes or take evasive action. The notice proposes the addition of the lamp to equipment presently required on passenger cars, as well as performance requirements for the lamp.

The Safety Problem

IN 1979, there were an estimated 4,300,000 rear end collisions involving damages, injury and death (Accident Facts, 1980 edition, p. 47). It is believed that 3,315,000 of these involved passenger cars as struck vehicles. Data from NHTSA's Fatal Accident Reporting System (FARS) for the years 1975 through 1979 found a significant upward trend in the numbers of deaths occurring annually as a result of rear end collisions involving all types of vehicles, from 867 in 1975 to 1,170 in 1979. The question of how to reduce the frequency and severity of rear end collisions presents itself as one that is especially pertinent to fulfilling the statutory purpose of the National Traffic and Motor Vehicle Safety Act, "to reduce accidents involving motor vehicles and to reduce the deaths and injuries occurring in such accidents."

The proposal under discussion is the culmination of many years of NHTSA-funded research on vehicle rear lighting systems. Early findings advocated the separation of rear lamps and signals to improve recognition and response to the different functions. Research conducted in the private sector had concluded that reaction time was significantly faster when lamps were high mounted, especially at night.

Although NHTSA was encouraged by this research, the agency decided that more data was needed since the research was based on limited real world testing. Thus in 1977 NHTSA contracted for Essex Corporation to make a study and field test evaluation of rear lighting systems. The results of this study are contained in Report No. DOT–HS–803 467, "Field Test Evaluation of Rear Lighting Systems," 1978.

The purpose of this study was to determine whether one or more of three experimental rear lighting and signaling systems would result in a significant reduction in rear-end collisions under actual traffic conditions. The three experimental systems were:

1. Single center, high-mounted stoplamp system. A single center high-mounted stoplamp was provided at the approximate eye-level of a following driver. The stoplight was positioned on the vehicle's trunk just beneath the centerline of the rear window. This stop lamp was supplemental to the normal stop and turn signal lamps of the vehicle.

2. Dual high-mounted stop and turn signal lamp system. Two high-mounted stoplamps, one on each side of the trunk directly below the rear window, were provided at the approximate eye level of a following driver. These stoplamps were supplemental to the normal stop and turn signal lamps of the vehicle.

3. Functionally-separated system. The tail lamp was separated from the stop and turn functions of existing low-mounted lamps of the vehicle.

Approximately 2,100 taxicabs in the Washington, D.C. area participated in the study. Four groups of equal number were formed to evaluate the rear-end collision experience of three groups of vehicles equipped with one of the three design concepts as compared with the experience of vehicles with conventionally configured rear lamps which formed the "control" group. During the 12-month study period, the four groups accumulated nearly 60 million miles under a broad range of weather and road conditions. Drivers in the four groups had been matched for age, sex, and prior accident record. At the end of the study, the four groups had experienced a total of 1,470 accidents, of which 217 or fifteen percent involved taxicabs being struck in the rear while in operation.

The most significant finding of the study was that the taxicabs equipped with a single center, high-mounted stoplamp had less than half the rear-end collisions experienced by the control group. This reduction, which was demonstrated to be statistically reliable, was achieved whether measured in terms of absolute number or frequency of accidents or in terms of accident rate per million vehicle miles. In addition, the effectiveness of the single light high-mounted stoplamp increased during nighttime operation and also under conditions where there was almost complete certainty that the stoplamps were illuminated just before or at the time of impact. Further, of all the cabs struck in the rear, those with the center, high-mounted stoplamp had the lowest mean cost of repair by an order of magnitude. This indicated that these accidents were less severe than accidents involving vehicles with other stoplamp systems.

While the rear-end accident rate of cabs with the single center high-mounted stoplamp was impressively lower, the rear-end collision rates of the other two experimental groups were similar to that of the control group. Since all three experimental systems were fairly novel, the substantial success of only one of the systems suggests that novelty was not a significant factor in that success.

To determine whether the drivers of cabs equipped with experimental lamps drove more carefully than drivers in the control group, a comparison was made of non-rear-end accidents. The results of this comparison indicate no statistically reliable differences between either of the three experimental groups and the control group. The similarity of experience in those crash modes and the difference in rear-end crashes supports the finding in the Essex study that the supplemental single center high-mounted stop signal has the potential to dramatically reduce the occurrence of rear-end collisions on a national scale.

The Essex report recommended another field study using a broader sampling of drivers, passenger cars, and traffic conditions to validate its findings. The Allen Corporation contracted to make this validation study and the results are given in the May 1980 Report "Validation of the Reduction of Rear-End Collisions by a High-Mounted Auxiliary Stoplamp," (DOT–HS 805 360).

Accident and exposure (mileage) data were collected on approximately 5,400 passenger cars, about 2,500 of which were equipped with the single, high-mounted stoplamp. The remaining cars

served as controls. The vehicles were operated by seven companies of the Bell Telephone System from New England to Florida, and also in Illinois and California from January 1, 1979, through December 31, 1979. During that time, they ran a total of approximately 55 million miles.

The test group received 53 percent fewer rear-end impacts than did the control group. The difference was statistically significant beyond the .01 level of confidence. The result is in agreement with the Essex study which found a 54 percent reduction in rear-end impacts. Therefore, the agency tentatively concludes that the single high-mounted stoplamp will provide significant safety benefits beyond those now obtained from the safety lighting required by Standard No. 108.

The Essex and Allen studies used readily available aftermarket equipment for the center high-mounted stoplamps. It did not attempt to determine the ideal lamp for this purpose or the acceptable locations and tolerances for positioning the lamp and did not attempt to solve the problems that may be encountered in installing and using them. Based on known information of the lamps and systems used in these studies, however, adequate information is available to proceed with this rulemaking without delay for research to develop the optimum lamp and installation. Not specifying all of the detailed aspects of performance would afford the manufacturers latitude in developing their stoplamps and in designing their vehicles.

NHTSA is therefore proposing that passenger cars be equipped with a center high-mounted stoplamp. Manufacturers would not be precluded from equipping other types of vehicles with this lamp provided that it conforms with the proposed requirements. The lamp must be red, with a miminum effective projected luminous lens area of 4.5 square inches and must be designed to meet the requirements of SAE Recommended Practice J186a *Supplemental High Mounted Stop and Rear Turn Signal Lamps, September 1977* except that the laboratory requirements would be in accordance with SAE J575e. The current stoplamp requirements and functions would be retained. The center high-mounted stoplamp would be actuated by the brake-light switch. The lens center of the lamp would be mounted on the vertical plane including the longitudinal axis of the vehicle. The minimum separation from rear turn signal and stoplamp would be 10 inches.

Three slightly different mounting requirements are set forth in proposed S4.3.1.9. Alternatives 1 and 3 would require that the stoplamp be placed, if practicable outside the vehicle and near the botton of the rear window. If that placement is not practicable, then the lamp would be placed inside the vehicle near the bottom of the rear window. If neither of those placements is practicable, then the lamp would be placed outside the vehicle near the top of the rear window. The minimum height of the lamp would be 34 inches above the road surface in Alternative 1 and 38 inches in Alternative 3. Placement of a high-mounted rear stoplamp in a particular location would be considered "impracticable" if, for example, there were no surface suitable for mounting the stoplamp. Comment is requested on other circumstances that should be considered as establishing impracticability. Under Alternative 2, the manufacturers would have their choice of these three locations as long as the lamp is mounted not less than 34 inches and not more than 50 inches above the road surface. Under all of these alternatives, lamps mounted outside the car may be on any surface (including the trunk lid) just below the rear window. If mounted inside the rear window, the lamp must be equipped with a light shield to prevent reflections off the rear window glass from bothering the driver.

If the agency issues a final rule, it will adopt one of these alternatives of a modification of it. Comment is requested on each alternative and on the suitability of each location specified by the alternatives.

The manufacturers indicate that the minimum time required to make appreciable changes in rear lighting arrangements is two model years. This leadtime is required for design changes, tooling changes, compliance testing, procurement, and preparation for production. The proposed effective date of September 1, 1983, therefore allows time to tool the 1984 models for compliance.

Alternatives

With additional research, more nearly optimum stoplamp configurations may be developed. For the proposed design these factors may include more effective intensity, size, beamspread, and emitting characteristics (such as flashing). Other types of lamps or added functions such as deceleration signals may be desirable and should be investigated. However, to delay this rulemaking to await new improvements will result in delay of implementing requirements known to appreciably reduce accidents. Any refinements would probably further reduce rear-end collsions by only a minor amount.

Other alternatives now being investigated include radar or automatic braking and radar warning devices. Radar or automatic braking systems have been developed and may be available as optional systems. Other systems are being developed. Time will be needed to test and evaluate these systems. At least several years are likely to pass before these systems can be proved sufficiently effective, reliable, and free of problems for the agency to consider initiating rulemaking to establish a Federal standard. Further, the cost for automatic braking or radar warning would be many times the cost of the proposed stoplamps.

Potential Benefits, Costs and Other Impacts

Benefits

The Essex study found that for taxicabs in the Washington, D.C. area, the center high-mounted single-function stoplamps reduced relevant rear-end collisions by 54 percent. Similarly, the Allen study found that for telephone company passenger cars operating with these stoplamps in many areas of the country, relevant rear-end collisions were reduced by 53 percent. A relevant rear end collision is one in which a stoplamp could have affected the outcome, unlike an irrelevant collision such as occurs, for example, when a moving vehicle strikes a parked one. Thus, of the 4,300,000 rear end collisions occuring in 1979, it is believed that 3,315,000 involved passenger cars, and of these, 2,850,900 were accidents in which the stoplamps could have affected the outcome. Of the 1170 fatalities and 145,000 injuries occuring in the 4,300,000 rear end collisions, 1008 fatalities and 125,000 injuries occurred in the 2,850,900 passenger car accidents. Had all passenger cars been equipped with the center high-mounted stoplamp, a 53 percent reduction would have meant 1,511,000 less accidents, and 533 fewer fatalities. Even where accidents occur, the new system should result in slower closing speeds with concomitantly lessened injury severity.

A center high-mounted system would also reduce property damage. Data on the cost to repair damage from rear-end collisions on a national scale were not available. Both the Essex and Allen studies reported on repair costs of relevant rear-end accidents for their test fleets. The mean average repair costs for the Essex study were $317 for the control group and $194 for the single high-mounted stoplamp group. For the Allen study, these costs were $314 for

the control group and $134 for the test group.

Using the Essex data, NHTSA believes that almost $480,000,000 would have been saved in 1979 in repairs on struck vehicles by the avoidance of 1,511,000 rear-end collisions. NHTSA also believes that the remaining 1,339,900 relevant rear end collisions would have been less severe with the single high-mounted stoplamp systems, for an additional savings of $165,000,000. To this NHTSA would add a figure equal to the sum of the above, representing savings occurring to the front ends of striking vehicles for accidents avoided or made less severe—in sum, a total potential benefit approaching $1,290,000,000 annually. This is a conservative estimate as the costs to repair front ends are generally much higher than rear end repair costs.

Costs

NHTSA has considered the impacts of this proposal and determined that the proposal is not significant within the meaning of E.O. 12221 and implemental Department of Transportation guidelines. A regulatory evaluation discussing those impacts has been prepared and placed in the docket. A copy of the evaluation may be obtained from the Docket Section whose address is given near the beginning of this notice.

NHTSA investigated both plastic add-on and built-in high-mounted stoplamps. One of these designs with minor modifications should be suitable for use on most models and body styles of domestic passenger cars. The design similarities between domestic and foreign cars of similar size indicate that the results of this analysis should be equally applicable to imports. Two models from each of the size classes of 1980 models were selected for specific study, one model in each class being the production volume leader. The second vehicle in each class was selected for other factors such as the difficulty of designing the vehicle for the installation of the lamp. For each model an adequate lightweight, small lens size, weather-resistant design with easy access for changing the bulb was developed. These lamps were designed for mounting at one of five positions—the panel below the rear window, the deck lid, inside the rear window, above the rear window, or center of the tailgate below the rear window on station wagons. These lamps weighed one-half pound or less and the exposed lens size was a minimum of 3½ square inches.

The estimated consumer costs ranged from $4.45 to $5.21 and included installation. The projected 1985 model year production of domestic coupes, sedans, and station wagons is 9,492,000 cars for a total high-mounted stoplamp cost of $46,703,000 or an average cost of $4.92 per car for these stoplamps. The cost figures for the proposed 4½ square inch stoplamp should be identical.

Maintenance costs vary widely by locality and method of performing the maintenance. The primary cost will be replacement of bulbs. These bulbs cost approximately $0.50 each in many stores although service stations usually charge $1.00 each. If the owner personally replaces the bulbs and flasher himself, the bulb cost would be the only routine maintenance. Service stations usually charge from $3.00 to $7.00 to change a bulb. Dealer charges were found to range from $5.00 to to $15.00. Considering the lamp life, the operating time, the bulb cost, and a labor charge of $5.40 for a bulb change, the agency estimates that the total passenger car fleet maintenance cost would be $320,000 per year or an approximate average annual cost of $0.032 per car for the high-mounted stoplamp. Stoplamps mounted on deck lids will need bulbs suitable to withstand the mechanical shock to stay within these maintenance costs.

These maintenance costs do not include replacement of lamps which are damaged. Information on frequency of damage to these lamps was not available.

Potential Environmental Impacts

NHTSA estimates that the increased fuel consumption caused by adding approximately one-half pound of weight to each car would be only .11 gallon per year. This would be a minor increase in use of fuel. The burning of this additional amount of gasoline would also be a negligible factor in air pollution. There are no other known negative environmental impacts.

§ 571.108 [Amended]

In consideration of the foregoing, it is proposed that 49 CFR 571.108 Motor Vehicle Safety Standard No. 108 be amended as follows:

1. S3 would be amended to add the following new definition after "S3. *Definitions.*":

Daylight opening means the maximum unobstructed opening through the glazing surface, as defined in paragraph 2.3.12 of section E, Ground Vehicle Practice, SAE Aerospace-Automotive Drawing Standards, September 1963.

2. Table III would be revised to add after "stoplamps".

Table III.—*Required Motor Vehicle Lighting Equipment*

[All passenger cars and motorcycles, and multipurpose passenger vehicles, trucks, trailers, and buses, of less than 80 in overall width]

Item	Passenger cars, multipurpose passenger vehicles, trucks, and buses	Trailers * * *	Motorcycles * * *	Applicable SAE standards or recommended practices
* * * * * * *				
Stoplamps	2 red			J586c, August 1970.
Highmounted stoplamp	1 red effective Sept. 1, 1983	Not required	Not required	J186a, September 1977.
* * * * * * *				

3. Table IV would be revised to add after "stoplamps".

Table IV.—*Location of Required Equipment*

[All passenger cars and motorcycles, and multipurpose passenger vehicles, trucks, trailers, and buses, of less than 80 in overall width]

Item	Location on	* * *	Height above road surface measured from center of item on vehicle at curb weight
	Passenger cars, multipurpose passenger vehicles, trucks, trailers, and buses		
Col. 1	Col. 2	Col. 3	Col. 4
* * * * * * *			
Stoplamps	* * *	* * *	* * *
High-mounted stoplamps	On the rear, on the vertical centerline [see proposed § 4.3.1.9].	Not required	[See proposed § 4.3.1.9].

4. New paragraphs S4.1.1.13, S4.1.1.14, and S4.1.1.15 would be added to read:

S4.1.1.13 Multipurpose passenger vehicles, trucks, trailers and buses of

less than 80 inches in overall width need not be equipped with a high-mounted stoplamp.

S4.1.1.14 Each high-mounted stoplamp shall have an effective projected luminous area not less than 4½ square inches. The signal from the lamp shall be visible through a horizontal angle from 45 degrees to the left to 45 degrees to the right. To be considered visible, the lamp shall provide an unobstructed projected illuminated area of outer lens surface of at least 2 square inches in extent, measured at an angle of 45 degrees to the longitudinal axis of the vehicle.

S4.1.1.15 Each high-mounted stoplamp shall be energized during the final 10 minutes of the vibration test specified in SAE J575e and shall continue to provide illumination upon completion of the test.

5. New paragraphs S4.3.1.8 and S4.3.1.9 would be added to read:

S4.3.1.8 Each high-mounted stoplamp shall have an edge-to-edge separation distance from a stoplamp, tail lamp or turn signal lamp not less than 10 inches when projected on a vertical plane perpendicular to the longitudinal axis of the passenger car.

Alternative 1

S4.3.1.9 Each high-mounted stoplamp shall be mounted not less than 34 inches above the road surface:

(a) If practicable, outside the passenger car with the center of the lamp within 3 inches of the outside bottom edge of the rear window daylight opening, or

(b) If compliance with paragraph (a) of this section is not practicable, inside the passenger car with the center of the lamp not more than 3 inches above the inside bottom edge of the rear window daylight opening and with means provided to minimize reflections inside the vehicle from the light upon the rear window glazing, or

(c) If compliance with neither paragraph (a) nor (b) of this section is practicable, outside the passenger car with the center of the lamp within 3 inches of the outside top edge of the rear window daylight opening.

Alternative 2

S4.3.1.9 Each high-mounted stoplamp shall be mounted inside or outside the passenger car with the center of the lamp not less than 34 inches and not more than 50 inches above the road surface, and not more than 3 inches below the bottom or above the top of the rear window daylight opening. If the lamp is mounted inside the vehicle, means shall be provided to minimize reflections inside the vehicle from the light upon the rear window glazing.

Alternative 3

S4.3.1.9 Each high-mounted stoplamp shall be mounted:

(a) If practicable, outside the passenger car with its center not less than 38 inches above the ground surface and within 3 inches of the bottom of the rear window daylight opening; or

(b) If compliance with paragraph (a) of this section is not practicable, inside the passenger car with its center as near as practicable to 38 inches above the road surface, and with means provided to minimize reflections inside the vehicle from the light upon the rear window glazing.

6. Paragraph S4.5.4. would be revised to read:

S4.5.4 The stoplamp on each vehicle, and the high-mounted stoplamp on each passenger car, shall be activated upon application of the service brakes.

7. The final clause of the first sentence of paragraph S5.1 would be revised to read:

S5.1 * * *, for high-mounted stoplamps, stoplamps, tail lamps, and turn signal lamps designed to conform to respectively, SAE Recommended Practice J186a, and SAE Standards J586c, J585d/J585e, J588e.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

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

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

The engineer and lawyer primarily responsible for this proposal are Marx Elliott and Taylor Vinson.

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

Issued on December 31, 1980.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 81-368 Filed 1-7-81; 8:45 am]

BILLING CODE 4910-59-M

---

49 CFR Part 571

[Docket No. 1-11; Notice 8]

Federal Motor Vehicle Safety Standards; Rear Underride Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend 49 CFR Part 571 by adding a new safety standard, entitled "Rear Underride Protection." This standard is proposed in response to a petition for rulemaking filed by the Insurance Institute for Highway Safety (IIHS). The proposed standard specifies

performance requirements for underride protective devices on most trucks and trailers that have gross vehicle weight ratings (GVWR's) greater than 10,000 pounds. The new standard would reduce the number of deaths and injuries which occur when cars and other vehicles collide with and slide under the rear ends of trucks and trailers. This would be accomplished by reducing the likelihood of underride in a way that minimizes the crash forces to which the occupants of these small vehicles are subjected.

DATES: The proposed effective date is September 1, 1983. Comments must be received on or before April 8, 1981.

ADDRESSES: Comments should refer to the docket and notice numbers and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590. (Docket Room hours: 7:45 a.m.–4:15 p.m.)

FOR FURTHER INFORMATION CONTACT: Mr. John Tomassoni, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590. Telephone: (202) 426–2242.

SUPPLEMENTARY INFORMATION:

Background

The safety standard proposed in this notice deals with the problem of rear underride, a problem that has been the concern of the Department of Transportation, the trucking industry, and the public for more than twenty years. Rear underride involves the front of a car or other small vehicle sliding under and colliding with the rear end of a truck or trailer. Underride occurs because the rear end of the struck vehicle is relatively high off the ground and there is too little structure under the rear end to resist the striking vehicle or the structure present is not strong enough to accomplish that purpose. Underride occurs to some extent in most collisions in which a passenger car crashes into a truck rear end. This kind of crash typically results in sustantial damage to the smaller vehicle and injury to the car occupants. In 1978, 500 deaths or more than one (1) percent of all traffic fatalities occurred in collisions involving a vehicle and a heavy truck rear end. Three hundred and thirty-eight (338) of these fatalities were occupants of passenger cars. Sometimes when a car underrides a truck, the rear end of the truck body crashes through the windshield and penetrates the passenger compartment of the automobile. In those cases, the underride is considered "excessive." Deaths in accidents involving excessive underride usually result from severe head and upper body injuries. It has been estimated that excessive underride occurs in 30–40 percent of the fatal accidents in which passenger cars crash into truck rear ends.

Federal attempts to deal with the problem of rear underride date back to the early 1950's. The initial effort was a regulation, 49 CFR 393.86, *Rear End Protection*, which was established by the Bureau of Motor Carriers of the Interstate Commerce Commission (now the Bureau of Motor Carrier Safety (BMCS) of the Federal Highway Administration) in 1953. This regulation, which is still in effect today, requires most heavy motor vehicles to have a rear end device designed to help prevent underride. It applies to trucks and trailers that are manufactured after December 31, 1952, and that are used in interstate commerce. The rule provides that the ground clearance of the underride guard shall not exceed 30 inches when the vehicle is empty. The device must "be located not more than 24 inches forward of the extreme rear of the vehicle." The guard must be sufficiently wide so that its ends are not more than 18 inches inboard from either side. The regulation further requires that the device "be substantially constructed and firmly attached."

The National Highway Traffic Safety Administration (NHTSA) initiated its rulemaking efforts to improve underride protection for passenger car occupants in 1967. The agency had tentatively determined that a better regulation was needed because of the continuing problem of fatalities and serious injuries occurring in accidents involving excessive underride, and because of the absence of efforts by the vehicle manufacturers generally to go sufficiently beyond the BMCS requirement. In 1969, a rule was proposed that would have required all new trucks and trailers having gross vehicle weight ratings (GVWR's) greater than 10,000 pounds to have rear end protection devices. The ground clearance of the device was not to exceed 18 inches when the vehicle was unloaded. The strength of the device was to be demonstrated by a static test of 75,000 pounds applied with a 4" x 4" test block at the center of the device and 15 inches inboard from either side. The load requirement was subsequently lowered to 50,000 pounds, to be applied with a 4" x 12" test block at any point between the outermost sides of the guard. The displacement of the device was not to exceed 15 inches from the rearmost part of the vehicle.

In 1971, after evaluating cost and accident data and reviewing all information received in response to the notices, NHTSA terminated those rulemaking efforts. The Administrator of the agency concluded that the safety benefits achievable with the particular type of underride guard then contemplated would not be commensurate with the cost of implementing the standard. The agency had estimated that the proposed rule would save 50–100 lives per year at an annual cost to the consumer of $500,000,000. Most of the implementation costs estimated by NHTSA were related to the increase in guard weight which it thought was necessary to meet the proposed requirements.

Efforts to improve underride protection resumed in 1977, after the Auto-Truck Crash Safety Hearing was held by Senator Wendell H. Ford. This hearing was the direct result of a program conducted by the Insurance Institute for Highway Safety (IIHS) in 1976. This program focused on the problem of preventing excessive underride. IIHS performed five tests in which passengers cars were crashed into the rear of a typical semi-trailer van. Two of the tests involved prototype guards developed by IIHS. These guards were essentially rigid. (A rigid guard is one that can withstand a load impact in excess of 100,000 pounds without permanently deforming.) They were lightweight and built with diagonal struts which transmitted the collision forces from the guard bumper to the airframe of the van. These tests demonstrated that high strength underride guard structures can prevent excessive underride with little additional weight.

As a result of the Oversight Hearing and of the petition for rulemaking subsequently filed by IIHS, the Department of Transportation decided to reexamine the problem of rear underride. BMCS and NHTSA jointly initiated a program to explore achieving improved rear end protection through further regulation. An advance Notice of Proposed Rulemaking (ANPRM) was issued on August 29, 1977 (42 Fed. Reg. 43414), and comments were solicited. Many comments were received from manufacturers of trucks and truck equipment, shippers, and the general public. Most of the commenters were in favor of increased underride protection. The question of what vehicles (if any) should be exempted from the guard requirement was that issue most frequently raised. Many of the commenters expressed concern about the effect of an underride device on

trucks or trailers equipped with hydraulic tailgates, on-off road vehicles, and other specialized units. The ground clearance and width of the guard were frequently discussed. Most commenters said that the ground clearance of the device should be in the range of 24 to 30 inches, and that the width of the guard should be the same as the width of the vehicle. Another issue that was raised repeatedly in the comments was the strength of the underride guard. Commenters suggested load limits of anywhere from 23,000 to 50,000 pounds.

As parts of this joint program, NHTSA and BMCS let contracts for two research projects. BMCS engaged the Texas Transportation Institute of Texas A&M University (TTI) to develop underride guards that are low cost but are practical and provide effective protection from underride. NHTSA engaged Dynamic Sciences, Inc. (DSI) to develop compliance test procedures. It was intended that these joint contract efforts would generate sufficient data to support a rule applicable to all non-exempt vehicles with GVWR's greater than 10,000 pounds. Vehicles moving in intrastate and interstate commerce would be affected.

The research contracts focused on preventing excessive underride primarily through use of a rigid guard having a low ground clearance. This approach was similar to that followed by IIHS in its 1976 test program. The tests performed by TTI and DSI demonstrated what the IIHS program had shown earlier: that excessive underride could be prevented with rigid guards.

However, these tests further demonstrated that rigid guards increase the deceleration forces experienced by car occupants in a crash and thus increase the risk of injury due to hazards other than underride. Restrained dummies placed in passenger cars that were crashed into the rigid guards at collision speeds of 35 mph or more experienced injury responses that are not within the ranges allowable under FMVSS No. 208. This is significant because accident statistics indicate that at present, most accidents in which a passenger car collides with a heavy vehicle rear end are survivable. Data further indicate that a majority of the fatalities which do occur take place in accidents that do not involve excessive underride.

DSI also tested a production underride device that is typical of guards currently available to and purchased by truck and trailer manufacturers in the American market ("current guards"). This guard was not able to prevent small cars from excessively underriding test trailers at collision speeds above 30 mph. In these tests, the dummies experienced injury responses that are not within the permissible limits of FMVSS No. 208. When small cars were crashed into current guards, the guards did not fail, i.e., did not permanently deform in some manner. In tests of large cars at 30 mph, underride was excessive in offset collisions but not when the collision was centric. Occupant injury responses were within the allowable limits of FMVSS No. 208 in these tests of large cars, and in all tests the guards did not fail. Occupant responses were also within the permissible ranges of Standard No. 208 when the large car was crashed into the guard at 40 mph. However, in this test underride was excessive, and the guard was permanently deformed.

In addition, the TTI program tested a hydraulic energy-absorbing guard manufactured by Quinton-Hazell Automotive Ltd. (Quinton-Hazell). (An energy-absorbing guard is one that dissipates the energy of the impact in a controlled manner.) The Quinton-Hazell device was very effective both at preventing excessive underride, reducing occupant injury responses, and reducing damage to the colliding vehicle.

TTI also conducted two tests in which passenger vehicles were crashed into a van that had no guard but whose adjustable rear wheels were set in the rearmost position. The purpose of these tests was to determine the effectiveness of rear tandems as an underride deterrent. The tests demonstrated that the rear wheels, when placed at the extreme rear of the truck or trailer, prevent excessive underride at approximately 35 mph. Further, the restrained dummies used in these tests experienced injury responses that are within the allowable limits of FMVSS No. 208.

To gain further insight into the consequences of guard design, NHTSA then performed a comparative engineering risk analysis. This analysis used a car crash simulation model to determine the relative effectiveness of different underride guards. The model, known as the Underride Crash Analysis Model (UCAM), was used to simulate the crash of an automobile into the rear end of a heavy duty commercial vehicle equipped with an underride guard. The output of UCAM was then used as input into the Risk Analysis Model (RAM). RAM computes the probability of a serious or fatal injury to restrained and unrestrained occupants under a variety of conditions which include car size, speed of the automobile, the position of the rear wheels on the truck or trailer, and occupant free travel distance. (Occupant free travel distance is the distance that an occupant travels from his or her seating position to his or her point of impact with the vehicle interior.) The algorithm used in the RAM to calculate the overall risk of injury under each set of conditions was designed to incorporate the effects of those parameters which have a significant impact on the level of injury suffered by unrestrained and restrained occupants. For unrestrained occupants, the most important parameters are the extent to which the car underrides the truck and the velocity of the occupants with respect to the compartment itself. For restrained occupants, the significant parameters are the extent of underride and the combination of the relative velocity and the level of acceleration experienced by the occupants. For a given set of conditions describing a crash, the UCAM provides the RAM with values of these parameters for the simulated occupants. The RAM then uses these values and a postulated functional relationship describing the effect of each on the risk of serious injury to compute the overall risk of serious injury to the occupants of the automobile.

This analytical procedure is explained in further detail in "Procedure for Determining the Risk of Injury to Passenger Car Occupants Involved in Rear End Collisions with Heavy Vehicles," a report prepared by Automated Science Group, Inc., "Factors Influencing the Risk of Injury in Passenger Car and Other Vehicle Collisions with Heavy Truck Rear End," by Conrad Cooke, and an SAE publication titled "An Approach to Developing Underride Guard Requirements for Improved Occupant Protection" (SAE No. 801422). These documents have been placed in the docket.

The objective of the analysis was to learn which type of guard provides the best *overall* protection for passenger car occupants. The analysis did not concentrate (as the earlier test programs had done) solely on determing which guard most effectively prevented excessive underride. The guards analyzed included rigid, energy-absorbing, moderate strength, and current guards. (A moderate strength guard is one that will permanently deform when subjected to a load of approimately 45,000 pounds.) The extent of occupant injury in truck rear end crashes in which there is no underride guard whatsoever was also analyzed. The effectiveness of each guard was analytically quantified by determining the risk of injury rated 3 or above on the

Abbreviated Injury Scale (AIS), which covers the range of injuries from serious to fatal. The results of the risk analysis showed that energy-absorbing guards provide the best overall protection for car occupants in accidents in which cars crash into the rear ends of trucks. Conventional guards presently on the market provide the least protection. Moderate strength guards, although not as good as rigid guards in reducing the risk of excessive underride, produced an overall risk of injury for both restrained and unrestrained occupants which was approximately the same as that of the rigid guard. The performance of the moderate strength guard was reasonably comparable to the energy-absorbing guard.

The Proposed Rule

In light of the IIHS, TTI, and DSI test programs and the comparative risk analysis, the agency is proposing to mandate the use of underride guards that are at least as strong as moderate strength guards. The NHTSA's objective in developing the proposed rule was to maximize overall occupant protection while minimizing cost and effect on trucking operations. The details of the rule were modeled on existing European Economic Community (EEC Directive 79/490/EEC) and Swedish regulations, which basically mandate an underride guard capable of withstanding a load of 45,000 pounds on the vertical support members combined. This harmonization of the proposed standard and European requirements is consistent with the Trade Agreements Act of 1979.

The proposed rule would apply to most trucks and trailers having GVWR's greater than 10,000 pounds, primarily to vans and platform trailers whose ground clearance at the rear of the vehicle is greater than 55 cm. As set out in paragraph S3, truck tractors, "low chassis" vehicles, and "wheels back" vehicles would be exempted. A "low chassis" vehicle is a truck or trailer having a chassis which extends behind the rearmost point on the rear tires and whose lower surface at the rear of the chassis meets the configurational requirements for underride guards that are specified in the rule. It is contemplated that vehicles such as moving vans that have low beds would be exempted by this provision. To qualify as a "wheels back" truck or trailer under the proposed rule, the rear axle must be permanently fixed and the rearmost part of the tires on that axle must be not more than 30 cm (11.8 inches) from the rear extremity of the vehicle. (The "vehicle rear extremity" is defined in the rule as the rearmost point on the vehicle that is more than 55 cm above the ground. Protrusions such as taillights, hinges, and latches are excluded from this determination.) Truck tractors, low chassis vehicles, and wheels back vehicles are exempted from the proposed requirements because the rear end structure of these vehicles is an adequate underride deterent. "Special purpose" vehicles are also exempted in paragraph S3. A "special purpose" vehicle is a truck or trailer having work-performing equipment that is located at the lower rear of the vehicle and whose function would be significantly impaired if an underride guard meeting the requirements of this standard were attached to the vehicle. Trucks or trailers equipped with well-drilling rigs or fertilizer, salt or sand spreaders are examples of special purpose vehicles. Finally, the proposed rule does not apply to pole trailers. The agency believes that requiring underride guards on such vehicles would provide little benefit to car occupants. Since the poles carried by these trailers usually overhang the back end of the vehicles for a considerable distance, the danger of underride is due not to the structure of the trailer but to the structure of the cargo.

The proposed standard sets out certain configuration requirements in paragraph S5.1. The width, height, ground clearance and longitudinal placement of the guard are specified. The ground clearance of the proposed device must not exceed 55 cm (21.65 inches) at any point along its full width.

This maximum clearance point was chosen for two reasons. First, the guard must be low enough to engage at least some part of the engine in a small car if the guard is to prevent excessive underride. The beds of most heavy trucks and trailers without guards have a ground clearance of roughly 48 inches. On virtually every passenger car on the road today, the height of the hood at the front of the vehicle in the center is between 30 and 35 inches. If the guard on an unloaded vehicle has a clearance of 30 inches, it will barely engage the hood edge of today's cars when they are not braking. This is the ground clearance of the underride device mandated by BMCS Regulation 393.86. If there is braking during the impact, a guard with a ground clearance of 23 inches will engage the engine of 50 percent of the cars on the road today. A guard with a ground clearance of 22 inches will engage the engine of virtually all of today's cars if there is no braking. Such a guard will engage the engine of most vehicles even if braking takes place.

Second, the guard clearance must be sufficiently high so that normal trucking operations such as TOFC (Trailer On Flat Car) and RO–RO (Roll On-Roll Off) are not restricted. ("Roll On-Roll Off" is a trucking operating in which trailers are driven on board a ship that is used to transport the trailers to their destination at which point the trailers are driven off.) A 15-degree departure angle is considered the minimum for trailers to clear ramps and obstacles. If the center of a vehicle's rear tandem axles are fixed more than 6.5 feet from a guard having a ground clearance considerably less than 22 inches, the vehicle will most likely have difficulty negotiating ramps.

In light of these factors, a maximum ground clearance of 21.65 inches (55 cm) was chosen. The agency believes that this clearance point adequately balances both considerations. NHTSA strongly encourages truck and trailer manufacturers to place underride guards as low as possible on a particular vehicle design. At low speeed, damage to the impacting vehicle is minimized if the underride guard engages the bumper of the car. The front bumpers of automobiles are currently required to have a ground clearance of 16–20 inches.

The width of the proposed guard is specified in paragraph S5.1.1. The guard must be wide enough to ensure engagement of the colliding vehicle even if the impact is off-center. An offset collision might occur if the driver of the passenger car were attempting to take an evasive maneuver before the crash. The agency believes that the width it specifies in the proposed standard satisfies this concern. Under paragraph S5.1.1, the underride device must be wide enough that its outermost edges are within 10 cm (3.94 inches) of the outermost sides of the vehicle. This requirement must be met at a height not greater than 55 cm. By specifying the maximum height at which the width measurement can be made, the rule assures that the guard is sufficiently wide at heights that are adequate to prevent excessive underride. Because of the possibility of offset collisions, the guard would also have to be continuous across the back of the vehicle. Thus in paragraph S5.1.1, the rule requires that the device be laterally continuous at a height of 55 cm or less.

The cross sectional height of the proposed guard is set forth in paragraph S5.1.3. At any point across the full width of the device, the cross sectional height of the guard must be at least 10 cm (3.94 inches). The agency believes that this minimum size requirement will ensure that the underride device engages a significant amount of the passenger car's structure.

Paragraph S5.1.4 of the proposed standard specifies the longitudinal

placement of the guard on the truck or trailer. For maximum protection of car occupants, the underride device should be as close to the rear of the vehicle as possible. The proposed rule dictates that the guard be placed not more than 30 cm (11.8 inches) from the rear extremity of the truck or trailer. This measurement is to be made longitudinally from the rear extremity of the vehicle to any point along the full width of the device at a height of 55 cm or less.

The strength requirements of the rule are set forth in paragraph S5.2. The standard requires that the guard as installed be capable of withstanding separately applied loads without being displaced more than a specified distance. The loads are intended to prove the integrity of the attachments and main structural members of the device. A static test is used because of cost and ease of performance. Three load values are specified in the rule. A force (P_1) of 50,000 Newtons (11,240 pounds) is to be applied to the guard at a position of 30 cm (11.8 inches) inboard from either the right or left side of the vehicle. Then P_2, a force of 50,000 Newtons, is to be applied to the lateral center of the device. These two load forces are designed to test the strength of the underride guard near its outermost edges and at its center. P_1 ensures that the device will provide adequate protection in an offset collision. P_2 will determine whether the horizontal part of the underride device is strong enough to withstand the collision and to transmit the impact's force to the vertical struts. P_3, a force of 100,000 Newtons (22,480 pounds), is to be applied at any point within a range of 35 to 50 cm (13.8 to 19.7 inches) from either side of the vehicle longitudinal axis. This force must be applied successively to either side of the guard at the same distance from the vehicle longitudinal axis. P_3 is designed to test the strength of the vertical struts. The total applied load of 45,000 pounds ensures that the guard is at least moderately strong.

When the loads are applied by the load block, the guard cannot deflect forward more than 40 cm (15.7 inches), as measured longitudinally from the extreme rear of the vehicle to the center of the load block face plane. The measurement must be made during the force application when the specified force level is reached. The maximum displacement of 40 cm permits energy-absorbing guards (such as the hydraulic Quinton-Hazell device) to be used while ensuring that the device does not deflect so far that it fails to resist underride adequately. NHTSA realizes that the proposed rule permits guards to deflect as much as 40 cm, while wheels back vehicles must have the rearmost part of the tires on the rear axle no more than 30 cm from the vehicle rear extremity. However, the agency believes that permitting the use of the energy-absorbing guards that need this extra distance to operate effectively justifies the discrepancy.

The proposed rule specifies that a new, untested guard is to be used for each test. This is the procedure that the agency will follow in performing its compliance tests. However, a manufacturer is not required to follow this procedure in determining in the exercise of due care whether his guard complies with the proposed rule. Thus, a manufacturer may test a particular underride guard more than once. However, the agency believes that in doing so the manufacturer may be subjecting his guard to requirements that are more stringent than those set out in the rule. As long as a manufacturer acts with due care, he can certify that his underride devices comply with the standard based on analytical means also. In making that analysis, the manufacturer must be certain that the design takes into account normal manufacturing variations so that his guards will comply with the standard when they are tested by the agency.

In preparing the proposed test procedure, the agency gave consideration to the techniques suggested in previous research work, the techniques used by various manufacturers, and suggestions provided by manufacturing associations. Special attention was given to the procedures employed in the EEC regulation. Some of the features of this EEC standard were found to be appropriate for the proposed rule (as evidenced by the testing and the comparative risk analysis), and they were accordingly incorporated in the regulation. These features include the magnitude of the P_3 load requirement, the geometrics of the load applications, and the guard configurational requirements. The test procedures employed in the proposed standard, however, differ from those found in the EEC rule in several important respects.

First, the EEC regulation allows the test block to articulate. The rule does not set forth any specifics about the nature of the articulation; it merely states that the articulation must be "suitable." In failing to specify the magnitude of the articulation, the location of the joint with respect to the contact surface, etc., the EEC standard fails to control significant variables in the test procedure that can have significant effects on the test results. As a result, the agency has tentatively concluded that the EEC test procedure should not be followed on this point. In the interests of simplicity, NHTSA has further tentatively concluded that the test block used in the test procedure should be prevented from articulating.

Second, the load to be applied to the center and outer edges of the horizontal member of the device was raised from approximately 5,000 pounds to 11,240 pounds. NHTSA increased the load limit because the agency believes that 5,000 pounds is an inadequate test. Finally, the EEC requirements permit the loads to be applied to be directly proportional to the GVWR of the vehicle up to a specified load value. The agency believes that direct proportionality is inappropriate, because the forces generated in collisions of passenger cars and heavy vehicles are essentially the same for all vehicles having a GVWR greater than 10,000 pounds. The EEC requirements would allow vehicles with GVWR's less than 25,000 pounds to use guard structures that have a lower load capacity than that of current guards. As a result, NHTSA has tentatively decided not to follow the EEC regulation on this point.

Alternatives to the Proposed Rule

In developing the proposed rule, several alternatives were considered and tentatively rejected. One possible alternative that was urged by IIHS was to require the use of the rigid guard. NHTSA has tentatively rejected this option for two reasons. First, while rigid guards are excellent at preventing excessive underride, they increase the deceleration forces experienced by car occupants in a crash, and thus increase the risk of injury due to hazards other than underride. As noted above, this is significant because it appears from accident statistics that most crashes of passenger cars into the rear ends of trucks and trailers do not now result in fatalities. A majority of those crashes that do result in deaths do not involve excessive underride.

Second, rigid guards that are lightweight have diagonal support members which tend to restrict rearward slider movement. (A sliding undercarriage or a slider is a mechanism that permits the rear wheels of a trailer to be positioned in various locations along the longitudinal axis of the vehicle. The slider is positioned by carriers to achieve a preferred balance between regulated maximum axle load and maneuverability as necessary.) This was true of the underride devices used

by IIHS in their test program. Because restricting slider motion causes payload displacement, these rigid guards are more expensive to use. Great Dane Trailers, Inc. contends that for every foot of slider restriction, 1720 pounds of payload are displaced.

The agency has tentatively decided not to require energy-absorbing guards such as the hydraulic Quinton-Hazell device. This energy-absorbing guard is commercially available and is in service today in Europe. As evidenced by the TTI tests and the comparative risk analysis, hydraulic guards are very effective both at preventing excessive underride and at reducing occupant injury responses. Despite their apparent advantages, NHTSA will not mandate the use of energy-absorbing underride devices at this time because the agency feels that they are heavy and costly to use. Also, developing test procedures for energy-absorbing guards would require further study on the part of the agency. However, by permitting the guard to deflect as much as 40 cm during the force applications, the proposed rule allows manufacturers to put energy-absorbing guards on their vehicles if they so desire. Such guards which are able to move during normal trucking operations may be attractive to manufacturers desiring to reduce damage potential due to docking impacts and obstacle engagement. NHTSA encourages the use of energy-absorbing guards in light of their ability to mitigate injuries, as evidenced by the testing and the risk analysis.

Another possible solution to the underride problem that was considered by the agency is applying BMCS Regulation 393.86, *Rear End Protection*, to all trucks and trailers having GVWR's greater than 10,000 pounds. This option, however, was tentatively rejected for two reasons. First, as noted above, that rule permits underride guards to have a ground clearance as high as 30 inches. Guards with a clearance that high will barely engage the engine of most passenger cars in a rear end collision. Second, the BMCS regulation as written does not set forth specific, objective load requirements for underride guards. The rule requires only that "the bumpers or devices * * * be substantially constructed and firmly attached." The BMCS standard thus does not insure that all underride devices are at least minimally capable of preventing excessive underride.

In developing the proposed rule, NHTSA also considered the possibility of eliminating rear overhang by requiring back wheels to be located at the extreme rear of the vehicle. As shown in the TTI tests, the rear wheels when located in the extreme aft position provide good protection against excessive underride. Further, the restrained dummies used in these tests experiences injury responses that were within the allowable limits of FMVSS No. 208. The wheels back option also has some cost advantages. First, it negates the need for an underride guard. Second, it requires the rear wheel assembly to be permanently fixed on trucks and trailers. Vehicles so equipped are generally lower in weight and cost than vehicles equipped with a slider. Despite these advantages, the agency has tentatively decided to exempt "wheels back" vehicles from the standard instead of mandating that design for all vehicles. This would have the effect of making the use of the wheels back design an optional method of compliance. NHTSA has decided not to require the rear wheels to be fixed in the extreme aft position because such a requirement eliminates the flexibility provided by the slider. Since the wheels back design places an operational burden on the user, NHTSA has decided not to mandate its use.

One option that the agency is still considering is making the rear ends of heavy trucks and trailers more conspicuous through the use of lights, reflective tape, etc. The cost of this option is estimated at $80 to $200 per vehicle. NHTSA continues to study this option as a requirement in addition to the proposed standard.

NHTSA stresses that the requirements set forth in the proposed rule are *minimum* requirements. If adopted, truck and trailer manufacturers and owners would be able to place any type of underride guard—rigid, energy-absorbing, moderate strength, etc.—on their vehicle that meets the requirements of the rule. In light of the results of the risk analysis, however, the agency suggests that manufacturers interested in guards stronger than moderate load design consider using hydraulics or other means to absorb energy rather than merely making the guards more rigid.

Under the proposed rule, truck owners would be able to use hinged guards if they so desire. Such underride devices may enable truck operators to avoid the operational difficulties that might be caused in some situations by a standard guard. Comment is requested whether, assuming that hinged guards are permitted by the final rule, such guards could be expected to be properly positioned and secured on vehicles whenever those vehicles are used on public roads and highways.

Costs and Benefits of the Proposed Rule

The agency has analyzed the costs and benefits of the proposed rule as mandated by Executive Order No. 12221. A regulatory evaluation was done and has been placed in the public docket. Copies are available from the Docket Section at the address given above. NHTSA estimates that the proposed requirements could have prevented as many as 60 fatal injuries per year, if they had been fully implemented in the period from 1977 to 1979. An even greater number of serious injuries would have been prevented. This is the benefit anticipated for passenger car and light truck occupants. In light of the increasing number of vehicles on the road and the trend toward smaller cars, it is expected that the number of lives saved and injuries avoided in the future will be even greater. It is estimated that the proposed rule would apply to 339,000 trucks and trailers a year according to 1978 statistics, about 85% of these vehicles would carry guards presently on the market in the absence of the requirements proposed today. The aggregate cost of the guard installation is estimated at $9.890 million for heavy trucks per year and $8.840 million per year for trailers. The cost of installing the proposed device is expected to be on the average $50 more per guard than the cost of installing current guards. It is estimated that today's guards weigh approximately 60 pounds and cost the consumer about $35 per guard. It is expected that the proposed guard will weigh 100 pounds and wil lcost the consumer around $85. An added fuel cost of about $500,000 per year at today's fuel prices is projected for the entire fleet of about 339,000 affected vehicles. The penalty for payload displacement is calculated at $15,000 for the fleet.

The Problems Presented by Hydraulic Tailgates and Small Manufacturers

One question repeatedly raised in the comments filed in response to the ANPRM was whether mandating an underride guard would prevent truck owners from installing and using hydraulic tailgates. The agency anticipates that many vehicles with these tailgates will fall within the special purpose vehicle exemption provided in paragraph S3. However, NHTSA believes that this issue warrants further study, and encourages interested parties to file comments on this topic. The agency is particularly interested in hearing the views and reviewing the designs of manufacturers of hydraulic tailgates that are compatible with the proposed guard.

Another issue of concern to the agency in developing the proposed rule was the problems of small manufacturers. NHTSA is aware that compliance with new safety standards can be very expensive for a manufacturer who has limited resources. The agency realizes that there may be particular concern about the ability of small manufacturers to use and certify sophisticated hydraulic or other energy-absorbing guards. NHTSA believes, however, that small manufacturers would be able to comply with the proposed rule at a reasonable cost and without the use of sophisticated guards. Underride devices that meet the proposed requirements resembling commercial guards of today can be readily designed. Such a guard can be fabricated totally from commercially available components with cut and weld procedures. Static tests as contemplated by the proposed standard would be relatively cheap and easy to perform. If a small manufacturer does not have the staff or facilities to perform the compliance tests, he could contract out the work, or simply reproduce a sample of the frame rails used on his vehicles and test that sample with his underride device. Another option for the small manufacturer would be to purchase underride guards from a component manufacturer who has already done the compliance testing, and install the devices on his vehicles in a manner instructed by the component manufacturer to ensure certification. Therefore, NHTSA believes that small manufacturers would not experience significant problems in meeting the proposed requirements. However, the agency encourages comments on this issue.

Leadtime Requirements

The proposed effective date for the rule is September 1, 1983. The agency realizes that small manufacturers and final stage assemblers will need sufficient time to develop or purchase guards that comply with the rule. NHTSA is also aware of the concerns of large manufacturers, who will need adequate time to develop guards for the variety of vehicle models they produce. However, the agency believes that a leadtime of approximately two years is sufficient because designing and producing the proposed guard requires only marginally more effort than that required to produce and install conventional guards available today. NHTSA invites comments on the proposed leadtime, but emphasizes that claims for a longer leadtime must be substantiated.

Comments

Interested persons are invited to submit comments on the proposed rule. It is requested but not required that ten (10) copies be submitted.

All comments must be limited to 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

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

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the Docket Room at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date. Comments received after the closing date and too late for consideration in regard to the proposed action will be treated as suggestions for future rulemaking. NHTSA will continue after the closing date to file relevant material in the docket as it becomes available. It is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

The requirements and procedures proposed in this notice may be altered in any rule that might be forthcoming, in response to comments and further agency analysis.

The engineer and attorney primarily responsible for the development of this notice are John Tomassoni and Joan M. Griffin, respectively.

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

Issued on December 30, 1980.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

In consideration of the foregoing, it is proposed that Part 571 be amended by adding § 571.2——, *Rear Underride Protection* (49 CFR 571.2——), as set forth below:

§ 571.2—— Standard No. 2——, Rear Underride Protection.

S1. *Scope.* This standard establishes rear underride protection requirements for heavy vehicles.

S2. *Purpose.* The purpose of this standard is to reduce the number of deaths and serious injuries occurring in rear underride accidents that involve heavy vehicles.

S3. *Applicability.* This standard applies to trucks and trailers that have gross vehicle weight ratings (GVWR's) greater than 10,000 pounds. It does not apply to truck tractors, pole trailers, wheels back vehicles, low chassis vehicles, or special purpose vehicles.

S4. *Definitions.*

"Low chassis vehicle" means a truck or trailer having a chassis which extends behind the rearmost point on the rear tires and whose rear lower surface meets the configurational requirements for underride guards specified in S5.1.1 and S5.1.2. The "chassis" is the load-supporting frame on a truck or trailer, exclusive of any appurtenances which might be added to accommodate cargo.

"Rear extremity" means the rearmost point on a vehicle that falls above a horizontal plane located 55 cm (21.65 inches) above the ground when the vehicle is loaded to its GVWR and when the vehicle's cargo doors, tailgate, or other permanent structures are positioned as they normally are when the vehicle is being driven. Nonstructural protrusions such as

taillights, hinges and latches are excluded from the determination of the rearmost point.

"Side extremity" means the outermost point on the sides of the vehicle that falls vertically above a horizontal plane located 55 cm (21.65 inches) above the ground and horizontally between a transverse vertical plane tangent to the vehicle rear extremity and a transverse vertical plane located 30 cm (11.8 inches) forward of that plane when the vehicle is loaded to its GVWR. Nonstructural protrusions such as taillights, hinges, and latches are excluded from the determination of the outermost point.

"Special purpose vehicle" means a truck or trailer having work-performing equipment that is located at the lower rear of the vehicle and whose function would be significantly imparied if an underride guard meeting the requirements of this standard were attached to the vehicle.

"Wheels back" vehicle is a vehicle having a permanently fixed rear axle. The rearmost part of the tires on that axle is not more than 30 cm (11.8 inches) from a transverse vertical plane tangent to the rear extremity of the vehicle.

S5. *Requirements.* Each vehicle shall be equipped with an underride guard that complies with the requirements of S5.1 and S5.2.

S5.1. *Configuration* (see Figure 1).

S5.1.1. The outermost edges of the underride guard shall be located within 10 cm (3.94 inches) of longitudinal vertical planes tangent to the side extremities, when measured transversely at a height of 55 cm or less. The underride guard shall be laterally continuous at a height of 55 cm or less.

S5.1.2. The vertical distance between the lower surface of the underride guard and the ground shall not exceed 55 cm (21.65 inches) at any point along the full width of the device when the vehicle is unloaded but has its full capacity of fuel and its tires are inflated in accordance with the vehicle manufacturer's recommendations.

S5.1.3. The cross sectional height of the underride guard shall not be less than 10 cm (3.94 inches) at any point across the full width of the device.

S5.1.4. The rearmost surface of the underride guard shall be located not more than 30 cm (11.8 inches) forward of a transverse vertical plane tangent to the rear extremity of the vehicle when measured longitudinally to any point across the full width of the underride guard at a height of 55 cm or less.

S5.2. *Strength.* When the underride guard of the vehicle is subjected to any of the force levels specified in S6.6(a) Test 1 and S6.6(b) Test 2 in accordance with the procedures and conditions specified in S6, the guard should not deflect so as to permit the center point on the contact surface of the test block specified in S6.5 to travel longitudinally forward more than 40 cm (15.7 inches) from the rear extremity of the vehicle.

S6. *Test conditions and procedures.*

S6.1. The vehicle is unloaded but has its maximum capacities of engine fuel, oil and coolant.

S6.2. The tires are inflated in accordance with the vehicle manufacturer's recommendations.

S6.3 The vehicle is placed on level ground.

S6.4. Restrain the vehicle so that it remains in place during the tests. No restraints are placed on the vehicle rearward of the centerline of the rearmost axle. The methods used to restrain the vehicle do not impair the movement of the underride guard or the test block specified in S6.5 during the testing.

S6.5. The test block used for determining compliance with S5.2 is a rectangular solid made of rigid steel. It is 20 cm (7.9 inches) ±1 mm in height and 20 cm (7.9 inches) ±1 mm in width. One of the 20 cm by 20 cm ends of the block is used as the contact surface. Each edge of the contact surface has a radius of curvature of 5±1 mm.

S6.6. Using the test block, subject the underride guard to the tests specified in paragraphs (a) and (b) of this section, as shown in Figure 2. An underride guard that has not been subjected to either of the tests is used for each test.

(a) Test 1. Apply a force (P_1) of 50,000 Newtons (11,240 pounds) to the guard 30 cm (11.8 inches) inboard of the longitudinal vertical plane tangent to the outermost point on the sides of the vehicle (either the right or the left side), and then apply a force (P_2) of 50,000 Newtons (11,240 pounds) to the same guard where it intersects the longitudinal vertical plane passing through the vehicle longitudinal axis.

(b) Test 2. Apply a force (P_3) of 100,000 Newtons (22,480 pounds) to the guard at any point not less than 35 cm (13.8 inches) and not more than 50 cm (19.7 inches) to the left of the longitudinal vertical plane passing through the vehicle longitudinal axis, and then apply the same force to the same guard at the point located at the same distance to the right of that plane.

S6.7. At the beginning of each force application, the test block is located as specified in paragraphs (a) through (c) of this section.

(a) The contact surface of the test block is touching the underride guard.

(b) The center point of the contact surface is located:

(1) In the same longitudinal plane as the point specified in S6.6; and

(2) In the horizontal plane which is tangent to the lowest point on the underride guard in the longitudinal vertical plane specified in paragraph (b)(1) of this section.

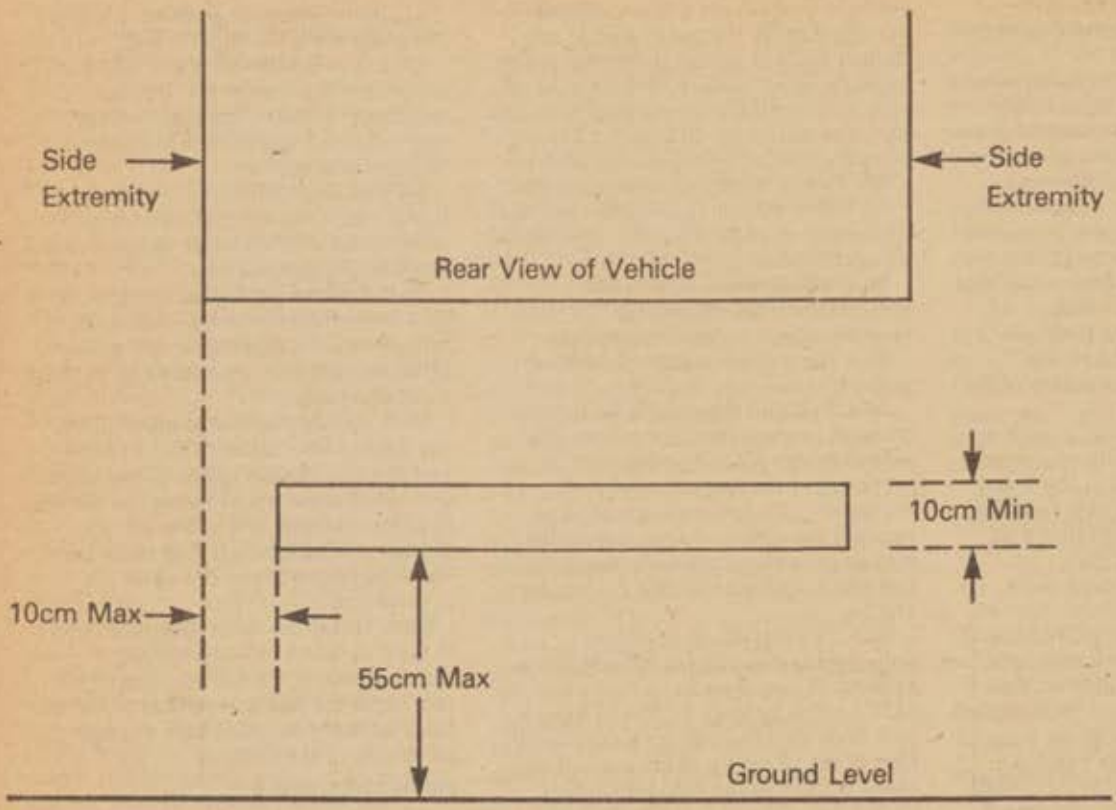
(c) The longitudinal axis of the test block and of the mechanism which propels the test block are parallel to the vehicle longitudinal axis.

S6.8. Each of the forces specified in S6.6 is reached in not less than one minute and not more than two minutes by increasing the application of force at a constant rate.

S6.9. During each force application, the longitudinal axis of the test block and the mechanism which propels the test block remain parallel to the vehicle longitudinal axis and at the same distance from that axis and the ground as at the beginning of the force application.

S6.9. When the force specified in S6.6 is initially reached, measure the distance which the center point of the test block contact surface has traveled longitudinally forward from the rear extremity of the vehicle.

BILLING CODE 4910-60-M



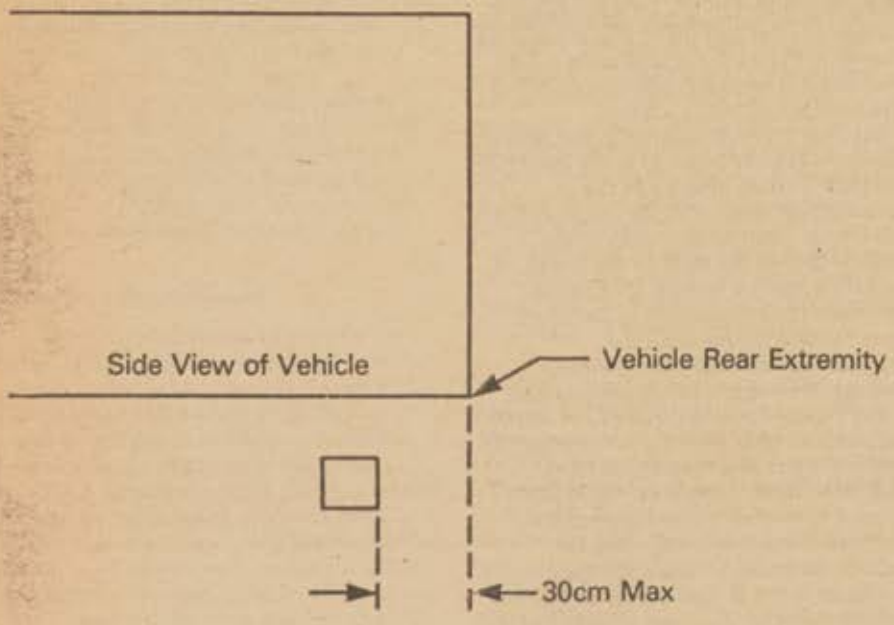


Figure 1
Configuration Requirements

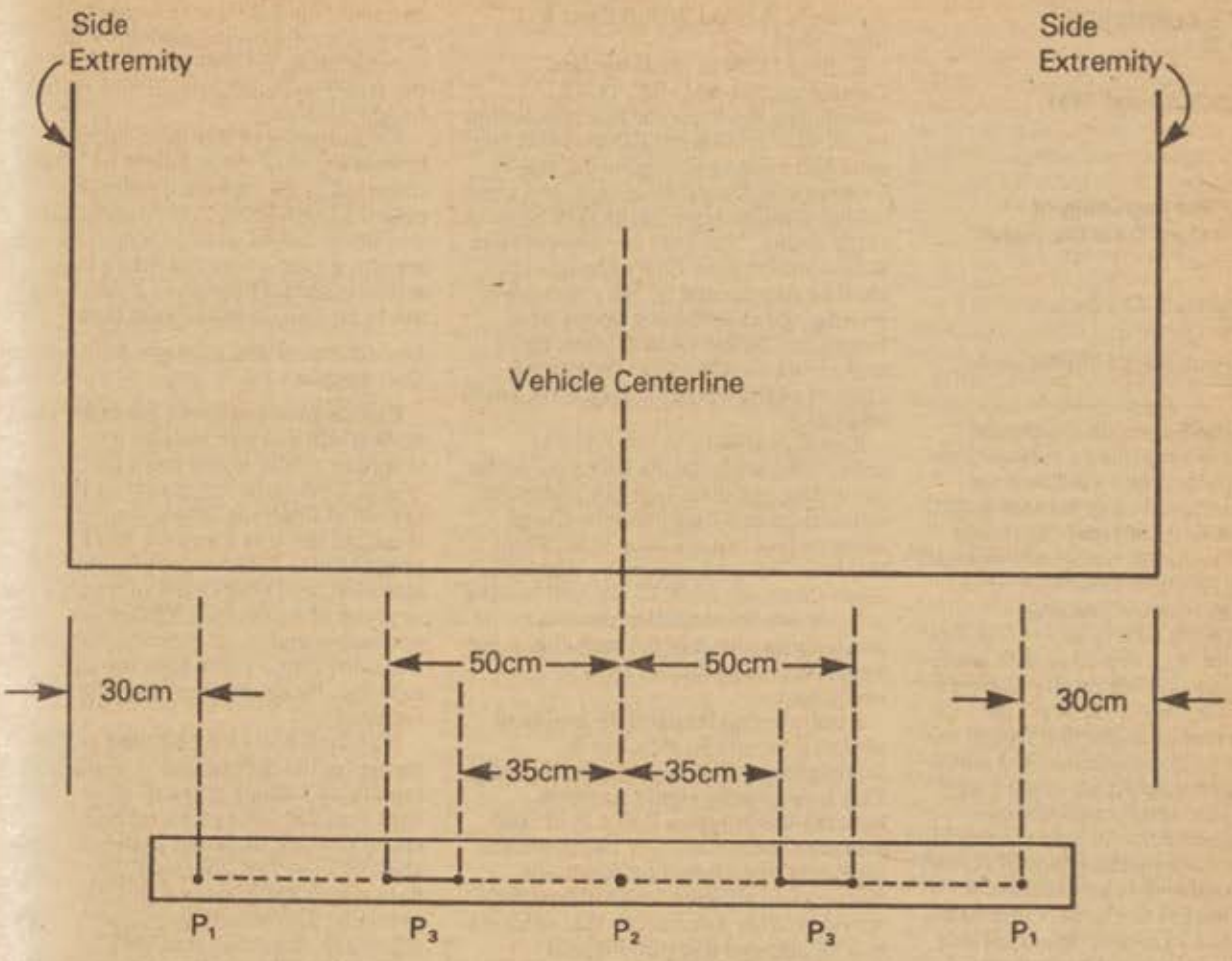


Figure 2
Performance Requirements

[FR Doc. 80-40847 Filed 12-31-80; 2:45 pm]
BILLING CODE 4910-60-C

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1201 and 1241

[No. 37080]

Accounting and Reporting of Railroads' Freight Train Car Repair Costs

AGENCY: Interstate Commerce Commission.

ACTION: Revised notice of proposed rulemaking.

SUMMARY: The Interstate Commerce Commission is reopening a rulemaking proceeding to consider establishing criteria for accumulating, recording, and reporting the costs of repairing freight train cars. The initial Notice of Proposed Rulemaking (45 FR 57153–57159) was suspended because of pending legislation (45 FR 65641), which has now been resolved. The objective is to assure more accuracy and uniformity of repair cost information by car types. The proposed criteria require that freight car repair costs be directly identified with the types of equipment repaired. Two levels of repair costs processing are presented, and railroads may choose the more appropriate methodology. Railroad equipment repair cost information is potentially usefull to shippers and to the Commission in establishing car service compensation rates and in analyzing freight rates. Railroads would potentially benefit from improved data by having information to control and manage repair costs.

DATES: Persons interested in participating in this proceeding shall file comments within 45 days from the date this proceeding is served. If the proposed rules are adopted, they would be efffective January 1, 1982.

ADDRESS: An original and 10 copies, if possible, should be sent to: Office of Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Bryan Brown, Jr., Telephone No. (202) 275–7448.

SUPPLEMENTARY INFORMATION: The objective of this proceeding is to develop criteria for Class I railroads in collecting and reporting costs of freight train car repairs. A significant feature of this proposal is that repair costs for both foreign and system freight cars will be directly identified with each type of car that is repaired.

For purposes of this proceeding, freight train cars are divided by the car types listed in Schedule 415 of the Railroads' Annual Report Form R–1 (Form R–1).

Section 11122 of the Interstate Commerce Act, 49 U.S.C. 11122, establishes the basis for this proceeding. Under that section the Commission may establish compensation for the use of locomotives, freight train cars, and other vehicles. Subparagraph (b)(1) of Section 11122 states: "The rate of compensation to be paid for each type of freight car shall be determined by the expenses of owning and maintaining that type of freight car, including fair return on its cost giving consideration to current costs of capital, repairs, materials, parts, and labor.

Repair cost data by car types is potentially useful to the Commission for computing per diem (car-hire) rates for railroad-owned cars and intechange services (see our decision in Ex Parte No. 334, *Car Compensation—Basic Per Diem Charges).* Also, in our cost finding process, we want to determine as precisely as possible the cost of moving freight with a particular type of equipment.

Accurate repair cost data is also of potential benefit to shippers in establishing and analyzing freight rates. This is especially significant now because the Staggers Rail Act of 1980 promotes individual rate increases and the direct negotiation between rail carriers and shipper. Refined cost data would provide assurances that shippers will be charged a justifiable and equitable rate for freight movements. Because freight train cars are irreplaceable components in the rail transportation system, we believe that an effective and accountable methodology for accumulating, accounting for, and reporting their repair costs is equally important and should not be disregarded.

Schedule 415 of Form R–1 requires railroads to report repair costs by types of freight train cars. However, the instructions for this schedule lack criteria as to what costs should be directly accumulated by car types, and what costs can be allocated. The instructions allow alternatives, including "a carrier conducted study to determine car repair expenses by car types" and "other available standards valid for the responding carrier." Thus, the cost data is probably reported under diverse methods. Because the schedule does not require reporting railroads to explain the methods used in allocating costs, the validity and accuracy of the data cannot be evaluated.

A. Proposal

We have proposed adding new instructions to the Uniform System of Accounts for Railroad Companies to provide the following guidelines for accumulating, recording, and reporting the repair costs for foreign and system freight train cars.

For purposes of this proceeding, system cars are those freight train cars recorded in the reporting railroad's primary account 53, Freight-train cars, and those freight train cars held by the reporting road under operating lease arrangements. Other freight train cars are to be considered foreign cars.

Level I: Roads Employing a Job Order Cost System

Railroads employing a job order cost system will use this method for reporting actual repair costs by car types. A job order costs system is a system of applying actual and/or standard costs to a specific job in proportion to the amount of materials, attention, and effort used to repair a unit or group of equipment. This is the preferable and most accurate method of matching repair costs with the unit repaired. Its use is encouraged but not required.

Standard costs may be used and shall recognize the differences in performing repairs on various types of freight train cars, and the differences related to specific repair facilities. Standard costs shall be based on adequate operational data which are reviewed at least annually. The resulting variances (price, efficiency, capacity, etc.) shall be reasonably allocated back to the car types to arrive at the repair costs reflected in the annual reports to the Commission.

Level II: Alternative Repair Costing Methodology

An alternative freight train car repair cost methodology is proposed which is based on a systematic allocation of the total direct repair cost amounts to the related car types for both system and foreign cars. The following steps comprise this methodology:

(1) Repair costs relating to the equipment repair process shall be recorded in accordance with regulations and account texts prescribed in 49 CFR 1201, Uniform System of Accounts for Railroad Companies (see Appendix C);

(2) Standard costs may be used and shall recognize the differences in performing repairs on various car types, and the differences related to specific repair facilities. Standard costs shall be based on adequate operational data which are reviewed at least annually. The resulting variances (price, efficiency, capacity, etc.) shall be reasonably allocated back to the car types to arrive at the repair costs

reflected in the annual reports to the Commission;

(3) Direct costs relating to repairing system cars shall be separated from those applying to the repair of foreign line cars. This allocation of repair costs shall be based on a railroad conducted study which shall fairly reflect the nature of each road's repair operations;

(4) For system cars, the following steps are required:

(a) The repair costs relating to heavy, program or project repairs shall be directly assigned to the types of cars repaired by using actual or standard costs. A heavy repair is defined as a repair which is relatively so substantial in cost, repair time or physical damage, and management's involvement in the determination of the repair to be made is necessary and relatively greater than usual. Program or project repairs are those repairs which are performed under a predetermined plan where estimated costs, time, and types of cars to be repaired are identified;

(b) The repair costs relating to light and running repairs of system cars shall be allocated to the car types by using the Association of American Railroads' Car Repair Billing System (CRBS) as an allocation basis. The CRBS is currently in use by many railroads for repair cost billing purposes. It serves to identify the cars repaired and to relate the nature of these repairs with the applicable standard costs for the repairs. Therefore, system car repairs shall be priced under the CRBS and the resulting standard cost pools shall be used to allocate actual costs back to the equipment types;

(c) Repair costs paid to foreign roads for system cars shall be assigned to the types of equipment that were repaired. Foreign billings is a term used to describe amounts payable to foreign roads for repairs made to system cars. Foreign billings for light and running repairs are usually conducted through the CRBS, and therefore the car types are identified. For heavy off-line repairs, system's management is generally involved in the repair authorization, and therefore the repair costs can be matched with the type of cars repaired;

(d) Roads shall match any resulting expense credits with the car types to which they relate. Expense credits can occur, for example, when a road is charged with the repair of system equipment but the responsibility of the repair ultimately rests with a foreign road. Expense credits can also occur when billing errors or discrepancies are discovered;

(e) The various components of the repair cost process relating to system cars shall be accumulated and reported to the Commission by the types of equipment listed in Schedule 415 of Railroads' Annual Report Form R–1 (see Appendix B);

(5) For foreign cars, the distribution of actual repair cost shall be assigned to the car types as follows:

(a) The repair costs that are accumulated and traceable because of the magnitude of the repair job (heavy repairs) shall be assigned directly to the applicable car types.

(b) The remaining actual foreign repair costs shall be allocated by car types using the CRBS as the allocation basis (see 4–b above).

(c) Any resulting expense credits shall be matched with the car types to which they relate (e.g., credit memoranda and receipts from foreign roads).

(d) The net amount of foreign repair costs charges and credits shall be reported by car types in Schedule 415 of the R–1. (see Appendix B)

B. Equipment Repair Classifications

We have determined that the freight car repair process can be separated into seven repair classifications. These repair classifications, which are presented below, are for reference purposes only, but should facilitate the accounting, allocation, and reporting process.

Class(es)	Car owner	Repaired by	Responsibility
A	System	System	System.
B	Foreign	System	System.
C	System	System	Foreign.
D	Foreign	System	Foreign.
E	System	Foreign	System.
F	Foreign	Foreign	System.
G	System	Foreign	Foreign.

Classes A, C, E, and G apply to system cars, and Classes B, D, and F relate to foreign cars. Appendix D illustrates how these classifications relate to the proposed Level II methodology.

C. Discussion

The repair process methodology is proposed so that the Commission can derive more accurate information on the cost of providing rail service. Revenue equipment is one of the most important assets for producing revenues, and certainly the repair of these freight train cars is similarly significant. We are thus interested that companies report repair costs in an understandable, uniform, and comparable manner.

Under our proposal, each railroad would establish an information system which would capture actual repair costs as they occur, and centrally maintain all other relevant data for each system car. Descriptive factors such as car type, age, kind of bearings, and tare weight would be included; and repair data such as repair date, locations, repair codes, foreign or system car information, costs, and special problems encountered would also be captured along with general information and operating data. Such an information system would provide management with information on:

- The type and extent of preventive maintenance programs,
- The cost savings that could be effected by repairing cars in the most appropriate repair shops,
- The most efficient utilization of shop labor and resources,
- The appropriateness of repair standards,
- The wear patterns on repair parts and materials, and
- The life expectancy of the types of freight train cars.

This all means that under our proposal shippers would have more accurate information for determining the cost of moving freight. Additionally, shippers would be assured of having available valid data which might be used to develop measures for pinpointing efficient equipment management programs, which will certainly affect future rate determinations. Fleet characteristics and maintenance programs could be important negotiation concepts.

We believe the proposed methodology to be flexible and not overly restrictive. Some roads are moving toward the capability of directly tracing and capturing the actual repair costs by car types. These roads might prefer to report such costs using their version of a job order cost system (Level I). Other roads may use the proposed allocation methodology (Level II) which is especially adapted to utilize repair costing procedures already being used extensively. Moreover, this methodology allows management the flexibility to develop certain cost relationships within the proposed structure.

The proposed guidelines do not preclude the use of statistical sampling as a means for accumulating and allocating repair costs by equipment types. The sampling techniques used should be valid and relative to the equipment repaired for each railroad. Railroads should maintain and make available to the Commission, when requested, the basis for using the selected statistical sampling technique.

The AAR's CRBS is a repair costing system which is proven and widely accepted in the industry. The cost standards are believed to be valid and they are reviewed periodically by the industry for appropriateness. The CRBS

enables users to reference which cars were repaired, and therefore, car type data can be amassed.

The proposed methodology does not adopt the CRBS as a regulatory requirement that all roads must use for billing purposes. However, the CRBS is an accessible and widely used system whereby railroads can develop cost relationships for properly assigning car type cost information.

The proposed methodology should not necessarily increase the cost of accumulating and reporting repair cost information. Our study indicates that some roads might have experienced cost savings by reviewing and updating their current reporting systems. This is noted even after CRBS information is processed for system cars, and after some advanced technologies were introduced to the reporting process.

Because uniform reporting is an essential element in this proceeding, it is important that all railroads include only repair expenses in this methodology. Repair expenses are those which represent normal or delayed repair and maintenance expenses, and which are expensed in the year incurred. They are distinguishable from capital expenditures which substantially extend the service life or substantially increase the utility of depreciable property. This is covered in 49 CFR 1201, Instruction 2-11, "Units or property rebuilt or converted."

We propose to adopt the amendments set forth in the appendices to this notice. Appendix A contains the proposed new instruction. Appendix B displays the proposed revisions to Schedule 415 of the R-1. Appendix C shows the freight train car repair account conversion reference. Appendix D gives a flow diagram of the proposed Level II methodology.

D. Request for Comments

The public and the affected carriers are requested to study the proposed changes in the regulation and Form R-1, and to submit their views and comments. All recommendations that could improve our proposal will be thoroughly considered. In addition, Section 11166 of the Interstate Commerce Act as amended by Section 302 of the Staggers Rail Act of 1980 requires that our accounting regulations be "cost effective and compatible with and not duplicative of the managerial and responsibility accounting requirements of * * * carriers." In view of this provision of the Staggers Act, we specifically request comments on the following points:

1. Are the proposed regulations cost effective? In addressing this question, parties should take into account the importance of the data to the Commission, in view of other regulatory changes regarding freight rates and car hire charges; the usefulness of the data to shippers; and the cost of implementing the proposed changes. Quantification of costs and benefits is requested where possible.

2. Are the proposed regulations compatible with and not duplicative of managerial efforts in this area? Are we correct in assuming that improved car repair cost accounting will lead to improved management as well as improved regulation? are managerial innovations underway in this area that differ from, or are incompatible with, our proposals?

This proposed action does not appear to affect significantly the quality of the human environment or the convseration of energy resources.

(49 U.S.C. 10321 and 11122 and 5 U.S.C. 553)

Decided: December 30, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

Appendix A—49 CFR Part 1201 Subpart A—Uniform System of Accounts for Railroad Companies

List of Instructions and Accounts

1. Under Instructions for Property accounts, the following new line item after Item 2-20, "Accounting for leases": 2-21 "Freight train car repair costing," would be added.

Instructions for Property Accounts

2. After Instruction 2-20, the following new instruction would be added:

2-21 *Freight train car repair costing.* Class I railroads shall report the costs of repairing system and foreign freight train cars by car types. For purposes of this instruction, system, freight train cars are those which are required to be recorded in primary account 53, Freight-train cars, and those freight train cars held by the reporting road under operating lease arrangements. Other freight train cars shall be considered foreign freight train cars. The following criteria shall be used in accounting for and reporting freight train car repair costs by car types:

(a) The accounting for freight train car repair costs shall agree with the applicable instructions and texts of accounts in 49 CFR 1201 relating to the equipment repair process (see Note A).

(b) Railroads may assign either actual costs, standard costs, or a combination of both to the accounting process. Standard costs, if used, shall recognize the differences in performing repairs on various types of equipment, and the differences related to specific repair facilities. Standard cost shall be based on adequate operational data which are reviewed at least annually. The resulting variances (price, efficiency, capacity, etc.) shall be reasonably allocated back to the car types to derive the amounts reported in Form R-1.

(c) Railroads shall report repair costs by the freight train car types shown in Schedule 415 of Form R-1. In assigning repair costs, railroads may use either one of the following methodologies:

Level I: Job Order Cost System

Railroads may use a job order cost system for assigning repair costs to the car types for system and foreign freight train cars. Under this methodology, railroads shall directly match direct labor and materials with the specific unit of equipment that was repaired. Actual costs, standard costs, or a combination of both may be used as stated above.

Level II: Alternative Repair Costs Methodology

Railroads not using the job order system shall report freight train car repair costs using the methodology described below:

1. Direct repair costs relating to the repair of system cars shall be separated from those applying to the repair of foreign line equipment. This allocation of the total actual repair costs amount shall be based on a study conducted by each railroad which shall fairly reflect the nature of each road's repair operations.

System Freight Train Cars (Items 2-5)

2. The repair costs relating to heavy, program, or project repairs of system cars shall be directly assigned to the car types repaired by using actual or standard costs. A heavy repair is defined as a repair that is relatively so material in cost, repair time, or physical damage, and that management's involvement in the determination of the repair to be made is necessary and relatively greater than usual. Program or project repairs are those repairs which are performed under a predetermined plan where estimated costs, time periods, and car types to be repaired are identified.

3. The repair costs relating to light and running repairs of system cars shall be allocated to the car types by using the Association of American Railroad's Car Repair Billing System (CRBS) as the allocation base. These repairs made to system cars shall be tracked using the CRBS standard costs; and, the resulting

standard cost relationships shall be used to distribute actual light and running repair cost pool to the car types.

4. Railroads shall match repair costs billed by and paid to foreign roads for repairing system equipment with the car types that were repaired. Foreign billings for light and running repairs are usually conducted through CRBS, and therefore, the car types can be identified. For heavy off-line repairs, car type identification is possible because system management is generally involved with the authorization of such heavy repairs and car identification numbers are generally included in the billing process.

5. Railroads shall match any resulting expense credits with the car types to which they relate. This can occur, for example, when a railroad is charged with the repair costs of system cars, but the responsibility of the repair ultimately rests with and is paid by a foreign road.

Foreign Freight Train Cars (Items 6–9)

6. Foreign freight train cars repair costs that are accumulated and traceable because of the magnitude of the foreign repair job (heavy repairs) shall be assigned directly to the applicable car types.

7. The remaining actual foreign repair costs shall be allocated by car types using the CRBS as the allocation basis (see 4 above).

8. Any resulting foreign expense credits shall be matched with the car types to which they relate (e.g., credit memoranda and receipts from foreign roads).

9. The net amount of foreign repair cost charges and credits shall be reported by car types in Schedule 415 of the R–1.

(d) Equipment repair cost records, including the allocation methods used, shall be maintained and made available to the Commission upon request.

Note A.—The following accounts and reference pertain to the foreign train car repair process: 11–22–42, 21–22–42, 39–22–42, 40–22–42, 41–22–42, 61–22–42.

Instruction 2–1, "Units of Property rebuilt or converted."

Appendix B—Schedule 415—Supporting Schedule: Equipment

Schedule 415, which is provided for in 49 CFR 1241.11 is amended in the following ways. As revised, items 1 through 3 of the Schedule would appear as below:

Instructions

1. Report freight expenses only.

2. Report by type of equipment all natural expenses relating to the equipment functions (salaries and wages, materials, tools, supplies, fuels and lubricants, purchased services, and general).

3. Report in Column (b) the details for the items listed in Column (a). Freight car repair expenses shall be assigned directly to the various car types on the basis of job order records whenever possible. Otherwise, car type repair costs shall be assigned as required by Instruction 2–21, "Freight Train Car Repair Costing," 49 CFR 1201.

The following line items of this schedule shall be reconciled with the line items of Schedule 410 as shown below:

Schedule 410	Schedule 415
Column (f), net of lines 221, 222, and 235	Column (b), lines 19 and 33
Column (f), net of lines 302, 303, 304, 305, 306, 307, and 320.	Column (b), lines 27, 30, 31, 32, 34, and 35.

The variance in repair amounts reported in Schedule 410 and those reported in this schedule shall be the amounts billed to others for damaged equipment, Function 48. These amounts are included on lines 235 and 320 of Schedule 410 and should be excluded from this schedule.

As a supplement, describe the major aspects of the methodology used to derive car type disclosures. Include statements on how foreign repair costs are separated from system freight train car repair costs, and describe key features of the methodology.

4. * * *

5. * * *

6. * * *

7. * * *

8. * * *

9. * * *

BILLING CODE 7035–01–M

415. SUPPORTING SCHEDULE - EQUIPMENT

Line No.	Types of Equipment (a)	Repairs (Net Expense) (b)		Depreciation (c)	Retirements (d)	Lease and Rentals (e)	Depreciation Base (f)	Accumulated Depreciation (g)	Depreciation Adjustment (h)
		Foreign Cars	System Cars						
	FREIGHT TRAIN CARS:								
1	Box-Plain 40 Foot								
2	Box-Plain 50 Foot and Longer								
3	Box-Equipped								
4	Gondola-Plain								
5	Gondola-Equipped								
6	Hopper-Covered								
7	Hopper-Open Top-General Service								
8	Hopper-Open Top-Special Service								
9	Refrigerator-Mechanical								
10	Refrigerator-Nonmechanical								
11	Flat TOFC/COFC								
12	Flat Multi-level								
13	Flat-General Service								
14	Flat-Other								
15	All Other Freight Cars								
16	Cabooses								
17	Auto Racks								
18	Miscellaneous Accessories								
19	TOTAL FREIGHT TRAIN CARS								
	OTHER EQUIPMENT-REVENUE FREIGHT								
	HIGHWAY EQUIPMENT								
20	Refrigerated Trailers								
21	Other Trailers								
22	Refrigerated Containers								
23	Other Containers								
24	Bogies								
25	Chasis								
26	Other Highway Equipment (Freight)								
27	TOTAL HIGHWAY EQUIPMENT								
	FLOATING EQUIPMENT-REVENUE SERVICE								
28	Marine Line Haul								
29	Local Marine								
30	TOTAL FLOATING EQUIPMENT								
	OTHER EQUIPMENT								
31	Passenger and Other Revenue Equipment (Freight Portion)								
32	Computer & Data Processing Equipment								
33	Machinery - Freight Cars								
34	Machinery - Other Equipment								
35	Work & Other Non-revenue Equipment								
36	TOTAL OTHER EQUIPMENT								
37	TOTAL ALL EQUIPMENT, FREIGHT PORTION								

BILLING CODE 7035-01-C

Appendix C.—*Repairs to Freight Train Cars*

[Old account 314]

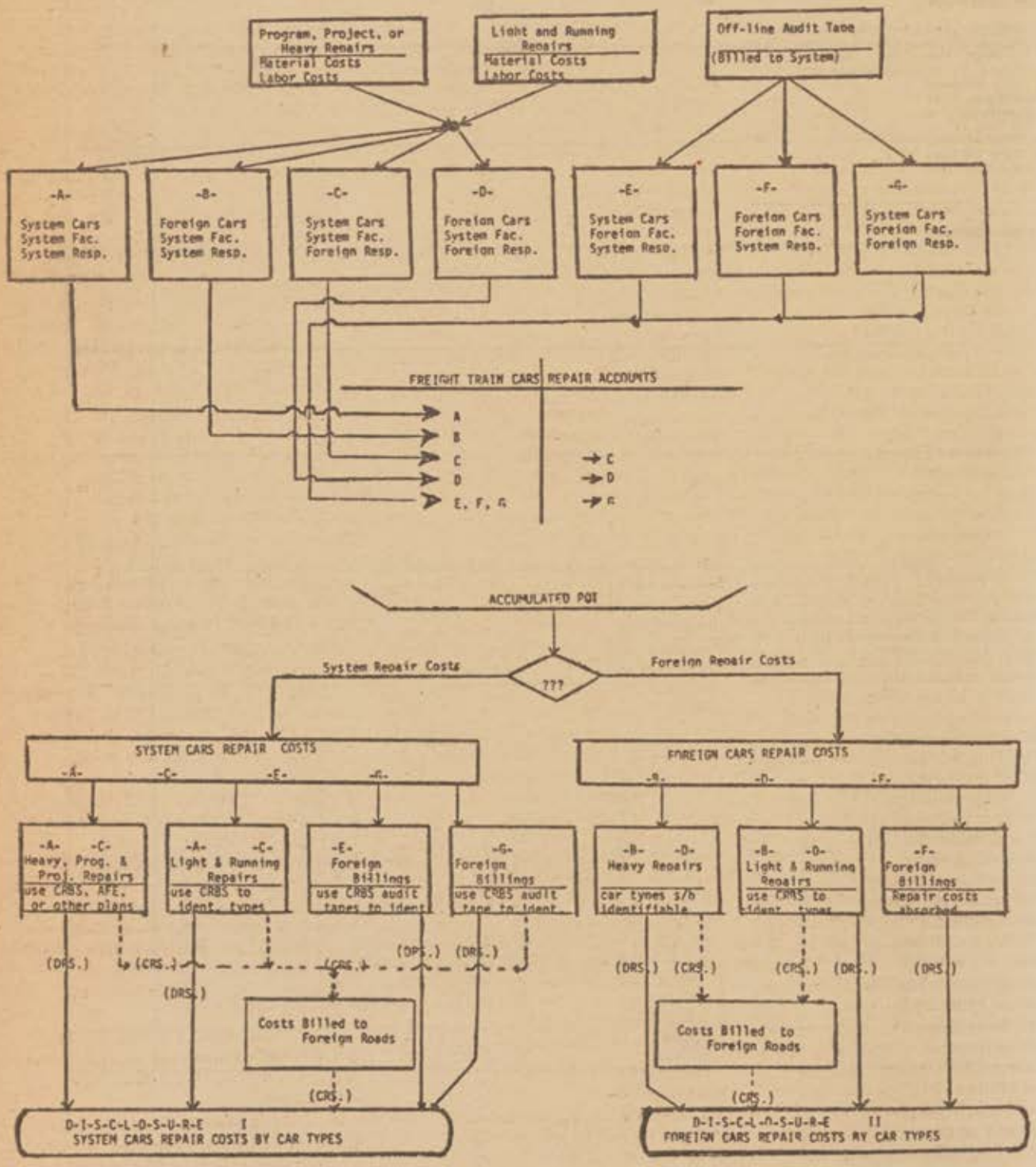
(DR)	(CR)
11-22-42 Salaries and Wages—Freight Car Repairs.	40-22-42 Purchased Services Billed to Others for Repair of Freight Train Cars.
21-22-42 Materials Used in Repair of Freight Train Cars.	
39-22-42 Purchase Services Billed by Others for Repair of Freight Train Cars.	41-22-42 Other Purchase Services Credits, Repair and Maintenance of Freight Train Cars.
41-22-42 Other Purchased Services Charges, Repair and Maintenance of Freight Train Cars.	
61-22-42 Other Expense Charges, Repair and Maintenance of Freight Train Cars.	

BILLING CODE 7035-01-M

APPENDIX D

THE FLOW OF FREIGHT TRAIN CAR REPAIR CHARGES & CREDITS

LEVEL II ALLOCATION METHODOLOGY



[FR Doc. 81-674 Filed 1-7-81; 8:45 am]
BILLING CODE 7035-01-C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Enforcement Policy

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Advance notice of proposed rulemaking; enforcement policy.

SUMMARY: A General Permit and regulations governing the taking of marine mammals incidental to commercial fishing operations are required by the Marine Mammal Protection Act of 1972, as amended (MMPA). The existing General Permit issued to the American Tunaboat Association for this purpose and the regulations underlying the General Permit (50 CFR 216.24) are valid until 2400 hours, December 31, 1985. The issuance of the General Permit was announced on December 8, 1980, 45 FR 80855, and followed the Administrator's Final Decision on the 1980 formal rulemaking to amend 50 CFR 216.24, 45 FR 72187–72196, October 31, 1980. The Final Decision contained a prohibition on sundown sets which became effective on January 1, 1981. However, because of new information regarding the effects of this prohibition and the potential of the U.S. fleet to develop means of reducing sundown mortalities, the National Marine Fisheries Service is reconsidering the appropriateness of this regulation and considering any alternative means of reducing porpoise mortality. This Advance Notice solicits information and comment on the sundown set prohibition. While such information is being collected, the Agency will follow the enforcement policy described herein regarding sundown sets. At the close of the comment period, the Agency will determine whether any amendment to the sundown set prohibition will be proposed.

DATES: Comments should be submitted on or before February 15, 1981.

ADDRESS: Send comments to: Richard B. Roe, Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Richard B. Roe, telephone (202) 634–7461.

SUPPLEMENTARY INFORMATION: On October 21, 1980, the Administrator announced his Final Decision in the 1980 tuna/porpoise rulemaking, which was published on October 31, 1980 at 45 FR 72187–72196. At such time, a regulation prohibiting the setting on porpoise at sundown was promulgated, 50 CFR 216.24(d)(2)(vii)(g).

The Agency has received information regarding the effects of this prohibition and the fact that through increased training of other voluntary means, the U.S. fleet may be able to solve the problem of sundown mortalities. The purpose of this Advance Notice is to solicit relevant information from the public in support or opposition to the sundown set prohibition, including specifically (1) the causes of porpoise mortality in sundown sets (including any analysis of individual set data), (2) alternative means or mitigating measures to reduce porpoise mortality in sundown sets, if the sundown set prohibition is removed, and (3) costs of complying with the existing prohibition or any alternative to the existing prohibition. If the information received indicates that reasonable alternatives exist for reducing porpoise mortality, an amendment to the regulations may be proposed.

Title 50 CFR 216.24(d)(2)(i)(D) recognizes that the receipt of new information may require a mid-course adjustment to the regulations underlying the existing General Permit and allows the public to comment on any such proposals. If an amendment is proposed, the public will be afforded another comment period at the time of the specific proposal.

In light of its review of the sundown prohibition, the Agency has determined that it will undertake no enforcement action for alleged violations of this prohibition occurring prior to the time that a decision is announced to proceed or not proceed to amend the regulations. If the Agency finds that this enforcement policy is hampering the achievement of the goals of the Act, notice of the finding will be published in the **Federal Register**, and any alleged violation of the sundown set prohibition which occurs after the date of such publication will be subject to enforcement action.

Dated: December 30, 1980.

Terry L. Leitzell,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 81-667 Filed 1-7-81; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Parts 611 and 643

South Atlantic Fishery Management Council; Public Hearing

AGENCY: National Oceanic and Atmospheric Administration/ Commerce.

ACTION: Notice of Public Hearing.

SUMMARY: The South Atlantic Fishery Management Council will hold public hearings for the purpose of public input on the Draft Fishery Management Plan for Atlantic Billfish.

DATES: Written comments on the Billfish Fishery Management Plan from members of the public may be submitted no later than March 20, 1981. Individuals or organizations wishing to comment on the fishery management plan may do so at public hearings to be held as follows:

January 13, 1981, Miami, Florida
January 14, 1981, Key West, Florida
January 15, 1981, Riviera Beach, Florida
January 20, 1981, Atlanta, Florida
January 21, 1981, Tavernier, Florida
January 22, 1981, Stuart, Florida

All of the above hearings will start at 7:30 p.m. and adjourn at 10 p.m. The hearings will be tape recorded and the tapes will be filed as an official transcript of the proceedings. A written summary will be prepared.

ADDRESSES: Send comments to: Chairman, South Atlantic Fishery Management Council, 1 Southpark Circle, Suite 306, Charleston, South Carolina 29407. Hearing locations:

January 13, 1981; Rosenstiel Marine School Auditorium, University of Miami, 4600 Rickenbacker Causeway, Virginia Key, Miami, Florida 33149.

January 14, 1981; Key West High School, 2100 Flagler Avenue, Key West, Florida 33040.

January 15, 1981; Council Chambers, City Hall; 600 West Blue Heron Blvd., Riviera Beach, Florida 33404.

January 20, 1981; Richard B. Russell Federal Building, Room 1278, 75 Spring Street, S.W., Atlanta, Georgia 30303.

January 21, 1981; Coral Shores High School, Highway 1, Tavernier, Florida 33070.

January 22, 1981; City Hall, Stuart, Florida 34495.

Additional hearings will be held in other locations under the jurisdiction of the South Atlantic Council at some future time.

FOR FURTHER INFORMATION CONTACT: David H. G. Gould, Executive Director, South Atlantic Fishery Management Council, Suite 306, Charleston, S.C. 29407, (803) 571–4366.

Dated: December 31, 1980.

William H. Stevenson,

Deputy Assistant Administrator, National Marine Fisheries Service.

[FR Doc. 81-467 Filed 1-7-81; 8:45 am]

BILLING CODE 3510-22-M

---

50 CFR Parts 611 and 672

North Pacific Fishery Management Council; Public Hearing

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of a Public Hearing.

SUMMARY: The North Pacific Fishery Management Council will hold a public hearing to accept testimony on a proposed amendment to the Fishery Management Plan for the Groundfish of the Gulf of Alaska.

DATE: January 31, 1981 from 2–5 p.m. and 7–9 p.m.

LOCATION: Maksoutoff Room of the Centennial Building in Sitka, Alaska.

FOR FURTHER INFORMATION CONTACT: North Pacific Fishery Management Council, Post Office Box 3136 DT, Anchorage, Alaska 99510, Telephone: (907) 274–7449.

SUPPLEMENTARY INFORMATION: The proposed amendment to the Gulf of Alaska Groundfish Management Plan presents several alternative schemes for closing areas in the Eastern Regulatory Area to foreign trawlers. The amendment addresses several issues: time/area closures, foreign and domestic harvest levels for Pacific Ocean perch, sablefish harvest levels, and continuing the existing no-trawl areas for foreign fishermen. The amendment package will be available to the public by January 9, 1981.

Written comments may be submitted at the public hearing or sent to North Pacific Fishery Management Council, P.O. Box 3136 DT, Anchorage, Alaska 99510.

EFFECTIVE DATE: Public comments are invited until February 16, 1981.

Dated: December 31, 1980.

William H. Stevenson,

Deputy Assistant Administrator, National Marine Fisheries Service.

[FR Doc. 81-466 Filed 1-7-81; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 46, No. 5
Thursday, January 8, 1981

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

Forest Service

Continental Divide National Scenic Trail Advisory Council; Meeting; Location Change

This notice changes the location of the Continental Divide National Scenic Trail Advisory Council meeting to be held January 14–17, 1981 (45 FR 80156, December 3, 1980) to the White-Winrock Inn, P.O. Box 3220 D, 18 Winrock Shopping Center, NE, Albuquerque, NM 87110.

Craig W. Rupp,
Continental Divide National Scenic Trail Advisory Council Chairman.

December 30, 1980.

[FR Doc. 81-671 Filed 1-7-81; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Hancock Park Critical Area Treatment R.C. & D. Measure, Texas

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT:
Mr. George C. Marks, State Conservationist, Soil Conservation Service, P.O. Box 648, Temple, Texas 76501, telephone 817–773–1711.

Notice: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Hancock Park Critical Area Treatment RC&D Measure, Lampasas County, Texas.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. George C. Marks, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for installation of erosion control measures on approximately 1,360 feet of streambank. The planned works of improvement include shaping to a designed slope, installation of a fabric-formed cast-in-place concrete blanket, construction of rubble masonary walls around the existing trees, and establishment of vegetation on about one acre with mulch sodding.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. George C. Marks. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until February 9, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A-95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: December 19, 1980.

Joseph W. Haas,
Deputy Chief for Natural Resource Projects.

[FR Doc. 81-673 Filed 1-7-81; 8:45 am]

BILLING CODE 3410-16-M

Oregon Park East Water-Based Recreation R.C. & D. Measure, Ill.

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT:
Mr. Warren J. Fitzgerald, State Conservationist, Soil Conservation Service, 301 North Randolph Street, Champaign, Illinois 61820, telephone 217–398–5267.

Notice: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Oregon Park East Water-Based Recreation R.C. & D. Measure, Ogle County, Illinois.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional or national impacts on the environment. As a result of these findings, Mr. Warren J. Fitzgerald, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for water-based recreation facilities. The planned works of improvement include picnic tables, grills and benches, picnic shelters, water wells, parking, canoe portage, playgrounds, and sanitary accommodations.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Warren J. Fitzgerald. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until February 9, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A-95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: December 19, 1980.

Joseph W. Haas,
Deputy Chief for Natural Resource Projects.

[FR Doc 81-674 Filed 1-7-81; 8:45 am]

BILLING CODE 3410-16-M

Pere Marquette Township Park R.C. & D. Measure, Mich.

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT:
Mr. Arthur H. Cratty, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823, telephone 517–337–6702.

Notice: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Pere Marquette Township Park R.C. & D. Measure, Mason County, Michigan.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the enviironment. As a result of these findings, Mr. Arthur H. Cratty, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the installation of practices for critical area treatment. The planned works of improvement include the following items: rock riprap with polyethylene filter material along 400 feet of eroding riverbank, two timber walkways, 350 feet of rustic wood rail fence and approximately one-half acre of critical area planting (seed, fertilizer and mulch). Total construction cost is estimated to be $40,000; $30,000 R.C. & D. funds and $10,000 local funds.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Arthur H. Cratty. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until February 9, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A–95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: December 19, 1980.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81–573 Filed 1–7–81; 8:45 am]

BILLING CODE 3410–16–M

Sand Island Critical Area Treatment R.C. & D. Measure, Michigan

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT:
Mr. Arthur H. Cratty, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823, telephone 517–337–6702.

Notice: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Sand Island Critical Area Treatment RC&D Measure, Delta County, Michigan.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Arthur H. Cratty, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the installation of practices for critical area treatment. The planned works of improvement include adding topsoil and planting adapted grasses, shrubs, and trees. Total construction cost is estimated to be $76,400; $57,300 RC&D funds and $19,100 local funds.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Arthur H. Cratty. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until February 9, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A–95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: December 19, 1980.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81–576 Filed 1–7–81; 8:45 am]

BILLING CODE 3410–16–M

Slosson Drain Outlet Critical Area Treatment R.C. & D. Measure, Michigan

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT:
Mr. Arthur H. Cratty, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823, telephone 517–337–6702.

Notice: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Slosson Drain Outlet Critical Area Treatment RC&D Measure, Osceola County, Michigan.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Arthur H. Cratty, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the installation of practices for critical area treatment. The planned works of improvement include the following items: installation of 500 feet of 60 inch diameter reinforced concrete pipe, rock riprap, fill, and critical area planting (seed, fertilizer, and mulch). Total construction cost is estimated to be $64,300; $48,200 RC&D funds and $16,000 local funds.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Arthur H. Cratty. The FNSI has been sent to

various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until February 9, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A-95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: December 19, 1980.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-577 Filed 1-7-81; 8:45 am]

BILLING CODE 3410-16-M

Office of the Secretary

Rural Abandoned Mine Program (RAMP) Payments; Determination of Primary Purpose

AGENCY: Office of the Secretary, USDA.

ACTION: Determination of primary purpose for which Rural Abandoned Mine Program (RAMP) payments are made for Federal tax purposes.

FOR FURTHER INFORMATION CONTACT: Arnold Miller, Office of Budget, Planning and Evaluation, Office of the Secretary, Room 123-E Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-4757.

The final USDA regulations specifying the criteria used in making these determinations and the impact of the determination are also available on request from Arnold Miller.

NOTICE OF DETERMINATION:

Under the authorities of the Revenue Act of 1978 as amended, 26 USC 126; 5 USC 301; and 7 CFR Part 14, the Secretary of Agriculture gives notice that all payments under RAMP are determined to be made for the purpose of protecting or restoring the environment.

This determination will allow payment recipients to exclude part or all of the program payments made after September 30, 1979, from gross income for Federal tax purposes if annual income derived from the property benefited by the payment is not increased substantially.

The Internal Revenue Service (IRS) will issue regulations establishing criteria to be used by the taxpayer to determine the amount of exclusion and to file tax returns in this regard.

In making this determination, RAMP authorizing legislation, regulations, and operating procedures were examined using the USDA criteria for determining the primary purpose of certain payments for Federal tax purposes (7 CFR Part 14). This review indicated that the primary purpose of the program payments is to restore the environment where degraded by past coal mining activities and that program payments are made to achieve this purpose.

RAMP provides technical and financial assistance to land users to develop and apply 5- to 10-year contracts for the reclamation, conservation, and development of eligible abandoned coal-mined lands. Federal payments are made for the satisfactory establishment of reclamation treatment that protects people and the environment from the adverse effects of past coal mining and provides for beneficial uses of the area reclaimed.

Jim Williams,

Acting Secretary.

January 2, 1981

[FR Doc. 81-585 Filed 1-7-81; 8:45 am]

BILLING CODE 3410-01-M

CIVIL AERONAUTICS BOARD

[Docket 38788; Order 80-12-148]

All-Cargo Authority Applications; ICB International Airlines

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause and Instituting Investigation (Order: 80-12-148).

SUMMARY: The Board proposes to approve the following application: *Applicant:* Two Americas Trading Company, Inc. d.b.a. ICB International Airlines (Docket: 38788). *Application Date:* October 2, 1980. *Authority Sought:* The applicant seeks scheduled all-cargo authority to operate in foreign air transportation between a point or points in the United States, on the one hand, and points in Spain, Nigeria, South Africa, and Zimbabwe, on the other hand.

OBJECTIONS: All interested person having objections to the Board's tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall, NO LATER THAN February 2, 1981, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, the Department of Transportation, the Department of State, and the Ambassadors of Spain, Nigeria, South Africa, and Zimbabwe. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other supporting evidence.

If no objections are filed, the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed certificate.

ADDRESSES FOR OBJECTIONS: Docket 38788, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Ira Leibowitz, Legal Division, Bureau of International Aviation, Civil Aeronautics Board; (202) 673-5035.

By the Civil Aeronautics Board, December 31, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-586 Filed 1-7-81; 8:45 am]

BILLING CODE 6320-01-M

[Order 80-12-156; Docket 38497]

Continental Air Lines, Inc. and Air Micronesia, Inc.; Petition for Increase in Trust Territory Service Mail Rates; Order Fixing Final Service Mail Rates

Issued Under Delegated Authority, December 31, 1980.

By Order 80-12-108, served December 19, 1980, we directed all interested persons, particularly Continental Air Lines, Inc., Air Micronesia, Inc., the Department of Defense and the Postmaster General, to show cause why the Board should not adopt the proposed findings and conclusions and fix, determine and publish the final rates specified therein to be effective on and after July 21, 1980.

The time designated for filing notice of objection has elapsed and no person has filed a notice of objection or answer to the order. All persons have therefore waived the right to a hearing and all other procedural steps short of fixing a temporary rate.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, particularly sections 204(a) and 406 thereof, the Board's Procedural Regulations, 14 CFR Part 302, and the authority delegated by the Board in its Organization Regulations, 14 CFR 385.16(g),

1. We make final the tentative findings and conclusions set forth in Order 80-12-108.

2. The fair and reasonable final rates of compensation to be paid in their entirety by the Postmaster General to

Continental Air Lines, Inc. for the transportation of mail by aircraft between points within the Trust Territory, between Honolulu, Guam, and Okinawa, on the one hand, and Johnston Island and points within the Trust Territory, on the other hand, between Honolulu, Guam and Okinawa, on the one hand, and Midway Island and points within the Trust Territory, on the other hand, and between Nauru and Majuro, Trust Territory, the facilities used and useful therefor, and the services connected therewith, on and after July 21, 1980, are as follows: (a) For all mail matter other than specific mail matter for which rates are elsewhere established; $1.023 per billed ton-mile.

(b) For that class of mail (hereinafter referred to as SAM mail) consisting of the mail matter described in section 3401, of Title 39 of the United States Code when airlifted on a space available basis; $0.65 per billed ton-mile.

3. The terms and conditions applicable to the transportation of each class of mail at the rates proposed here are those set forth in Order 72-2-22.

4. We shall serve this order upon the Postmaster General, the Department of Defense, Continental Air Lines, Inc. and Air Micronesia, Inc.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten (10) days after the service date of this order.

We shall make this order effective and an action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review is filed or the Board gives notice that it will review this order on its own motion.

We shall publish this order in the Federal Register.

Julien R. Schrenk,

Chief Domestic Fares and Rates Division, Bureau of Domestic Aviation.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-608 Filed 1-7-81; 8:45 am]

BILLING CODE 6320-01-M

[Order 80-12-143; Docket 39072]

Trans World Air Lines, Inc.; Complaint Requesting Relief Under the International Air Transportation Competition Act From Unfair and Discriminatory Pricing Practices in Germany; Order Extending Filing Dates

Issued under delegated authority, December 31, 1980.

By Order 80-12-135, December 24, 1980 the Board invited all interested persons to comment upon the complaint of Trans World Air Lines, Inc., alleging unfair and discriminatory pricing practices by the Federal Republic of Germany. TWA requested remedial action under Sections 9 and 23 of the International Air Transportation Competition Act of 1979. The Board required that answers to TWA's complaint be filed by January 23, 1981.

On December 30, 1980, Lawrence A. Short, representing the parties complained against by TWA, orally requested an extension of the filing dates for answers and replies to January 19 and 29, respectively. Acting under authority delegated by the Board in 14 CFR Part 385.23(b), we will grant Mr. Shorts' request for an extension of time.

Accordingly, 1. We extend the filing dates for answers and replies to the complaint of Trans World Air Lines, Inc., in this docket to January 19 and 29, 1981, respectively; and

2. We are serving this order upon Trans World Air Lines, Lufthansa German Air Lines, the Ambassador of the Federal Republic of Germany in Washington, D.C. and the Departments of State and Transportation.

We shall publish this Order in the Federal Register.

Daniel M. Kasper,

Director, Bureau of International Aviation.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-609 Filed 1-7-81; 8:45 am]

BILLING CODE 6320-01-M

[Docket 38495]

Universal Airlines, Inc. Fitness Investigation; Hearing

Notice is hereby given that a hearing in the above-entitled matter is assigned to be held on January 13, 1981, at 10:00 a.m. (local time), in Room 1003, Hearing Room B, Universal Building North, 1875 Connecticut Avenue, NW, Washington, D.C., before the undersigned Administrative Law Judge.

Dated at Washington, D.C. December 30, 1980.

William A. Pope II,

Administrative Law Judge.

[FR Doc. 81-621 Filed 1-7-81; 8:45 am]

BILLING CODE 6320-01-M

[Order 80-12-152; Dockets 38019 et al.]

Wien Air Alaska Mainline and Bush Mail Rates Investigation et al.; Order Fixing Temporary Service Mail Rates

In the matter of Wien Air Alaska Mainline and Bush Mail Rates Investigation (Docket 38019); Sea Airmotive, Inc., Service Mail Rates Investigation (Docket 38180); Alaska International Air, Inc., Serive Mail Rates Investigation (Docket 38773); Alaska Airlines Temporary Mail Rate Proceeding (Docket 38960); Intra-Alaska Class Service Mail Rates (Docket 38961).

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 31st day of December, 1980.

By Order 80-11-81, served November 13, 1980, the Board instituted a two-tiered system of intra-Alaska service mail rates on a temporary basis. Temporary rates were established for mainline and bush priority mail services and for mainline nonpriority mail services to be effective on and after January 1, 1981. These rates did not, however, reflect the cost increases that have occurred since the base period used to set the rates. We indicated in Order 80-12-116 that we would adjust the temporary two-tier rates to reflect cost increases and apply those rates to other intra-Alaska carriers where appropriate. This order increases the temporary rates by cost escalation factor of 22.3 percent which reflects the increases in operating costs experienced by Wien since the base period and also applies those rates to Alaska International Air [1] and Sea Airmotive. It also redefines bush service.

We have employed here the same updating technique that we used in Order 80-12-116. We began, as usual, with a fuel cost projection. The cost per gallon at March 31, 1981, is estimated by (a) computing the average monthly increase in price over the latest four months; (b) projecting the average monthly increase for a period of six months; and (c) adding the six-month increase to the September 30, 1980, cost per gallon (See Appendix C). Nonfuel cost escalation was also determined in the usual manner. Cost escalation from March 31, 1979, to March 31, 1980, is based on a comparison of unit costs per available ton-mile for the year ended September 30, 1979, with unit costs per ATM for the year ended September 30, 1980. The rate of change was then projected to March 31, 1981. This estimated system unit cost was then increased by 14 percent to derive the estimated intra-Alaska unit cost. This estimated cost was then divided by the base year unit cost to determine the percentage of increase.

Inasmuch as the temporary rates of compensation to be paid to Alaska

[1] These rates will apply to AIA's service except with respect to service to points in the Aleutian Islands for which AIA shall receive compensation at the level paid to Reeve Aleutian Airways.

Airlines,[2] Alaska International Air and Sea Airmotive are based upon rates for Wien, the establishment of new rates for Wien also results in the fixing of new temporary rates for these carriers.

Because of the imminence of the new intra-Alaska rates, we must take up another matter at this time. In Order 80-11-81, we defined bush and mainline service on the basis of aircraft type used. Service offered with aircraft having payload capacity of 4,000 pounds or less was defined as bush service and service with larger aircraft was defined as mainline service. By petition for reconsideration dated December 19, 1980,[3] Sea Airmotive requests that we modify the definitions to expand bush service to include service with aircraft having payload capacity of up to 7,500 pounds. Sea Airmotive argues that the Board's intentions as stated in Order 80-11-81 were to include, as bush service, service currently performed by subcontractors with aircraft types such as De Havilland Twin Otters and Shorts Skyvans. Sea Airmotive argues that it provides this service with such aircraft, including one version of the Twin Otter, that have payload capacities of up to 7,000 pounds. Specifically, Sea Airmotive operates De Havilland Twin Otters with payload capacities of 5,500 pounds, a De Havilland Caribou with a capacity of 7,000 pounds and a Beachcraft aircraft with capacity of 5,000 pounds. Sea Air suggests that 7,500 pounds will provide the Board with some upward flexibility to insure that its intentions for the definitions of bush and mainline service, as expressed in Order 80-11-81, are fulfilled.

The Postal Service has filed an answer to the petition, also accompanied by a motion for leave to file an unauthorized document.[4] The Postal Service argues that Sea Air has not justified its tardy request in light of the ample opportunities that it has to protest the definition after Order 80-11-81 was issued. It argues that existing data do not justify any particular cut-off weight and that a redefinition at this late date would result in substantial administrative expenses to adjust its payment rules.

We will define bush service as that provided by aircraft having a payload capacity of 7000 pounds or less.[5] We are sensitive to the difficulties that a new definition at this late hour could cause the Postal Service. These concerns must be balanced against the short-term financial impact involved in requiring a new entrant to certificated service to operate a substantial portion of its bush service at low mainline rates. The adoption of a bush definition which did not include Sea Airmotive's bush aircraft as such was inadvertent, resulting only from the fact that Sea Air was not originally included within the ambit of Order 80-11-81.

The benefits of correcting the inadvertence outweigh the burden on the Postal Service. However, we are not raising the ceiling to the 7500 pounds requested by Sea Air. After reviewing available data on aircraft operating capacity, we are confident that the 7000 pound cut-off will class as bush aircraft only those whose cost characteristics justify that classification. At capacities above that figure, the Postal Service correctly states that there is substantial room for debate at this time.

Ordinarily, mail rates are established after notice and opportunity for comment. Here, however, we are dealing with temporary rates which are subject to retroactive adjustment. Additionally, they are based on rates which were originally established through the full notice and comment procedures. We believe that no one will be prejudiced by our departing from our usual temporary rate procedures as set forth in the Board's Rules of Practice, 14 CFR 302.310. Accordingly, we waive the procedural requirements of Rule 310.

Therefore, in accordance with the Federal Aviation Act of 1958, as amended, particularly sections 204(a) and 406, and the Board's Procedural Regulations promulgated in 14 CFR, Part 302:

1. The fair and reasonable temporary rates of compensation to be paid in their entirety by the Postmaster General on and after January 1, 1981, until further Board order, to Wien Air Alaska, Inc. and Sea Airmotive, Inc. for the transportation of mail by aircraft over their intra-Alaska routes, the facilities used and useful therefor, and the services connected therewith, are those set forth in Appendix A.

2. The fair and reasonable temporary rates of compensation to be paid in their entirety by the Postmaster General on and after January 1, 1981, until further Board order, to Alaska Airlines, Inc. for the transportation of priority mail by aircraft over its intra-Alaska routes, the facilities used and useful therefor, and the services connected therewith, are those set forth in Appendix A.

3. The fair and reasonable temporary rates of compensation to be paid in their entirety by the Postmaster General on and after January 1, 1981, until further Board order, to Alaska International Air, Inc. for the transportation of mail by aircraft over its intra-Alaska routes, except for operations over the Aleutian Islands segment of Route 208, the facilities used and useful therefor, and the services connected therewith, are those set forth in Appendix A.

4. We grant the motions of the Postal Service and Sea Airmotive for leave to file unauthorized documents.

5. We shall serve this order on the Postmaster General, Alaska Airlines, Inc., Alaska International Air, Inc., Kodiak-Western Alaska Airlines, Inc., Munz Northern Airlines, Inc., Peninsula Airways, Inc., Reeve Aleutian Airways, Inc., Sea Airmotive, Inc. and Wien Air Alaska, Inc.

We shall publish this order in the Federal Register.

By the Civil Aeronautics Board. All members concurred.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-670 Filed 1-7-81; 8:45 am]

BILLING CODE 6320-01-M

[2] These rates apply only to Alaska's intra-Alaska priority mainline and bush services. Its rate for nonpriority mail remain at the level set in Order 80-9-32.

[3] This petition was accompanied by a motion for leave to file an unauthorized document, which motion will be granted.

[4] We will grant this motion.

[5] This definition should also be used in providing data in Dockets 38019 and 38961.

DEPARTMENT OF COMMERCE

Minority Business Development Agency

Financial Assistance Application Announcement

The Minority Business Development Agency announces that it is seeking applications under its program to operate one project for a 12 month period beginning May 1, 1981 to serve New York County (Manhattan), New York. The project will operate at a cost not to exceed $330,000. The Project I. D. Number is 02-10-80009-01.

Funding Instrument: It is anticipated that the funding instrument, as defined by the Federal Grant and Cooperative Agreements Act of 1977, will be a grant.

Program Description: The General Business Services Program of the Minority Business Development Agency (MBDA) provides technical assistance without charge to eligible minority business persons and minority-owned firms for the purpose of improving their stability by increasing their management and marketing capabilities. MBDA offers competitive grants to consulting firms (either "not for profit" or commercial entities). These firms must be capable of providing such services as preparation of business plans, financial analysis, industrial management assistance, personnel management services, marketing planning and a

broad range of other business services excluding legal services.

Eligibility Requirements: There are no restrictions. Any profit or non-profit institution is eligible to submit an application.

Application Materials: An application kit for this project may be requested by writing to the following address: U.S. Department of Commerce, Minority Business Development Agency, Grants Administration Unit, 26 Federal Plaza, Room No. 3707, New York, New York 10278.

In requesting an application kit, the applicant must specify its profit status; i.e., State or local government, Federally recognized Indian tribal units, educational institutions, or other type of profit or non-profit institution. This information is necessary to enable MBDA to include the appropriate cost principles in the application kit.

Closing Date: Applicants are encouraged to obtain an application kit as soon as possible in order to allow sufficient time to prepare and submit an application before the closing date of January 29, 1981. Applications received after that date will not be considered. A pre-application conference will be held on Monday, January 12, 1981 at 2:00 p.m. in Room No. 2206 at 26 Federal Plaza, New York City.

Detailed submission procedures are outlined in each application kit. 11.800 Minority Business Development.

(Catalog of Federal Domestic Assistance)

(This program is not subject to the requirements of OMB Circular A-95)

Dated: December 30, 1980.

Carlton L. Eccles,

Regional Director.

[FR Doc. 81-627 Filed 1-7-81; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

New England Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The New England Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94-265), will meet to discuss oversight committee reports for herring, scallops, and billfish; Scientific and Statistical Committee, ad hoc policy review committee, and Executive Director's reports, as well as other business.

DATES: The meetings, which are open to the public, will convene on Tuesday, January 27, 1981, at approximately 10 a.m., and will adjourn on Wednesday, January 28, 1981, at approximately 5 p.m. The meetings may be lengthened or shortened, or agenda items rearranged, depending upon progress on the agenda.

ADDRESS: The meetings will take place at the King's Grant Inn, Route 128 at Trask Lane, Danvers, Massachusetts.

FOR FURTHER INFORMATION CONTACT: New England Fishery Management Council, Suntaug Office Park, 5 Broadway (Route One), Saugus, Massachusetts 01906, Telephone: (617) 231-0422.

Dated: January 5, 1981.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 81-672 Filed 1-7-81; 8:45 am]

BILLING CODE 3510-22-M

Payment of Bonuses To Be Paid to the Following Senior Executive Service Employees of the National Oceanic and Atmospheric Administration

ACTION: To announce names of Senior Executive Service Bonus recipients

NOTICE: This notice announces that on January 22, 1981, the National Oceanic and Atmospheric Administration (NOAA) will award bonuses to the following listed Senior Executive Service employees in the amounts stated.

	Bonus
Lester Machta, Director, Air Resources Laboratory, Office of Research and Development, National Oceanic and Atmospheric Administration	$9,521.38
George H. Ludwig, Director of Operations, National Earth Satellite Service, National Oceanic and Atmospheric Administration	9,521.38
William W. Fox, Jr., Director, Southeast Fisheries Center, National Marine Fisheries Service, National Oceanic and Atmospheric Administration	7,516.88
Hazen Bedke, Director, Western Region, National Weather Service, National Oceanic and Atmospheric Administration	7,015.75
Allen Pearson, Director, Central Region, National Weather Service, National Oceanic and Atmospheric Administration	6,514.63
Thomas D. Potter, Director, Environmental Data and Information Service, National Oceanic and Atmospheric Administration	5,963.00
William D. Bonner, Deputy Director, National Weather Service, National Oceanic and Atmospheric Administration	5,000.00
Neil L. Frank, Director, National Hurricane Center, National Weather Service, National Oceanic and Atmospheric Administration	5,000.00
Ned A. Ostenso, Deputy Assistant Administrator for Research and Development and Director, Office of Sea Grant, National Oceanic and Atmospheric Administration	5,000.00
Samuel A. Lawrence, Assistant Administrator for Management and Budget, Office of Management and Budget, National Oceanic and Atmospheric Administration	5,000.00
Eugene J. Aubert, Director, Great Lake Environmental Research Laboratory, Office of Research and Development, National Oceanic and Atmospheric Administration	4,000.00
William Aron, Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, National Oceanic and Atmospheric Administration	4,000.00
Martin H. Belsky, Assistant Administrator for Policy and Planning, Office of the Administrator, National Oceanic and Atmospheric Administration	4,000.00
Donald P. Martineau, Deputy Assistant Administrator for Oceanic and Atmospheric Services, Office of Oceanic and Atmospheric Services, National Oceanic and Atmospheric Administration	4,000.00
Douglas Sargeant, Director, Systems Development Office, National Weather Service, National Oceanic and Atmospheric Administration	4,000.00
Amor L. Lane, Director, Marine Minerals Division, Office of Policy and Planning, National Oceanic and Atmospheric Administration	3,000.00
Merritt N. Techter, Associate Director, Technical Services, National Weather Service, National Oceanic and Atmospheric Administration	3,000.00
Joyce M. Wood, Director, Office of Ecology and Conservation, National Oceanic and Atmospheric Administration	3,000.00
Martha O. Blaxall, Director, Office of Utilization and Development, National Marine Fisheries Service, National Oceanic and Atmospheric Administration	2,000.00
Walter J. Chappas, Associate Director, Office of Aeronautical Charting and Cartography, National Ocean Survey, National Oceanic and Atmospheric Administration	2,000.00
William G. Gordon, Director, Office of Resource Conservation and Management, National Marine Fisheries Service, National Oceanic and Atmospheric Administration	2,000.00
Richard J. Keating, Director, Office of Congressional Affairs, National Oceanic and Atmospheric Administration	2,000.00
Mirco P. Snidero, Deputy Assistant Administrator for Management and Budget, Office of Management and Budget, National Oceanic and Atmospheric Administration	2,000.00

SUMMARY: In conformance with the Civil Service Reform Act of 1978.

ADDRESS: Office of Personnel, NOAA, 6001 Executive Blvd., Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Ralph C. Reeder, 301-443-8781.

Dated: December 30, 1980.

Francis J. Balint,

Acting Director, Office of Management and Computer Systems.

[FR Doc. 81-632 Filed 1-7-81; 8:45 am]

BILLING CODE 3510-08-M

Pacific Fishery Management Council; Public Hearings

AGENCY: National Oceanic and Atmospheric Administration/ Commerce.

ACTION: Notice of Public Hearings.

SUMMARY: The Pacific Fishery Management Council and the National Marine Fisheries Service will hold joint public hearings for the purpose of

receiving public comments on the Draft Pacific Coast Groundfish Fishery Management Plan and its associated Supplemental Environmental Impact Statement.

DATES: Written comments should be submitted to the individuals listed below by no later than February 16, 1981.

Individuals wishing to present oral testimony may do so at public hearings to be held as follows:

January 29, 1981—Westport, Washington.
January 30, 1981—Newport, Oregon.
January 30, 1981—Eureka, California.
January 31, 1981—Santa Barbara, California.

The hearings scheduled for Westport, Newport, and Eureka will start at 7 p.m.

The hearing scheduled for Santa Barbara will begin at 3 p.m.

The hearings will be tape recorded and an official transcript of the proceedings will be on file and available for review within 10 days of the hearing date at the Pacific Fishery Management Council and the Northwest Regional Office of the National Marine Fisheries Service, (addresses shown below). A written summary of each hearing will be prepared.

ADDRESS: Send comments to: Lorry M. Nakatsu, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, Oregon 97201 or: H. A. Larkins, Director, Northwest Regional Office, National Marine Fisheries Service, 1700 Westlake Avenue North, Seattle, Washington 98109.

HEARING LOCATIONS:

January 29, 1981—Ocosta High School, Westport, Washington.
January 30, 1981—Marine Science Center, Marine Science Drive, Newport, Oregon.
January 30, 1981—Eureka Inn, 7th and F Streets, Eureka, California
January 31, 1981—Planning Commission Hearing Room, 123 East Anapuma Street, Santa Barbara, California.

FOR FURTHER INFORMATION CONTACT: Lorry M. Nakatsu, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, Oregon 97201, (503) 221–6352, or H. A. Larkins, Director, Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue North, Seattle, Washington 98109, (206) 442–7575.

SUPPLEMENTARY INFORMATION: The Pacific Coast Groundfish Plan, upon approval by the Secretary of Commerce, will be the basis for the management of domestic groundfish fisheries, joint-venture (domestic-foreign) fisheries, and the foreigh fisheries in the Fishery Conservation Zone off Washington, Oregon and California.

This draft plan and Supplemental Environmental Impact Statement are revised versions of the same documents which were the subjects of extensive public review, including six public hearings, between November 29, 1979, and February 4, 1980. In response to comments raised during the initial review and hearings, the Council made significant changes to the plan, and has specifically delineated a preferred course of action. The Council believes that those changes were of a magnitude which warrant additional public review and has therefore scheduled the above hearings. Comments are requested on the proposed action and the alternatives that are presented and analyzed in the plan and the Supplemental Environmental Impact Statement.

The Draft Pacific Coast Groundfish Plan, including the Supplemental Environmental Impact Statement, will be mailed to all individuals and organizations currently on the Council's groundfish plan mailing list by the beginning of the 45-day comment period on January 2, 1981. In addition to these documents, draft regulations and a regulatory analysis are being prepared and will be distributed in advance of the hearings. Comments are requested on these documents as well. A limited number of copies of all documents will also be available at the public hearings.

Dated: January 5, 1981.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 81-679 Filed 1-7-81; 8:45 am]
BILLING CODE 3510-22-M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and, possibly, foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of patents cited are available from the Commissioner of Patents & Trademarks, Washington, DC 20231, for $1.50 each. Requests for copies of patents must include the patent number.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $5.00 each ($10.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to avoid premature disclosure. Claims and other technical data will usually be made available to serious prospective licensees upon execution of a non-disclosure agreement.

Requests for information on the licensing of particular inventions should be directed to the addresses cited for the agency-sponsors.

Douglas J. Campion,

Program Coordinator, Office of Government Inventions and Patents, National Technical Information Service, U.S. Department of Commerce.

Chief, Intellectual Prop. Division, OTJAG, Department of the Army, Room 2D 444, Pentagon, Washington, DC 20310

Patent application 6,059,020: Visible and Infrared Intensity Limiter. Filed July 19, 1979.
Patent application 6,060,948: Digital Interface Circuit for Control of Pressure Scanner. Filed July 26, 1979.
Patent application 6,062,099: Highly-Linear Closed-Loop Frequency Sweep Generator. Filed July 30, 1979.
Patent application 6,064,451: Fluid Oscillator. Filed August 7, 1979.
Patent application 6,069,022: Excessive Duty Cycle and Pulse Width Limiter. Filed August 23, 1979.
Patent application 6,074,634: Method and Apparatus for Reduction of Modal Noise in Fiber Optic Systems. Filed September 12, 1979.
Patent application 6,074,636: Fluidic Mud Pulser. Filed September 12, 1979.
Patent application 6,078,996: A Variable Output Coupler for Laser Cavities with Totally Reflecting Mirrors. Filed September 26, 1979.
Patent application 6,080,649: Irradiance Analyzer for High Power Lasers. Filed October 1, 1979.
Patent application 6,084,048: Peieris-Transition Far-Infrared Source. Filed October 12, 1979.
Patent application 6,084,686: A Multifrequency Series-Fed Edge Slot Antenna. Filed October 15, 1979.
Patent application 6,089,051: Cerenkov Submillimeter Electromagnetic Wave Oscillator. Filed October 29, 1979.
Patent application 6,092,130: Rivets for Structures Subject to Vibrations or Thermal Stresses. Filed November 7, 1979.
Patent application 6,093,083: Single-Fiber Connected Microphone-Type Acoustic-to-Electrical Transducer. Filed November 9, 1979.
Patent application 6,093,084: Fluidic Mud Pulse Telemetry Transmitter. Filed November 9, 1979.
Patent application 6,099,367: Microprocessor Base for Monitor/Control of Communications Facilities. Filed December 3, 1979.
Patent application 6,103,753: Optical Recording memory Medium. Filed December 14, 1979.
Patent application 6,103,798: Microstrip Antenna with Polarization Diversity. Filed December 14, 1979.
Patent application 6,116,422: Plating Area Calculator for Printed Circuit Boards. Filed January 29, 1980.

Patent application 6,120,215: Apparatus Using Light Emitting Diode as Information Transmitter and Receiver. Filed February 11, 1980.

Patent application 6,121,181: Parasitic Capacitance Compensation in CMOS-Switched Active Filter. Filed February 13, 1980.

Patent application 6,122,206: Method and Apparatus for Electrically Testing Radiation Susceptibility of MOS Gate Devices. Filed February 19, 1980.

Patent application 6,132,358: Cabinet for Patch Panels used with Analog Computers. Filed March 20, 1980.

Patent 4,181,968: Method and Apparatus for Forming Convolutions of Two Complex Number Sequences Using the Fermat Number Transform. Filed June 14, 1978, patented January 1, 1980. Not available NTIS.

Patent 4,193,044: Rare Earth Semiconductor Laser. Filed January 26, 1978, patented March 11, 1980. Not available NTIS.

U.S. Department of the Air Force, AF/JACP, 1900 Half Street, S.W., Washington, DC 20324

Patent 4,212,441: Wing Pivot Assembly for Variable Sweep Wing Aircraft. Filed May 11, 1978, patented July 15, 1980. Not available NTIS.

Patent 4,213,004: Hermetic Electrical Feedthrough for Aluminum Housing and Method of Making Same. Filed June 30, 1978, patented July 15, 1980. Not available NTIS.

Patent 4,213,045: Metal Nitride Oxide Semiconductor (MNOS) Dosimeter. Filed August 29, 1978, patented July 15, 1980. Not available NTIS.

Patent 4,213,102: Fluorine Generator for Chemical Lasers. Filed March 21, 1978, patented July 15, 1980. Not available NTIS.

Patent 4,213,122: Intrusion Detection System. Filed August 23, 1976, patented July 15, 1980. Not available NTIS.

Patent 4,213,123: Integral Enable-Disable Means for Guided Wave Radar Intrusion Detector System Portals. Filed February 7, 1979, patented July 15, 1980. Not available NTIS.

Patent 4,213,127: Doubly Adaptive CFAR Apparatus. Filed January 31, 1979, patented July 15, 1980. Not available NTIS.

Patent 4,213,168: Electret Charge Technique. Filed July 20, 1978, patented July 15, 1980. Not available NTIS.

Patent 4,213,904: Gold-Tin-Silicon Alloy for Brazing Silicon to Metal. Filed December 12, 1978, patented July 29, 1980. Not available NTIS.

Patent 4,215,072: Diphospha-S-Triazines. Filed February 7, 1979, patented July 29, 1980. Not available NTIS.

Patent 4,215,181: Fretting Fatique Inhibiting Method for Titanium. Filed May 11, 1978, patented July 29, 1980. Not available NTIS.

U.S. Department of Agriculture, Program Agreements and Pat. Branch, Admin. Ser. Div., Federal Building, Science and Education Admin., Hyattsville, MD 20782

Patent application 6,052,656: Improved Tree Rooting Using Synthetic Auxins. Filed June 27, 1979.

Patent application 6,130,634: Machine for Planting Containerized Tree and Shrub Seedlings. Filed March 14, 1980.

Patent application 6,132,591: Steep Slope Seeding Machine. Filed March 21, 1980.

Patent application 6,176,234: Dietary Supplementation with Essential Metal Picolinates. Filed August 8, 1980.

Patent application 6,176,235: Method of Enhancing Activity of Homogeneous Ziegler-Type Copper Catalysts. Filed August 8, 1980.

Patent 4,225,629: Preparation of Protein Concentrates from Whey and Seed Products. Filed August 15, 1977, patented September 30, 1980. Not available NTIS.

U.S. Department of Commerce, National Tech. information Service, Office of Gov't Inventions and Patents, Springfield, VA 22161

Patent application 6,192,129: Cryptographic Key Notarization Methods and Apparatus. Filed September 29, 1980.

U.S. Department Of Energy, Assist. Gen. Couns. for Patents, Washington, DC 20545

Patent 4,196,359: Differentially-Charged and Sequentially-Switched Square-wave Pulse Forming Network. Filed June 8, 1978, patented April 1, 1980. Not available NTIS.

Patent 4,196,417: Single Transmission Line Interrogated Multiple Channel Data Acquisition System. Filed November 23, 1977, patented April 1, 1980. Not available NTIS.

Patent 4,197,461: Miniaturized Radiation Chirper. Filed August 17, 1978, patented April 8, 1980. Not available NTIS.

Patent 4,197,462: Position-Sensitive Proportional Counter with Low-Resistance Metal-Wire Anode. Filed December 4, 1978, patented April 8, 1980. Not available NTIS.

Patent 4,200,821: Relativistic Electron Beam Crossed-Field Device. Filed March 17, 1977, patented April 29, 1980. Not available NTIS.

Patent 4,201,692: Gas Mixtures for Gas-Filled Particle Detectors. Filed January 22, 1979, patented May 6, 1980. Not available NTIS.

U.S. Department of Health and Human Services, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, MD 20205

Patent 4,222,126: Unitized Three Leaflet Heart Valve. Filed December 14, 1978, patented September 16, 1980. Not available NTIS.

U.S. Department of the Navy, Director, Navy Patent Program/Patent Counsel for the Navy, Office of Naval Research, Code 302, Arlington, VA 22217

Patent application 6,118,043: Electrical Connection. Filed February 4, 1980.

Patent application 6,118,132: Protective Coating. Filed February 4, 1980.

Patent application 6,126,583: Apparatus and Method for Multiplexing Digital Signals. Filed March 3, 1980.

Patent application 6,142,322: Towed Deployment Acoustic Arrays. Filed April 21, 1980.

Patent application 6,154,348: Method of Separating Light Isotopes Like 15N from Naturally Abundant Gases, Such as NO. Filed May 29, 1980.

Patent application 6,160,350: Liquid Propellant. Filed June 17, 1980.

Patent application 6,161,615: Portable On-Site Turning Apparatus. Filed June 20, 1980.

Patent application 6,165,598: Programmable Frequency Synthesizer (PFS). Filed July 3, 1980.

Patent application 6,186,413: Maximum Depth Monitoring Apparatus. Filed June 7, 1980.

Patent application 6,167,275: A Sawtooth Waveform Generating Circuit for Utilization in a Helmet Mounted Display. Filed July 19, 1980.

Patent application 6,167,276: Computer Generated Image Simulator. Filed July 10, 1980.

Patent application 6,167,851: Packaging for Ocean Disposal of Low Level Radioactive Waste Material. Filed July 14, 1980.

Patent application 6,168,974: Flexible Side Connector for Floating and Elevated Platforms. Filed July 14, 1980.

Patent application 6,170,492: Array Convolver/Correlator. Filed July 21, 1980.

Patent application 6,181,524: Cable Connector. Filed August 26, 1980.

[FR Doc. 81-635 Filed 1-7-81; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

New Taiwan Export Visa and Exempt Certification Stamps

January 5, 1981.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: New export visa and exempt certification stamps will be used for certain cotton, wool and man-made fiber textile products exported from Taiwan on and after January 19, 1981.

SUMMARY: The Coordination Council for North American Affairs has advised the American Institute in Taiwan that, effective on January 19, 1981, new export visa and exempt certification stamps will be authorized for certain cotton, wool and man-made fiber textile products exported from Taiwan on and after January 19, 1981.

EFFECTIVE DATE: January 19, 1981 for goods exported on and after that date. Goods exported before January 19, 1981, having visas or exempt certifications which are in accordance with previously established requirements shall not be denied entry from consumption or withdrawal from warehouse for consumption in the United States.

The Coordination Council for North American Affairs (CCNAA) will, at its discretion, issue waivers to alleviate problems arising in the use of the new visa and exempt certification stamps.

Three copies of requests for such waivers should be addressed to the Coordination Council for North

American Affairs, 4301 Connecticut Avenue, N.W., Suite 420, Washington, D.C. 20008 (Tel: 202/686–6400), and should include a copy of the invoice (Special Customs Invoice Form 5515, successor document, or commercial invoice when such form is used). A self-addressed stamped envelope should accompany each waiver request. Waiver requests will be validated by CCNAA and the Committee for the Implementation of Textile Agreements (CITA) and returned directly to importers. A facsimile of the application for visa waivers follows this notice.

FOR FURTHER INFORMATION CONTACT: Ronald J. Sorini, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On October 3, 1972, a letter dated September 27, 1972, to the Commissioner of Customs from the Chairman of the Committee for the Implementation of Textile Agreements was published in the Federal Register (37 FR 20745), which established an export visa requirement for certain cotton, wool and man-made fiber textile products, produced or manufactured in Taiwan and exported to the United States. On April 24, 1973, a further letter dated April 19, 1973 was published in the Federal Register (38 FR 10132) which established a certification mechanism to exempt certain textile products from the levels of restraint in the bilateral agreement.

The letter published below transmits to the Commissioner of Customs facsimiles of the new visa stamp and exempt certification. It also directs the Commissioner to permit entry for consumption, or withdrawal from warehouse for consumption, of shipments of cotton, wool and man-made fiber textile products exported from Taiwan before January 19, 1981, provided the visa and exempt certification stamps are in accordance with previously established requirements.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

Application for Visa Waivers

To: Coordination Council for North American Affairs, 4301 Connecticut Avenue, NW., Suite 420, Washington, D.C. 20008.

Attention: Waivers

Port of Entry: (Indicate where appropriate whether seaport or airport)

Name and Address of Importer:

Name and Telephone Number of Customs Broker:

Description of Merchandise:

Category and TSUSA Number:

Quantity (Units as set out in TSUSA)

Entry Number or Bill of Lading Number:

Name of Carrier:

Date of Export:

Exporter:

January 5, 1981.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directives of September 27, 1972 and April 19, 1973, which established, respectively, an export visa requirement and an exempt certification mechanism for certain cotton, wool and man-made fiber textile products produced or manufactured in Taiwan.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 8, 1978, as amended, concerning cotton, wool and man-made fiber textile products from Taiwan; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, the directives of September 27, 1972 and April 19, 1973 are hereby further amended to provide for new visa and exempt certification stamps which will be used by Taiwan, effective on January 19, 1981 for goods exported on and after that date. Goods exported before January 19, 1981 that have been visaed or certified for exemption using previously authorized stamps shall not be denied entry for consumption, or withdrawal from warehouse for consumption, provided they are in accordance with previous directives. Facsimiles of the new stamps are enclosed.

The actions taken with respect to the authorities in Taiwan and with respect to imports of cotton, wool and man-made fiber textile products from Taiwan have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

Enclosures.

BILLING CODE 3510-25-M

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE
19 U.S.C. 1481, 1482, 1484

SPECIAL CUSTOMS INVOICIE

(Use separate invoice for purchased and non-purchased goods.)

Form Approved.
O. M. B. No. 48-R0342

1. SELLER	2. DOCUMENT NR.*	3. INVOICE NR. AND DATE*
	4. REFERENCES*	
5. CONSIGNEE	6. BUYER *(if other than consignee)*	
	7. ORIGN OF GOODS	
8. NOTIFY PARTY*	9. TERMS OF SALE, PAYMENT, AND DISCOUNT	
10. ADDITIONAL TRANSPORTATION INFORMATION*		
	11. CURRENCY USED	12. RATE OF EXCHANGE (if agreed) / 13. DATE UNDER ACCEPTED

14. MARKS AND NUMBERS ON SHIPPING PACKAGES	15. NUMBER OF PACKAGES	16. FULL DESCRIPTION OF GOODS	17. QUANTITY	UNIT PRICE 18. HOME MARKET	UNIT PRICE 19. INVOICE	20. INVOICE TOTALS

SPECIMEN

21. If the production of these goods involved furnishing goods or services to the seller *(e.g., assists such as dies, mol mold, tools, engineering work)* and the value is not included in the invoice price, check box (21) and explain below.

22. PACKING COSTS	
23. OCEAN OR INTERNATIONAL FREIGHT	
24. DOMESTIC FREIGHT CHARGES	
25. INSURANCE COSTS	
26. OTHER COSTS *(Specify below)*	

27. DECLARATION OF SELLER/SHIPPER (OR AGENT)

If there are any rebates, drawbacks or bounties allowed upon the exportation of goods, I/we direct that (A) and (B) be checked separately below.

(A) I/we declare that this or other invoice(s) being true in all particulars and that all the particulars shown are true and correct.

If the goods were not sold or agreed to be sold, I have checked box (B) and have indicated in column 19 the price I/we would be willing to receive.

(C) SIGNATURE OF SELLER/SHIPPER (OR AGENT):

REPUBLIC OF CHINA
TAIWAN
Serial
EXEMPT
Description
Authorized Signature

THIS BOX IS FOR CONTINUING ANSWERS

THIS FORM OF INVOICE REQUIRED GENERALLY IF RATE OF DUTY BASED UPON OR REGULATED BY VALUE OF GOODS AND PURCHASE PRICE OR VALUE OF SHIPMENT EXCEEDS $500 OTHERWISE USE COMMERCIAL INVOICE

* Not necessay for U. S. Customs purposes.

Customs Form 5515 (8-80)

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE
19 U.S.C. 1481, 1482, 1484

SPECIAL CUSTOMS INVOICE

(Use separate invoice for purchased and non-purchased goods.)

Form Approved
O.M.B. No. 48-R0342

1. SELLER	2. DOCUMENT NR.*	3. INVOICE NR. AND DATE *
	4. REFERENCES *	
5. CONSIGNEE	6. BUYER (*if other than consignee*)	
	7. ORIGIN OF GOODS	
8. NOTIFY PARTY *	9. TERMS OF SALE, PAYMENT, AND DISCOUNT	
10. ADDITIONAL TRANSPORTATION INFORMATION *		
	11. CURRENCY USED	12. EXCH. RATE (*if fixed or agreed*) / 13. DATE ORDER ACCEPTED

SPECIMEN

14. MARKS AND NUMBERS ON SHIPPING PACKAGES	15. NUMBER OF PACKAGES	16. FULL DESCRIPTION OF GOODS	17. QUANTITY	UNIT PRICE 18. HOME MARKET	UNIT PRICE 19. INVOICE	20. INVOICE TOTALS

A. [ ] If the goods involved furnishing goods or services to the seller (*e.g., assists such as dies, molds,*) and the value is not included in the invoice price, check box (21) and explain below.

B. [ ] 27. DECLARATION OF SELLER/SHIPPER (OR AGENT)

I declare that the invoice shows the actual price of the goods described [illegible] that all charges thereon are stated, and that this declaration are true and correct.

*If (B) [ ] If the goods were not sold or agreed to be sold, I have checked box (B) and have indicated in column 19 the price I would be willing to receive.

(C) SIGNATURE OF SELLER/SHIPPER (OR AGENT):

22. PACKING COSTS	
23. OCEAN OR INTERNATIONAL FREIGHT	
24. DOMESTIC FREIGHT CHARGES	
25. INSURANCE COSTS	
26. OTHER COSTS (*Specify Below*)	

29. SPACE FOR CONTINUING ANSWERS

REPUBLIC OF CHINA
TAIWAN
Licence No. 0026364
CAT ▶ 845 16
QTY ▶ 1053
JUL 1

FOR ITEMS OF INVOICE REQUIRED GENERALLY IF RATE OF DUTY BASED UPON OR REGULATED BY VALUE OF GOODS AND PURCHASE PRICE OR VALUE OF SHIPMENT EXCEEDS $100. OTHERWISE USE COMMERCIAL INVOICE.

* Not necessary for U.S. Customs purposes

Customs Form 5515 (12-20-76)

[FR Doc. 81-611 Filed 1-7-81; 8:45 am]

BILLING CODE 3510-25-C

COMMUNITY SERVICES ADMINISTRATION

Training and Technical Assistance in the Prevention of Accidental Hypothermia to Specific CSA Grantees

AGENCY: Community Services Administration.

ACTION: Notice.

SUMMARY: The Community Services Administration (CSA) is notifying those CSA grantees which have already been funded for accidental hypothermia prevention of training and technical assistance in energy-related programs which will be provided by the Center for Accidental Hypothermia in Portland, Maine, in accordance with section 222(a)(5) of the Economic Opportunity Act of 1964, as amended. (Catalogue of Federal Domestic Assistance 49.014).

The Community Services Administration has funded the Diocesan Human Relations Services of Portland, Maine to establish a Center for Accidental Hypothermia. The Center will provide training and technical assistance for the prevention of accidental hypothermia for elderly people to those selected Community Action Agencies and to those selected State Economic Opportunity Offices during Fiscal Years 1980–82 in the following states: Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Michigan, Illinois, Wisconsin, Nebraska, Missouri, Iowa, Kansas, Montana, Wyoming, South Dakota and Idaho.

Grantees may obtain information regarding this program from Ms. Joyce Harmon, Post Office Box 3551, Portland, Maine 04104.

FOR FURTHER INFORMATION CONTACT: Miriam Charnow, Community Services Administration, 1200—19th Street, NW., Washington, D.C. 20506; Telephone: 202–632–6503; Teletypewriter: 202–254–6218.

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

Michael T. Blouin,

Assistant Director for Community Action.

[FR Doc. 81-404 Filed 1-7-81; 8:45 am]

BILLING CODE 6315-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Relocation of United States Military Enlistment Processing Command

AGENCY: Department of Defense, Department of the Army.

ACTION: Notice of intent of the relocation of United States Military Enlistment Processing Command, Headquarters and its subordinate element from Fort Sheridan, IL to building 3400, Naval Training Center, IL.

SUMMARY: The United States Military Enlistment Processing Command (USMEPCOM) Headquarters and the Headquarters of its Central Sector will be relocated from Fort Sheridan, IL, to the Naval Training Center (NTC), Great Lakes, IL, a distance of approximately 7 miles. The above actions will be completed during the next 24 months.

In December 1979, it was determined that the USMEPCOM, during a period of potential mobilization needed to have a close working relationship with the Selection Service System (SSS). It was further determined that the interaction would be facilitated if the two organizations could share automated data processing (ADP) facilities. (USMEPCOM currently receives its ADP support from USAREC and SSS from a variety of other sources.) A study group selected building 3400, NTC Great Lakes, which was vacant and had facilities which previously accommodated a similar ADP operation, as the site for a separate SSS/USMEPCOM ADP operation. As a follow-on action, it was determined by the Defense Department that USMEPCOM and one of its control elements should be collected with its ADP operation. This relocation conincides with ongoing planning for the economical reutilization of the building 3400 at Great Lakes by the Defense Department.

This action will relocate a total of 124 military and 89 civilian jobs from Fort Sheridan, IL, to Great Lakes, IL. No position will be eliminated by this move. The impact upon Fort Sheridan will be minimal since USMEPCOM comprises approximately 5 percent of the total work force. While there is a one-time cost for renovation of and relocation to the building at Great Lakes, there are some annual savings to the Department of Defense in base operating support costs from this action. There is also a tangible benefit resulting from the Command Headquarters and its data processing element being collocated in the same building. USMEPCOM will also be providing support for any upgrade/change in ADP operations for the Selection Service System. The relocation will take place in two phases. The initial phase will relocate the USMEPCOM ADP activity involving 17 military and 11 civilian personnel positions and be completed by May 1981. The close proximity of the two installations will, in effect, only mean a change in work status from Fort Sheridan to Great Lakes for the USMEPCOM personnel, with a resultant slight shift in commuter traffic patterns, since no one, with the exception of few enlisted personnel to be quartered at Great Lakes NTC, is expected to move as a result of this action.

DATE: Comments must be received by January 21, 1981.

ADDRESS: Comment to: Deputy Assistant Secretary of Defense (I&H), Room 3E 760, The Pentagon, Washington, D.C. 20310.

FOR FURTHER INFORMATION CONTACT: A. D. Lewis, Acting Director of Real Property in Natural Resources, Office of the Deputy Assistant Secretary of Defense (Installations and Housing), Washington, D.C. 20310, (202–697–7227).

SUPPLEMENTARY INFORMATION: The US Military Enlistment Processing Command (USMEPCOM) is located at Fort Sheridan, IL. It was organized in July 1976 from the Armed Forces Entrance and Examining Station (AFEES) Directorate of the US Army Recruiting Command (USAREC), and the Armed Forces Vocational Testing Group of the US Air Force Recruiting Command. During the period of July 1, 1976 through September 30, 1979, the Commander of USAREC also served as the Commander of USMEPCOM. On October 1, 1979, USMEPCOM became a separate command. The mission of USMEPCOM is to determine an applicant's qualifications for military service through a process of aptitude testing, moral and medical examination. The command serves as the quality control link between the Recruiting Commands and their Service Training Bases.

Dated: December 24, 1980.

Paul W. Johnson,

Deputy for Installation and Housing, ASA (IL&FM).

[FR Doc. 81-370 Filed 1-7-81; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Bonpas Creek, Illinois; Intent To Prepare Draft Environmental Impact Statement (DEIS) for Detailed Project Study of Local Protection Project

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent To Prepare a Draft Environmental Impact Statement.

SUMMARY: 1. Proposed Action: The proposed action is to study the feasibility for reducing flood damages in the agricultural areas within the Bonpas Creek watershed in Edwards and Wabash Counties, Illinois. The study is being conducted under the authority of Section 205 of the 1948 Flood Control Act. Four alternative structural plans have been initially selected for consideration. The reach of the stream which would be affected if any of these alternatives were implemented would be between Stream Mile (SM) 11 and SM 28.

2. Alternatives: *No Action.* If this alternative were recommended, Bonpas Creek would be left in its present condition. No improvements would be implemented. *Plan 1.* This alternative would remove only logjams, drifts, and fallen trees from the stream. *Plan 2* is the same as Plan 1 plus it includes the clearing of an overbank area extending from the bank line to a distance of 50 feet along one side of the creek. *Plan 3* is the same as Plan 2 with the addition of four short high flow cutoff channels at locations between SM 24.32 and SM 26.04. *Plan 4* is the same as Plan 1 and includes the four short high flow cutoff channels of Plan 3. Plan 4 would also include the clearing of an overbank area 50 feet back from one stream bank between SM 15 and SM 28 and tapered clearing of one bank from 50 feet wide at SM 15 to 0 feet wide at SM 11.

3. Scoping Process: Public involvement to date on the study of the Bonpas Creek Local Protection Project has involved coordinating the previous reconnaissance study and field investigations with varius Federal, State, and local agencies and individuals. The significant issues to be analyzed in depth include the project's impacts on existing flood damages, endangered species, fish and wildlife resources, and cultural and social resources.

4. Scoping Meeting: A scoping meeting prior to the preparation of the DEIS is not scheduled. Anyone identifying significant issues that should be considered in the DEIS is invited to provide them in writing to the address noted below.

5. DEIS Preparation: It is anticipated that the DEIS will be available to the public in July 1981.

6. Address: Questions regarding the DEIS should be directed to C. E. Eastburn, Colonel, Corps of Engineers, 600 Federal Place, P.O. Box 59, Louisville, Kentucky 40201. Phone: (502) 582–5601.

Dated: December 23, 1980.

By authority of the Secretary of the Army.

C. E. Eastburn,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 81-641 Filed 1-7-81; 8:45 am]

BILLING CODE 3710-GF-M

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Raising of the Level of Flood Protection at Williamsport and South Williamsport, Pennsylvania

AGENCY: Baltimore District, U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a draft environmental impact statement (DEIS).

SUMMARY: 1. Recently, a preliminary study of the Williamsport project was made as part of the Susquehanna River Basin Flood Control Review Study, which was authorized by Congress after flooding in June 1972. The Comprehensive Review Study, which was directed to determine the advisability of adopting further improvements to existing systems in the Susquehanna Basin, concluded that the projects at Williamsport and South Williamsport, Pennsylvania, warranted additional detailed study. The proposed action is to raise the level of protection presently afforded by the levee and floodwall system.

2. Alternatives to the proposed action include raising the present system to several different levels, investigating nonstructural plans such as an improved Flood Warning and Evacuation System, and no action.

3a. The public involvement program will consist principally of workshops over the duration of the study, a public meeting, letters of coordination to appropriate agencies and parties to identify concerns and issues, and additional coordination and communication efforts that may be appropriate as the study proceeds. The public involvement program will begin with a Notice of Study Initiation and letters of coordination to interested agencies and organizations in January 1981. A public workshop will be held on 20 January 1981, at Genetti Lycoming Hotel, to which all interested individuals, organizations, and parties are invited.

3b. Possible issues that will be analyzed in the DEIS are: (1) the selection of the alignment which is the best mix of cost, community protection and protection to the natural resources; (2) the selection of borrow areas; and (3) any induced damages to nearby communities.

3c. The U.S. Fish and Wildlife Service will provide input to the DEIS in accordance with the provisions of the Fish and Wildlife Coordination Act.

4. Other agencies will be coordinated with to address pertinent environmental statutes and concerns that may arise through the scoping process. The 20 January 1981 public workshop will serve as an initial scoping meeting. Additional meetings and coordination will be scheduled as appropriate.

5. The DEIS will be available to the public in April 1983.

ADDRESS: Questions about the proposed action and DEIS can be answered by: David J. Webber, Environmental Analysis Branch, U.S. Army Engineer District, Baltimore, P.O. Box 1715, Baltimore, Maryland 21203.

Dated: December 31, 1980.

James W. Dunmyer,

LTC, Corps of Engineers, Acting District Engineer.

[FR Doc. 81-663 Filed 1-7-81; 8:45 am]

BILLING CODE 3710-41-M

Department of the Navy

Feral Animal Removal Program, San Clemente Island, CA; Public Hearing and Availability of Draft Environmental Impact Statement

Notice is hereby given that a public hearing will be held for the purpose of receiving oral and written comments concerning the Draft Environmental Impact Statement for the Feral Animal Removal Program, San Clemente, California. The purpose of the program is to remove feral goats, pigs, cats and deer present on the island that are threatening the survival of endangered species indigenous to the island. Removal is considered necessary for compliance with the Endangered Species Act. The public hearing will be held at 7:00 p.m. on January 12, 1981, at the City of Coronado Council Chambers, 1825 Strand Way, Coronado, California 92118.

A short presentation describing the program and the status of the removal program presently underway will be made at the beginning of the session followed by an opportunity for public comment. Persons wishing to speak may register in advance by contacting the following:

CDR Franklyn J. Hartman, CEC, U.S. Navy, Staff Civil Engineer, Naval Air Station North Island, San Diego, CA 92135, Telephone number (714) 437-7747.

Speakers may also register on the evening of the hearing by completing a registration card at the door. Oral statements at the hearing may be limited in length if there is a large number of speakers. In any case, lengthy comments should be submitted in writing and summarized orally. Only registered speakers will be recognized. Written comments are not required but are strongly preferred to ensure accuracy of the record and appropriate Navy response in preparing the final Environmental Impact Statement. All presentations (including those received separately from the public hearing) will be made a part of the project record and included within the final Environmental Impact Statement together with Navy response to each comment.

Written comments concerning the Draft Environmental Impact Statement will be received by the Western Division, Naval Facilities Engineering Command, P.O. Box 727, San Bruno, CA 94066, at any time before or after the Public Hearing, until February 12, 1981.

Dated: January 6, 1981.

P. B. Walker,

Captain, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 81-735 Filed 1-6-81; 12:16 pm]

BILLING CODE 3810-71-M

DEPARTMENT OF ENERGY

Compliance With the National Environmental Policy Act; Finding of No Significant Impact

AGENCY: Department of Energy.

ACTION: Notice of finding of no significant impact.

SUMMARY: The Department of Energy has prepared an environmental assessment on the issuance of a prohibition order under the provisions of the Energy Supply and Environmental Coordination Act of 1974 (ESECA) to Ash Grove Cement Company located in Chanute, Kansas. This order, when made effective, will prohibit the company from burning natural gas or petroleum products as its primary energy source in kilns No. 1 and No. 2 of the subject facility. The burning of coal appears to be the most likely alternative to the use of the prohibited fuels.

Based on the environmental assessment, which is available to the public on request, the Department of Energy has determined that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* Therefore, no environmental impact statement is required.

For information and single copies of the environmental assessment contact: Steve E. Ferguson, Environmental Analysis Branch, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653-3684.

FOR FURTHER INFORMATION CONTACT: Anton R. Dammer, NEPA Affairs Division, Office of Environmental Compliance and Overview, Office of Environment, Department of Energy, Room 4G-057, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-4610.

SUPPLEMENTARY INFORMATION: Issuance of an ESECA prohibition order will result in the conversion from natural gas and oil to coal in Ash Grove Cement Company's kilns No. 1 and No. 2. The Department of Energy has found that there will be no significant environmental impacts associated with the proposed conversion of the Ash Grove Cement Company's facility to coal.

Air Quality—Concentrations of pollutants resulting from the conversion will be substantially below National Ambient Air Quality Standards. Electrostatic precipitators with a design efficiency in excess of 95% will be installed for collection of particulate matter. Resulting plant contributions to ambient total suspended particulate levels will be so small they will hardly be measurable and are, therefore, considered negligible. Projected sulfur dioxide and nitrogen dioxide concentrations will be significantly below the standards. Carbon monoxide and hydrocarbon emissions are also projected to be negligible.

Water Quality—Impacts to surface and groundwater resources are considered to be insignificant. Coal pile runoff will be collected and recycled back to the plant for process use. Stormwater and non-contact cooling water discharges will not change in quantity or quality as a result of the conversion.

Other Impacts—The plant modifications associated with the conversion will be minor and will be within the existing plant site, and therefore will not impact historical, archaeological or cultural resources or cause significant visual, noise, ecological or socioeconomic impacts.

Alternatives to coal conversion which are addressed in the environmental assessment include: (1) a fuel mixture of coal and natural gas or petroleum, (2) use of alternate fuels, such as domestic oil, refuse derived fuel (RDF), wood or synthetic fuels, (3) early retirement, and (4) no action. The analysis shows these alternatives to be either not technically feasible or unable to meet the purposes of ESECA.

Date Issued: January 5, 1981.

Ruth C. Clusen,

Assistant Secretary for Environment.

[FR Doc. 81-650 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Anchor Hocking Corp.; Recertification of Eligible Use of Natural Gas To Displace Fuel Oil

[ERA Docket No. 80-CERT-042]

On November 25, 1980, Anchor Hocking Corporation (Anchor Hocking), 109 North Broad Street, Lancaster, Ohio 43130, filed an application with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 for recertification of an eligible use of up to 3,200 Mcf of natural gas per day to displace approximately 198,400 barrels of No. 2, No. 4, and No. 6 fuel oil (0.3 to 2.7 percent sulfur) per year at its glass manufacturing plant located in Winchester, Indiana. The eligible seller of the natural gas is Gas Transport, Inc., an Anchor Hocking interstate pipeline subsidiary. The gas will be transported by the Columbia Gas Transmission Corporation, Gas Transport, Inc., and Panhandle Eastern Pipe Line Company. Notice of that application was published in the **Federal Register** (45 FR 83653, December 19, 1980) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

On August 20, 1979, Anchor Hocking received the original certification (ERA Docket No. 79-CERT-070) of an eligible use of natural gas at the Winchester Plant for a period of one year, which expired August 19, 1980. This recertification is being issued after the expiration date of the original

certification due to the applicant's late filing. Anchor Hocking has informed ERA that it did not expect to use this gas during the interim period and that the lack of continuity with the original certificate will not result in any reduction in the amount of fuel oil that can be displaced.

The ERA has carefully reviewed Anchor Hocking's application for recertification in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that Anchor Hocking's application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the recertification and transmitted that recertification to the Federal Energy Regulatory Commission. More detailed information including a copy of the application, transmittal letter, and the actual recertification are available for public inspection at the Division of Natural Gas Docket Room, Room 7108, RG–55, 2000 M Street, NW., Washington, D.C. 20461, from 8:30 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., December 31, 1980.

F. Scott Bush,

Assistant Administrator, Office of Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 81-625 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-01-M

Bergen Units 1 and 2 Generating Station; Intent To Prepare an Environmental Impact Statement (EIS) and Conduct Public Scoping Meeting

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of intent to prepare environmental impact statement and conduct public scoping meeting.

SUMMARY: The Department of Energy (DOE) announces its intent to Prepare an EIS evaluating the impact of its Proposed Prohibition Order for Bergen Generating Station Units 1 & 2. The plant is located in Ridgefield, New Jersey, and is owned and operated by Public Service Electric & Gas Co. The Prohibition Order, if finalized, would prohibit the burning of petroleum or natural gas in these units. Subsequent operation of these units would require the burning of an alternate fuel such as coal. Interested agencies, organizations, and the general public desiring to submit written comments or suggestions for consideration in connection with the preparation of this EIS are invited to do so and/or to attend the public scoping meeting, to be held on February 17, 1981, in order to assist DOE in identifying significant environmental issues and the appropriate scope of the EIS. Parties who desire to present oral comments at the scoping meeting should provide advance notice to the Economic Regulatory Administration (ERA) as described below. Upon completion of the draft EIS, its availability will be announced in the **Federal Register**, at which time further comments will be solicited.

The meeting is scheduled to begin at 3:00 p.m. at Ridgefield, N.J. on February 17, 1981 and will continue until all persons wishing to speak have had an opportunity to do so. The session will reconvene at 7:00 p.m. to ensure greater public participation.

Written comments, notice of intent to present comments at the scoping meeting, and questions concerning the meeting should be addressed to: Mr. Steven E. Ferguson, Chief, Environmental Analysis Branch, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW, Room 3322, Washington, D.C. 20461, Telephone (202) 653–3684.

For general information on the EIS process, contact: Robert J. Stern, Acting Director, Division of NEPA Affairs, Office of Environmental Compliance and Overview, Office of the Assistant Secretary for Environment, Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585, Telephone (202) 252–4600.

Date and Location of Scoping Meeting: February 17, 1981 at the Community Center, Slocum Avenue, Ridgefield, New Jersey. Meeting will begin at 3:00 p.m. and reconvene at 7:00 p.m.

Written Comments Due: Not later than March 19, 1981.

SUPPLEMENTARY INFORMATION: On July 31, 1980, the Economic Regulatory Administration (ERA) published in the **Federal Register** a proposed Prohibition Order for Units 1 and 2 of the Bergen Generating Station, located in Ridgefield, New Jersey. The proposed order was issued prusuant to Section 301 of the Powerplant and Industrial Fuel Use Act of 1978 (P.L. 95–620). If finalized, the order would prohibit these units from burning natural gas or petroleum as their primary energy source. The proposed prohibition order was based on an ERA finding that this powerplant has, or previously had, the technical capability to use an alternate fuel as a primary energy source. It was determined that the powerplant was designed and constructed to burn coal as a primary energy source and had previously burned coal.

Environmental Impact Statement

The EIS will present a comprehensive analysis of the environmental impact of ERA's proposed action in issuing a final order prohibiting Units 1 & 2 of the Bergen Generating Station from burning natural gas or petroleum as primary fuels. This analysis will discuss the environmental consequences of the proposal and alternatives, including the environmental impacts of burning coal or other alternate fuels as primary fuels. Among the impacts to be discussed are air quality, water quality, solid waste generation and disposal, and transportion and storage of fuel, as well as other impacts determined to be potentially significant during the public comment process. In addition, the EIS will evaluate methods of meeting the requirements of the Clean Air Act, Federal Waste Pollution Control Act, Resource Conservation and Recovery Act, and other relevant environmental statutes. The EIS will be prepared in accordance with Section 102(2)(C) of the National Environmental Policy Act (NEPA).

It is possible that DOE may, in the future, issue prohibition orders to other facilities in the area of the Bergen Generating Station. If it appears that the environmental effects of conversions in proximity result in the cumulative impacts, DOE may opt to combine these conversions in a single EIS. DOE will assess various strategies for combining or tiering requisite NEPA documentation that may better serve the decision making process. DOE solicits the public's views and suggestions concerning this subject.

Scoping Meeting

DOE desires to know what the public considers to be the major environmental issues associated with prohibiting Bergen Units 1 and 2 from burning gas or petroleum as a primary energy source. The meeting on February 17, 1981, at the address and time noted at the beginning of this notice, will be held to receive comments on the structure and scope of the EIS, anticipated energy/environmental problems, actions that might be taken to address them and reasonable alternatives which should be considered.

The scoping meeting will be conducted informally with the presiding officer affording all interested individuals in attendance an opportunity to speak. A transcript of the meeting will

be prepared. The presiding officer will establish the order of speakers and provide any additional procedures necessary for the conduct of the meeting. Attendees at the meeting will be asked to register.

If possible, those planning to present information at the meeting should notify Mr. Ferguson. Participants are encouraged to submit to Mr. Ferguson, in advance, their intent to participate, and copies of any written material. However, public participation is encouraged even without the advance submission of written material.

Speakers will be allotted approximately fifteen minutes for their oral statements. Should any speaker desire to have additional time, or to provide further information for the record, such additional information may be submitted in writing by March 19, 1981. Written comments will be considered and given equal weight with oral comments. All comments or suggestions received will be carefully considered in the preparation of the draft EIS.

A transcript of the scoping meeting will be retained by DOE and made available for inspection at the Freedom of Information Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:00 p.m. Monday through Friday. In addition, anyone may make arrangements with the reporter to purchase a copy of the transcript.

Those individuals who do not wish to submit comments or suggestions at this time but who would like to receive a copy of the draft EIS for review and comment when it is issued should so notify Mr. Ferguson.

Any questions regarding the meeting should be addressed to Mr. Ferguson.

Issued in Washington, D.C. January 5, 1981.

Ruth C. Clusen,

Assistant Secretary for Environment.

[FR Doc. 81-657 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 80-CERT-045]

Fruehauf Corp., Kelsey-Hayes Company, Sedalia Plant; Application for Certification of the Use of Natural Gas To Displace Fuel Oil

On December 18, 1980, Fruehauf Corporation (Fruehauf), Kelsey-Hayes Company, 38481 Huron River Drive, Romulus, Michigan 48174, filed an application with the Administrator of the Economic Regulatory Administration (ERA) for certification of an eligible use of natural gas to displace fuel oil at the Sedalia Plant located in Sedalia, Missouri, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file with the ERA and available for public inspection at the ERA, Division of Natural Gas Docket Room, Room 7108, 2000 M Street, NW., Washington, D.C. 20461, from 8:30 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In its application, Fruehauf states that the volume of natural gas for which it requests certification is up to 105,000 Mcf per year and this volume is estimated to displace the use of approximately 735,000 gallons (17,500 barrels) of No. 2 fuel oil (0.2 percent maximum sulfur) at the Sedalia Plant.

The eligible seller is the Frue-Kel, Inc., a subsidiary of Fruehauf Corporation, 38481 Huron River Drive, Romulus, Michigan 48174. Although the Sedalia Plant will have no direct transportation agreement with an interstate pipeline to transport natural gas in connection with this transaction, the seller, Frue-Kel, Inc., will enter into such an agreement with Columbia Gas Transmission Corporation, Panhandle Eastern Pipeline Company, Kansas-Nebraska Natural Gas Company, and Cities Service Gas Company. Additionally, the Missouri Public Service Company will be the local distribution company.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 7108, RG–55, 2000 M Street, NW., Washington, D.C. 20461, Attention: Mr. Albert F. Bass, on or before January 19, 1981.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to Fruehauf and any persons filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C. on December 31, 1980.

F. Scott Bush,

Assistant Administrator, Office of Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 81-620 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-01-M

Salem Harbor Generating Station Units 1, 2, and 3; Intent To Prepare an Environmental Impact Statement (EIS) and Conduct Public Scoping Meeting

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of intent to prepare an environmental impact statement (EIS) and conduct public scoping meeting.

SUMMARY: The Department of Energy (DOE) announces its intent to prepare an EIS evaluating the impact of its Proposed Prohibition Order for the Salem Harbor Generating Station Units 1, 2, and 3. These units are located in Salem, Massachusetts. The Prohibition Order, if finalized, would prohibit the burning of petroleum or natural gas in these units. Subsequent operation of these units would require the burning of an alternate fuel such as coal. Interested agencies, organizations, and the general public desiring to submit written comments or suggestions for consideration in connection with the preparation of this EIS are invited to do so and/or to attend the public scoping meeting which will be held on February 10, 1981, in order to assist DOE in identifying significant environmental issues and the appropriate scope of the EIS. Parties who desire to present oral comments at the scoping meeting should provide advance notice to the Economic Regulatory Administration (ERA) as described below. Upon completion of the draft EIS, its availability will be announced in the **Federal Register**, at which time further comments will be solicited.

The meeting is scheduled to begin at 3:00 p.m. and will reconvene at 7:00 p.m. Each session will continue until all persons in attendance wishing to speak have had an opportunity to do so. The meeting has been scheduled for both day and evening hours to allow various Federal, state, and local agencies and private citizens to participate at their convenience.

Written comments, notice of intent to present comments at the scoping meeting, and questions concerning the meeting should be addressed to: Mr. Steven E. Ferguson, Chief, Environmental Analysis Branch, Office of Fuels Conversion, Economic Regulatory Administration, Department

of Energy, 2000 M Street, NW, Washington, D.C. 20461, Telephone (202) 653-3684.

For general information on the EIS process, contact: Robert J. Stern, Acting Director, Division of NEPA Affairs, Office of Environmental Compliance and Overview, Office of the Assistant Secretary for Environment, Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585, Telephone (202) 252-4600.

DATE AND LOCATION OF SCOPING MEETING: February 10, 1981 at City Hall Annex, One Salem Green, third floor, Salem, Massachusetts. The meeting will begin at 3:00 p.m. and will reconvene at 7:00 p.m.

WRITTEN COMMENTS DUE: March 10, 1981.

SUPPLEMENTARY INFORMATION: On March 28, 1980, the Economic Regulatory Administration (ERA) published in the **Federal Register** a proposed Prohibition Order for Unit 1 (82 MW), Unit 2 (82 MW), and Unit 3 (170 MW) of the Salem Harbor Generating Station, located in Salem, Massachusetts. The proposed order was issued pursuant to Section 301 of the Powerplant and Industrial Fuel Use Act of 1978 (P.L. 95-620). If finalized, the order would prohibit these units from burning natural gas or petroleum as its primary energy source. The proposed order was based on an ERA finding that this powerplant has, or previously had, the technical capability to use an alternate fuel as a primary energy source. It was determined that this powerplant was designed and constructed to burn coal as a primary energy source and had previously burned coal.

Environmental Impact Statement

The EIS will present a comprehensive analysis of the environmental impact of ERA's proposed action in issuing a final order prohibiting Units 1, 2, and 3 of the Salem Harbor Generating Station from burning natural gas or petroleum as primary fuels. This analysis will discuss the environmental consequences of the proposal and alternatives, including the environmental impacts of burning coal or other alternate fuels as primary fuels. Among the impacts to be discussed are air quality, water quality, solid waste generation and disposal, and transportation and storage of fuel, as well as other impacts determined to be potentially significant during the public comment process. In addition, the EIS will evaluate methods for meeting the requirements of the Clean Air Act, Federal Water Pollution Control Act, Resource Conservation and Recovery Act, and other relevant environmental statutes. The EIS will be prepared in accordance with Section 102(2)(c) of the National Environmental Policy Act (NEPA).

It is possible that DOE may, in the future, issue prohibition orders to other facilities in the area of the Salem Harbor Generating Station. If it appears that the environmental effects of conversions in proximity result in cumulative impacts, DOE may opt to combine these conversions in a single EIS. DOE will assess various strategies for combining or tiering requisite NEPA documentation that may better serve the decision-making process. DOE solicits the public's views and suggestions concerning this subject.

Scoping Meeting

DOE desires to know what the public considers to be the major environmental issues associated with prohibiting Salem Harbor Units 1, 2, and 3 from burning natural gas or petroleum as its primary energy source. The meeting on February 10, 1981, at the address and time noted at the beginning of this notice, will be held to receive comments on the structure and scope of the EIS, anticipated energy/environmental problems, actions that might be taken to address them, and reasonable alternatives which should be considered.

The scoping meeting will be conducted informally with the presiding officer affording all interested individuals in attendance an opportunity to speak. A transcript of the meeting will be prepared. The presiding officer will establish the order of speakers and provide any additional procedures necessary for the conduct of the meeting. Attendees at the meeting will be asked to register.

If possible, those planning to present information at the meeting should notify Mr. Ferguson. Participants are encouraged to submit to Mr. Ferguson, in advance, their intent to participate, and copies of any written material. However, public participation is encouraged even without the advance submission of written material.

Speakers will be allocated approximately fifteen minutes for their oral statements. Should any speaker desire to have additional time, or to provide further information for the record, such additional information may be submitted in writing by March 10, 1981.

Written comments will be considered and given equal weight with oral comments. All comments or suggestions received will be carefully considered in the preparation of the draft EIS.

A transcript of the scoping meeting will be retained by DOE and made available for inspection at the Freedom of Information Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Ave., SW., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:00 p.m. Monday through Friday. In addition, anyone may make arrangements with the reporter to purchase a copy of the transcript.

Those individuals who do not wish to submit comments or suggestions at this time but who would like to receive a copy of the draft EIS for review and comment when it is issued should so notify Mr. Ferguson.

Any questions regarding the meeting should be addressed to Mr. Ferguson.

Issued in Washington, D.C., January 2, 1981.

William W. Burr, Jr.,

Acting Assistant Secretary for Environment.

[FR Doc. 81-658 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER81-179-000]

Arizona Public Service Co.; Rate Change

December 23, 1980.

The filing company submits the following:

Take notice that Arizona Public Service Company, on December 18, 1980, tendered for filing rate increases in its following FPC Electric Service Rate Schedules:

12—Electrical District No. 3
13—Electrical District No. 7
14—Maricopa County Municipal Water Conservation District No. 1
15—Roosevelt Irrigation District
16—Buckeye Water Conservation & Drainage District
35—Electrical District No. 6
50—Citizens Utilities Company
52—Papago Tribal Utility Authority
57—Arizona Electric Power Cooperative, Inc.
58—Wellton-Mohawk Irrigation & Drainage District
59—Arizona Power Authority
65—Colorado River Indian Irrigation Project
68—San Carlos Indian Irrigation Project
68—Electrical District No. 1
74—Town of Wickenburg
—Plains Electric Generationand Transmission Cooperative, Inc.
—Washington Water Power Company

The proposed rate changes would increase revenue from jurisdictional sales and service by $14,736,554 based

on the 12-month period ending February 28, 1982.

Arizona Public Service Company states that the proposed changes are necessary to offset the rapidly escalating costs involved in rendering service under these schedules.

Copies of the filing were served upon the Company's resale customers affected by the filing and the Arizona 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 §§ 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 January 12, 1981. 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. 81-545 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 2790]

Boott Mills and Proprietors of the Locks and Canals of the Merrimack River; Extension of Time

December 24, 1980.

On December 15, 1980, Boott Mills and proprietors of the Locks and Canals of the Merrimack River (Boott Mills) and Massachusetts Municipal Wholesale Electric Company (MMWEC) filed a request for an extension of time for MMWEC to file a competing application in the above-docketed proceeding. The motion states that additional time is required to allow Boott Mills and MMWEC to pursue final negotiations on a joint agreement to provide for joint ownership or operation of the proposed project. On December 18, 1980, MMWEC filed a supplement to the motion for extension of time stating that the Atlantic Associates in addition to the other intervenors in this proceeding do not oppose this extension request.

Upon consideration, notice is hereby given that an extension of time for the filing of a competing application is granted to and including May 1, 1981.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-546 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-178-000]

Central Power & Light Co.; Application

December 23, 1980.

The filing company submits the following:

Take notice that on December 18, 1980, Central Power & Light Company (Applicant) submitted an amendment to interchange agreement covering a new emergency service to South Texas Electric Cooperative and Medina Electric Cooperative. Applicant states that the sale of emergency power and energy will be for a limited duration only. Applicant states that South Texas and Medina Electric Cooperatives join in support of the amendment and request expeditious approval thereof, including waiver of certain filing requirements in order that the emergency service provision of the contract amendment will be effective as of January 1, 1981.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 12, 1981, 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-547 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP79-12, et al.]

El Paso Natural Gas Co., et al.; Filing of Pipeline Refund Reports and Refund Plans

December 23, 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 January 7, 1981. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

Appendix

Filing date	Company and Docket No.	Type filing
11/28/80	El Paso Natural Gas Company (RP79-12).	Report.
11/28/80	El Paso Natural Gas Company (CP77-289).	Plan.
12/15/80	Cities Service Gas Company (RP72-142, *et al.*).	Report.

[FR Doc. 81-548 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-69-000]

Georgia Power Co.; Order Accepting for Filing and Suspending Proposed Interchange Agreement Rates, Waiving Notice Requirements, and Consolidating Proceedings

Issued: December 30, 1980.

Before Commissioners: Georgiana Sheldon, Acting Chairman; Matthew Holden, Jr., George R. Hall and J. David Huges.

On November 13, 1980, Georgia Power Company (Georgia Power) submitted for filing proposed changes in the rates for emergency assistance and short-term power services under an Interchange Agreement with Savannah Electric and Power Company (Savannah). Such proposed rates were derived using the same costing methodologies as those originally set for investigation in Docket No. ER79-575, [1] and which are currently under investigation in Docket No. ER80-222. [2]

In Docket Nos. ER79-575 and ER80-222, Georgia Power filed revisions in its rates for emergency assistance, short-term capacity, and economy energy services under the interconnection agreement involved in this filing. Docket No. ER79-575 was terminated by Commission order on April 16, 1980, but the Commission stated that the

[1] *Georgia Power Co.*, Docket No. ER79-575, order issued October 5, 1979.

[2] *See Georgia Power Co.*, Docket No. ER80-222, order issued April 16, 1980.

investigation of the costing methodologies initiated in Docket No. ER79-575 was to be continued in Docket No. ER80-222 [3] which was later consolidated with Docket Nos. ER80-58, *et al.*[4]

Georgia Power requests waiver of the notice requirements in order to permit an effective date of January 1, 1981. Georgia Power further requests that if the Commission orders a hearing on the justness and reasonableness of the proposed charges, a one day suspension be imposed.

Notice of the filing was issued on November 12, 1980, with comments, protests, or petitions to intervene due on or before December 2, 1980. No responses were received.

Discussion

The proposed charges are based on the same costing methodologies as those currently under investigation in Docket No. ER80-222. Consistent with our preliminary evaluation in Docket No. ER79-575, we find that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Accordingly, we shall accept the proposed rates for filing and suspend them as ordered below.

In a number of suspension orders,[5] we have addressed the considerations underlying the Commission's policy regarding rate suspensions. For the reasons given there, we have concluded that rate filings should generally be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust and ureasonable or that it may run afoul of other statutory standards. We have acknowledged, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results. Such circumstances have been presented here. The Commission notes that both parties have agreed to apply the revised charges as of January 1, 1981, and that no comments, protests, or petitions to intervene were filed by any other individuals. Accordingly, we shall exercise our discretion to suspend the rates for only one day and to waive the notice requirements set out in section 35.3 of our regulations permitting the rates to take effect subject to refund thereafter on January 2, 1981.

Furthermore, the costing methodologies on which these proposed rates are based are the same as those currently being investigated in Docket No. ER80-222 which has been consolidated with Docket Nos. ER80-58, *et al.* Therefore, we find that common questions of law and fact exist. In order to avoid unnecessary duplication of effort or expenditures of resources, we shall consolidate this docket with those currently under investigation in Docket Nos. ER80-58, *et al.*

The Commission Orders:

(A) Waiver of the notice requirements of section 35.3 of the regulations is hereby granted for good cause shown.

(B) Georgia Power Company's proposed rates are accepted for filing and suspended for one day, to become effective January 2, 1981, subject to refund.

(C) This proceeding is consolidated with Docket Nos. ER80-58, *et al.*

(D) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-549 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-85-M

---

[3] *Id.*, mimeo at p. 3.

[4] *Georgia Power Company*, Docket No. ER80-222, order issued September 3, 1980.

[5] *E.g., Boston Edison Co.*, Docket No. ER80-506 (August 29, 1980) (five month suspension); *Alabama Power Co.*, Docket Nos. ER80-506, *et al.* (August 29, 1980) (one day suspension); *Cleveland Electric Illuminating Co.*, Docket No. ER80-488 (August 22, 1980) (one day suspension).

[Docket No. CP80-209]

Michigan Wisconsin Pipe Line Co.; Amendment to Application

December 24, 1980.

Take notice that on December 8, 1980, Michigan Wisconsin Pipe Line Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP80-209 an amendment to its application filed in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to reflect the transportation of natural gas for Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), and the construction and operation of facilities necessary therefor, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that ARCO Oil and Gas Company, a Division of Atlantic Richfield Company (ARCO) has acquired from the U.S. Department of the Interior the oil and gas leases covering West Cameron area Blocks 205, 206, 238, 239, and 249, offshore Louisiana. It is further stated that ARCO has granted Applicant the preferential right to purchase the gas reserves underlying Block 239, granted to Northern the right to purchase the gas reserves underlying Block 205, Block 238, and Block 249, and at present has not committed the reserves underlying Block 206.

Applicant proposes herein to construct and operate the facilities necessary to provide transportation onshore for the subject gas reserves.

Applicant states that Block 238 is located over 25 miles southeasterly of Applicant's existing offshore pipeline system in West Cameron area Block 171, offshore Louisiana, and that to connect Block 238 and the other ARCO blocks Applicant would construct and operate a 20-inch O.D. pipeline extension interconnecting an existing production platform in Block 171 and ARCO's production platform in Block 238 at an estimated cost of $18,758,080. Applicant further states that lateral pipeline and measurement facilities required to connect the production platform in Block 239 to the Block 238 extension would be constructed pursuant to budget authorization.

Applicant further proposes herein to provide a transportation service for Northern pursuant to a transportation agreement dated November 11, 1980. It is asserted that Northern would deliver up to 120,000 Mcf of natural gas per day attributable to its purchases of Block 205, 238, and 249 production and Applicant would deliver equivalent quantities less 2.2 percent for fuel use to Trunkline Gas Company (Trunkline) for the account of Northern.

Applicant states that the points of receipt from Northern are as follows:

(1) at a proposed subsea valve on the Block 238 extension to be located in West Cameron Block 204 with measurement on Atlantic Richfield Company's "A" platform in block 205;

(2) on Atlantic Richfield Company's "A" production platform in Block 238;

(3) at a proposed subsea valve on the Block 238 extension with measurement on Atlantic Richfield Company's "B" production platform in Block 238;

(4) at a second proposed subsea valve on the Block 238 extension with measurement at Atlantic Richfield Company's "C" production platform in West Cameron area Block 249, offshore Louisiana; and,

(5) such other point or points of receipt as added from time to time by mutual consent of the parties.

Applicant asserts that it would make redeliveries (1) at an existing onshore

interconnection between the pipeline systems of Applicant and Trunkline located at Applicant's Patterson Compressor Station in St. Mary Parish, Louisiana, and (2) at the tailgate of The Superior Oil Company's Lowry Plant in Cameron Parish, Louisiana. Applicant submits it would charge Northern a monthly demand charge equal to the product of the contract demand and $7.79. It is further submitted that the primary term of the agreement is for 15 years commencing with the date of initial deliveries.

It is stated that Applicant's existing onshore pipeline system between its Grand Chenier and Eunice stations is presently operating at deliverability levels approaching design capacity and that to increase the deliverability of such system to accommodate Northern's gas Applicant would construct and operate 13,000 horsepower of compression at the Grand Chenier Station and approximately 15.2 miles of 30-inch O.D. onshore pipeline loop at an estimated cost of $19,047,300 and $10,621,050, respectively.

Applicant states that the total cost of all facilities proposed herein is $48,520,910 which would be financed with treasury funds and other funds generated internally together with borrowings from banks under short-term lines of credit as required. Applicant anticipates that any bank borrowings would subsequently be permanently financed as market conditions permit.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before January 16, 1981, 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. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-550 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3617-000]

Middle Tennessee Electric Membership Corp.; Application for Preliminary Permit

December 23, 1980.

Take notice that Middle Tennessee Electric Membership Corporation (Applicant) filed on October 27, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for proposed Project No. 3617 to be known as Walterhill Dam Water Power Project located on the East Fork Stones River in Rutherford County, Tennessee, near the City of Murfreesboro. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. George W. Flew, Project Manager, c/o Allen & Hoshall, Inc., 227 Cumberland Bend, Nashville, Tennessee 37228. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed run-of-river project would consist of: (1) an existing concrete gravity dam, approximately 250 feet long and 15 feet high, and a concrete spillway approximately 180 feet long; (2) and existing 18-foot by 24-foot powerhouse, located on the north bank of the river, with three existing intake openings in the powerhouse headwall; (3) an existing reservoir with a maximum elevation at the crest of the dam of approximately 515 feet m.s.l.; (4) existing transmission lines; and (5) appurtenant facilities. The estimated installed generating capacity is approximately 1,200 kW.

The Applicant estimates that the average annual energy output would be 3,452,300 kWh.

Purpose of Project—the power generated at the facility would be distributed by the Middle Tennessee Electric Membership Corporation System to its members, and supplement the base energy requirements of its supplying agency, the Tennessee Valley Authority.

Proposed Scope and Cost of Studies under Permit—the Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it proposes to conduct economic and environmental studies, prepare application for necessary state and Federal permits, and to develop preliminary and final designs of the project. The Applicant estimates the cost of the proposed studies would be $10,200.

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—Anyone desiring to file a competing application must submit to the Commission, on or before February 25, 1981, 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 April 27, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

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 Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or

petition to intervene must be filed on or before February 25, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "Comments," "Notice of Intent To File Competing Application," "Competing Application," "Protest," or "Petition to Intervene," as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3617. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-552 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-88-000]

Northwest Pipeline Corp.; Application

December 24, 1980.

Take notice that on December 9, 1980, Chevron Chemical Company (Chemical) filed in Docket No. CP81-88-000 an application on behalf of Northwest Pipeline Corporation (Northwest), P.O. Box 1526, Salt Lake City, Utah 84110, pursuant to Section 7(c) of the Natural Gas Act as implemented by Section 157.101 of the Commission's Regulations (18 CFR 157.101) for a certificate of public convenience and necessity authorizing the transportation of up to 2,000 Mcf of natural gas per day for the account of Chemical from Rio Blanco County, Colorado, to Kennewick, Washington, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that pursuant to a gas purchase contract dated October 16, 1980, Chemical would purchase a supply of natural gas from Chevron U.S.A., Inc. (Chevron) at the outlet of the Hagood Gas Processing Plant located in the Rangely Field, Rio Blanco County, Colorado, which Chemical would use as process fuel in its fertilizer plant located near Kennewick, Washington.

Chemical states that Northwest has entered into a transportation agreement with Chemical dated October 28, 1980, pursuant to which Northwest would transport the subject gas from the Hagood delivery point to the facilities of Cascade Natural Gas Corporation (Cascade), a distribution customer of Northwest, at a point of interconnection in Benton County, Washington. Cascade, it is asserted, would deliver thermally equivalent volumes to Chemical as its Kennewick plant.

Chemical asserts that the transportation agreement is for a term of 15 years but requests the service be for a term of five years as provided by § 157.105(a) of the Commission's Regulations.

Northwest proposes to charge Chemical 1.54 cents per Mcf based on Northwest's incremental cost-of-service for the facilities required to transport Chemical's gas from the Hagood delivery point to the mainline which facilities would be constructed pursuant to budget authorization. Further Northwest proposes to charge Chemical its mainline direct transportation rate which rate is currently 20.34 cents per Mcf. Chemical states that the jurisdictional portion of all revenues received would be credited to Northwest's Account 191 of the Uniform System of Accounts Prescribed for Natural Gas Companies.

It is stated that the subject gas would be used by Chemical in its fertilizer plant as process fuel in the manufacture of ammonium nitrate, complex fertilizers and nitrogen solutions all of which qualify as essential agricultural uses.

Pursuant to Section 157.103 of the Commission's regulations, Chemical states that 2,000 Mcf of gas would be transported on a peak day, 1,049.8 Mcf on an annual average day, and 383,177 Mcf annually, all exclusive of fuel use. Further Chemical states Northwest would have capacity sufficient to perform the proposed transportation service as would Cascade.

Chemical submits that by establishing the Hagood delivery point Northwest also enhances its opportunities to acquire additional gas supples which may become available for sale at that point.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 16, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Northwest to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-552 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP75-314-003]

Panhandle Eastern Pipe Line Co.; Petition To Amend

December 24, 1980.

Take notice that on December 11, 1980, Panhandle Eastern Pipe Line Company (Petitioner), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP75-314-003 a petition to amend the order issued September 26, 1975,[1] in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the expansion of the specified area of interest pursuant to an exchange agreement between Petitioner, Kansas-Nebraska Natural Gas Company, Inc. (K-N) and El Paso Natural Gas Company (El Paso), the establishment of an additional balancing point and the addition and deletion of delivery points

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

and/or balancing points, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that by order issued September 26, 1975, it was authorized, *inter alia*, to exchange gas with K–N and El Paso in certain portions of Roger Mills County, Oklahoma, and Hemphill and Wheeler Counties, Texas.

Pursuant to a June 1, 1980, amendment to the gas exchange agreement between the parties, Petitioner proposes herein to:

(1) Expand the area of interest to include all of Roger Mills County, Oklahoma, and Hemphill and Wheeler Counties, Texas.

(2) Add as an additional balance point the Bryant #1–21 well located in Roger Mills County, Oklahoma, which is connected to the pipelines of both K–N and El Paso; and,

(3) Facilitate the expeditious exchange of gas by allowing on an annual basis a tariff filing on or before January 31 of each year showing additions or deletions of delivery points and/or balancing points.

Petitioner asserts that facilities to accomplish the exchange of gas at new delivery points would be installed under budget authorization. It is further asserted that the deletion of wells would be limited to those wells for which abandonment authorization has been secured or for which such authorization is not required by the producer-supplier.

Petitioner asserts that the subject proposals would make available to the parties contracted gas supplies without any unnecessary duplication of facilities and would minimize expenditures with respect to such supplies.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 16, 1981, 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-554 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-95-000]

Panhandle Eastern Pipe Line Co.; Application

December 24, 1980.

Take notice that on December 12, 1980, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP81-95-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of twenty-three taps to provide service for right-of-way grantors, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate 15 direct sales taps and to make direct sales of natural gas to these customers as follows:

Location of points-of-delivery and name of applicant	End use
Alfalfa County, Okla.—Claude Ryall	Domestic.
Alfalfa County, Okla.—Max Anthony	Do.
Beaver County, Okla.—Larry Taylor	Irrigation.
Woodward County, Okla.—Charles E. Lynes	Domestic.
Clark County, Kans.—RAI Land Company	Irrigation and Grain Drying.
Franklin County, Kans.—Jess Bolling	Domestic.
Johnson County, Kans.—Kirk E. Cornelius	Do.
Meade County, Kans.—Francis E. Shinogle	Do.
Meade County, Kans.—Francis E. Shinogle	Irrigation.
Meade County, Kans.—Holmes Carol Bender	Do.
Meade County, Kans.—Daniel C. Loewen	Do.
Meade County, Kans.—Novinger & Dufield Trusts	Do.
Cass County, Mo.—Dennis L. Ammon	Domestic.
Johnson County, Mo.—School District R-VII	Commercial.
Ralls County, Mo.—Louis B. Kohl	Domestic.
Ochiltree County, Tex.—C. G. Jewell	Do.

Applicant further proposes to construct and operate four new delivery points to Town Gas Company, an existing distribution company customer of Applicant, so that Town Gas Company may provide natural gas service to the following right-of-way grantors:

Location of points-of-delivery and name of applicant	End use
Christian County, Ill.—Carl S. Stahl	Domestic.
Douglas County, Ill.—Lois E. Mott	Do.
Edgar County, Ill.—Dale Hollingsworth	Do.
Peoria County, Ill.—David R. Oedewaldt	Do.

In addition, Applicant proposes to construct and operate three new delivery points to Indiana Gas Company, an existing distribution company customer of Applicant, so that Indiana Gas Company may provide natural gas service to the following right-of-way grantors:

Location of points-of-delivery and name of applicant	End use
Hancock County, Ind.—Phyllis M. Martin	Domestic.
Madison County, Ind.—Robert A. Delaplane.	Do.
Madison County, Ind.—Robert M. Watson	Do.

Applicant estimates that each domestic use customer would require an average volume of 150 Mcf of gas per year with irrigation fuel use customers each averaging 3,750 Mcf of gas per year.

Applicant estimates the total cost of facilities proposed herein is $49,300 which would be financed from cash on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 16, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-555 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP79-388-003]

Panhandle Eastern Pipe Line Co. and Trunkline Gas Co.; Petition to Amend

December 24, 1980.

Take notice that on December 11, 1980, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, and Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP79-388-003 a joint petition to amend the order issued November 19, 1979, pursuant to Section 7(c) of the Natural Gas Act so as to authorize the transportation of up to 100,000 Mcf of natural gas per day on an interruptible basis for the account of United Gas Pipe Line Company (United) and the delivery of gas at an additional point in Waller County, Texas, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioners state that by order issued November 19, 1979, they were authorized to transport gas for United. It is asserted that United has advised petitioners that the gas received for transportation from ONG Western, Inc. is subject to interruption. Therefore, pursuant to an amended transportation contract dated September 10, 1980. Petitioners propose to change the volumes transported from 60,000 Mcf per day on a firm basis and 40,000 Mcf per day on a best-efforts basis to 100,000 Mcf per day on an interruptible basis and to add a point of redelivery to Houston Pipeline Company in Waller County, Texas.

Further Petitioners state that United would pay Panhandle a unit charge of 19.09 cents per Mcf at St. Mary and the LaSalle Parishes, Louisiana, points of redelivery and 20.44 cents per Mcf at the Waller County, Texas, point of redelivery.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 16, 1981, 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-553 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-581]

Pataya Storage Co.; Request for Environmental Comments About a Proposed Natural Gas Storage Facility

December 29, 1980.

The Federal Energy Regulatory Commission (FERC) staff is currently evaluating the scope and significance of environmental impact associated with an application by Pataya Storage Company (Pataya), a wholly owned subsidiary of Southwest Gas Corporation (Southwest) for a certificate of public convenience and necessity. The application (Docket No. CP80-581) is filed pursuant to section 7(c) of the Natural Gas Act. The certificate would authorize construction and operation of an underground gas storage facility near Red Lake in Mohave County, Arizona. Natural gas would be stored under pressure during low demand summer months and redelivered during high demand to an interconnection with a main transmission pipeline of the El Paso Natural Gas Company (El Paso).

The applicant specifically seeks authorization to develop, by conventional methods of subsurface solution mining, two underground gas storage caverns in a massive halite (salt) deposit below Hualapai Valley in Mohave County, Arizona. The caverns would store 4 billion cubic feet (Bcf) of natural gas under pressure of 1,000 to 3,000 psi: 3 Bcf would be working gas; 1 Bcf would be cushion gas to maintain sufficient delivery pressure in the reservoir.

Solution mining of the caverns would require a groundwater withdrawal of approximately 5,700 acre feet (1.86 billion gallons) over 14 months and about 1.3 square miles of diked evaporating ponds to dispose of the brine solution that would be produced. The applicant further proposes to construct a compressor station necessary to operate the storage facility. It would consist of three 1,800-hp. reciprocating engine compressor units. Also proposed is approximately 30 miles of 16-inch diameter gas pipeline from the proposed storage facility near Red Lake south to the main transmission pipeline of El Paso near Kingman, Arizona. In addition, authorization is requested to provide Southwest with up to 100 million cubic feet per day (cfd) of natural gas and a total of 3 Bcf annually.

Also proposed are approximately 30 miles of electric power transmission line that would generally parallel the proposed gas pipeline and approximately 6 miles of improved access roadway.

The applicant also believes that additional storage service could be provided in the future from this facility for El Paso or any customers on the El Paso system, provided that sufficient transmission capacity exists in El Paso's pipeline. However, the applicant states that it has no firm plans for future expansion, and any proposal to do so would require a separate certificate.

Alternatives which the staff will consider include no project, LNG storage, underground pore space storage, and development of solution cavities in other salt bodies. Alternative electric power sources and brine disposal methods will also be evaluated.

A copy of this notice and additional technical information regarding the proposed project (including maps) have been distributed to Federal, state, and local environmental agencies, parties to the proceeding, and the public. These groups are invited to comment on anticipated environmental problems associated with the proposed project. These comments will be used by the FERC staff to identify the issues which require in-depth environmental analysis and to determine whether an environmental impact statement should be prepared. Comments should be addressed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Recommendations that the staff's evaluation address specific issues or alternatives should be supported by detailed rationale or a showing of the need to consider those issues or alternatives. Written comments should be submitted by February 13, 1981.

Additional information about the proposal is available from Mr. Lonnie Lister, Project Manager, Environmental Evaluation Branch, Office of Pipeline

and Producer Regulation, telephone (202) 357-8870.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-556 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3620-000]

Power Authority of the State of New York; Application for Preliminary Permit

December 23, 1980.

Take notice that the Power Authority of the State of New York (Applicant) filed on October 29, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Project No. 3620 to be known as the Delta Project located on the Mohawk River in Oneida County, New York. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Thomas R. Frey, General Counsel, Power Authority of the State of New York, 10 Columbus Circle, New York, New York 10019. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed run-of-the-river project would consist of: (1) an existing gravity dam composed of a 300-foot long ogee spillway with a maximum height of 86 feet flanked by non-overflow sections of 331 feet and 381 feet in length, respectively; (2) the Delta Reservoir with a surface area of 2,483 acres at crest elevation of 550 feet; (3) four existing 60-inch diameter outlet conduits, to be modified to serve as the power penstocks; (4) two existing 30-inch conduits in the western section of the dam providing water for a fish hatchery downstream; (5) a new powerhouse located below the eastern dam section; (6) a new 2.1 MW turbine/generator; and (7) a short transmission line and appurtenant facilities.

The Applicant estimates that the average annual energy output would be 10,300,000 kWh.

Purpose of Project—Project power would be sold to present Applicant customers.

Proposed Scope and Cost of Studies Under Permit—The work proposed under this preliminary permit would include preliminary designs, an economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to rehabilitate and operate the project. Applicant estimates that the work to be performed under this preliminary permit would cost $39,000.

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 February 4, 1981, 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 April 6, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, 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 Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). 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 part, 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 received on or before February 4, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3620. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-557 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3621-000]

Power Authority of the State of New York; Application for Preliminary Permit

December 23, 1980.

Take notice that the Power Authority of the State of New York (Applicant) filed on October 29, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Project No. 3621 to be known as the Canal Project located on Mohawk River in Schenectady and Montgomery Counties, New York. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Thomas R. Frey, General Counsel, Power Authority of the State of New York, 10 Columbus Circle, New York, New York 10019. Any person who wishes to file a response to this notice

should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed run-of-the-river project would consist of: (1) Locks E–8 through E–11 of the Erie Barge Canal System; (2) turbine/generator units rated at an average of 2.0 to 5.0 MW at each site depending upon whether estimates are based on operations during the eight month navigational season or the entire year; and (3) transmission and appurtenant facilities.

The Applicant estimates that the average annual energy output would be between 46 and 110 GWh.

Purpose of Project—Project power would be sold to the Applicant's customers.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would perform surveys and geological investigations, determine the economic feasibility of the project, 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. Applicant estimates the cost of studies under the permit would be $75,000.

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 February 4, 1981, 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 April 6, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, 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 Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). 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 received on or before February 4, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3621. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulation to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-558 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RI81-3-000]

Riddell Petroleum Corp.; Petition for Declaratory Order

December 24, 1980.

Take notice that on November 12, 1980, Riddell Petroleum Corporation (Riddell), 1606 First City National Bank Building, Houston, Texas 77002, filed in Docket No. RI81-3-000 a petition for declaratory order pursuant to Section 1.7 of the Commission's Rules of Practice and Procedure (18 CFR 1.7). Riddell requests that the Commission declare that Riddell may collect the applicable maximum lawful price under the National Gas Policy Act of 1978 (NGPA) for certain past sales of natural gas to Michigan Wisconsin Pipe Line Company (Michigan Wisconsin).

In its petition Riddell, a certificated small producer, indicates that it made sales of gas to Michigan Wisconsin from the Laverne Field, Harper County, Oklahoma, under a contract dated July 31, 1958, for a term which ended December 19, 1978. Under the terms of the contract, Riddell states that the price for the gas was set at a fixed rate plus fixed escalations, such that the price at the date of the expiration of the contract was approximately 27 cents per Mcf.

Riddell further states that shorty after the expiration of the contract it sought to negotiate a new contract with Michigan Wisconsin to provide for collection of the applicable maximum lawful price, but negotiations were delayed by Michigan Wisconsin's having to deal with a number of expired contracts during the same time period. Riddell asserts that it was assured by Michigan Wisconsin that the new contract would be retroactive to the expiration date of the original contract. Following further delays in negotiating the terms of a new agreement and after further assurances by Michigan Wisconsin, Riddell states, the parties executed a new contract on July 2, 1979 that provided for the collection by Riddell of the applicable maximum lawful price for the sale of the gas. Riddell states that during the period from December 1978 through June 1979, Michigan Wisconsin continued to take delivery of the gas and paid Riddell at the applicable maximum lawful price set forth in Section 104 of the NGPA.

By its petition Riddell requests that the Commission issue an order declaring that Riddell was entitled to collect the applicable maximum lawful price for sales of the subject gas during the period from December 19, 1978 to July 2, 1979, as being contractually permitted by agreement between the parties. In the alternative, Riddell requests that its petition be deemed a unilateral rate increase filing to collect the applicable maximum lawful price during the period at issue, and that the Commission accept the filing effective retroactive to December 19, 1978 and waive the portion of Section 154.94 of the Commission's Regulations (18 CFR 154.94) which requires that a rate increase filing be made prior to the collection of the rate. As a second alternative, in the event that the Commission should find that the applicable maximum lawful price for the subject sales was not contractually permitted during the period at issue, Riddell requests that the Commission waive that portion of Section 157.40(c) of its Regulations (18 CFR 157.40(c)) which requires small producer rates to be contractually permitted in order to be collected under a small producer certificate without a rate change filing, and permit Riddell to collect the maximum lawful price for the sales during the period at issue.

Any person desiring to be heard or to make any protest with reference to said petition should on or before January 24, 1981, 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. 81-550 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RE80-30]

Southwestern Public Service Co.; Order on Rehearing

Issued: December 29, 1980.

Before Commissioners: Georgiana Sheldon, Acting Chairman; Matthew Holden, Jr., and George R. Hall.

On December 3, 1980, Southwestern Public Service Company (SPSC) filed an application for exemption from certain of the reporting requirements of Part 290 of the Commission's regulations, 18 CFR 290, as published on October 11, 1979, at 44 FR 59687.[1] These regulations implement section 133 of the Public Utility Regulatory Policies Act of 1978 (PURPA). A summary of the application was published in the **Federal Register** on January 17, 1980 (45 FR 3380), and in newspapers of general circulation in SPSC's service area during April and May of 1980. The **Federal Register** notice invited comments on the application until a closing date of February 29, 1980. The newspaper notices invited comments by May 28, 1980.

On August 18, 1980, comments were received from the Public Utility Commission of Texas (TPUC) in support of SPSC's application. No other comments were received.

In its application, SPSC requested exemption from the requirement of section 290.403(a) to provide class load data for certain customer groups defined in section 290.404(a), (b), and (d). SPSC based its request on a two-part argument: (1) that time-of-day rates would not be cost-effective for its retail business because of certain load and cost characteristics of its system; and (2) since section 290.404(h) provides an exemption from the class load data requirements for customer groups served under time-of-day rates, SPSC should receive the same exemption.

On October 28, 1980, the Director of the Office of Electric Power Regulation issued an order denying the SPSC application.[2] SPSC filed an application for rehearing of that denial on November 28, 1980.

SPSC states that its application for rehearing is not predicated on any errors in the order denying the requested exemption. Rather, SPSC indicates that the New Mexico Public Service Commission (NMPSC) is currently considering the need for SPSC to supply various class load data in its Case No. 1567, which is a proceeding initiated to consider the rate-making standards of Title I of PURPA for SPSC. It appears that these class load data are similar to those required to be reported under the provisions of Part 290 from which SPSC sought exemption in its original application. SPSC anticipates that NMPSC, upon the completion of its proceedings in Case No. 1567, will be in a position to determine whether it will support SPSC's application for exemption. As a result, SPSC has requested that this Commission grant rehearing of the prior order for the purpose of keeping SPSC's exemption application pending until the NMPSC has completed its proceedings and has expressed its position to this Commission.

On December 2, 1980, NMPSC filed a letter confirming SPSC's statements as to the status of Case No. 1567, and indicating a probable conclusion of that case by July 15, 1981. NMPSC states that it will, upon conclusion of Case No. 1567, communicate to this Commission whether and to what extent it will support SPSC's application for exemption. NMPSC suggests that a final decision on SPSC's application be deferred until its determinations are available for consideration.

Discussion

Upon consideration of the pleadings, and in view of the fact that TPUC supported SPSC's original application, it appears reasonable to hold this matter in abeyance until NMPSC has made the determinations discussed above and has communicated them to this Commission.

Accordingly, the SPSC application for rehearing will be granted to the extent that a final decision on SPSC's application for exemption will be deferred until August 31, 1981, or until such earlier time as will permit consideration of any comments which may be submitted by the NMPSC on this matter.

The Commission Orders

(A) SPSC's application for rehearing is hereby granted to the extent that a final decision on SPSC's original application for exemption will be deferred until August 31, 1981, or until such earlier time as will permit consideration of any comments which may be submitted by the NMPSC on this matter.

(B) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 81-560 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-85-M

---

[1] On November 6, 1979, SPSC had filed a letter requesting a one-month extension of time beyond November 1, 1979, to submit its application for exemption.

[2] Authority to act on such matters has been delegated to the Director, Office of Electric Power Regulation, under § 3.5(g)(37) of the Commission's regulations, 18 CFR 3.5(g)(37), as amended on January 23, 1980.

[Docket No. GP80-20]

Tennessee Gas Pipeline Co.; Third Party Protest [1]

December 23, 1980.

Take notice that in accordance with the procedures established by the Federal Energy Regulatory Commission (Commission) in Order No. 23-B,[2] and "Order on Rehearing of Order No. 23-B,"[3] Associated Gas Distributors (AGD) protested on December 9, 1980, the assertion by the Tennessee Gas Pipeline Company (Tennessee) and certain producers that the contracts identified in its protests constitute contractual authority for the producers to charge and collect any applicable maximum lawful price under the Natural Gas Policy Act of 1978 (NGPA).

AGD stated that the language of the following contracts does not constitute authority for the producer to increase prices to the extent claimed by Tennessee in its evidentiary submission:

Seller	Rate schedule No.	Date
Amoco Production Co	573	1/1/49
		4/1/75
		6/20/80
Tenneco Oil Co	293	10/1/79
Samedan Oil Corp	CS 71-430	5/31/79
Transocean Oil, Inc	10	4/27/60
		5/18/78
Texaco, Inc	138	9/30/55
		9/1/73
		7/8/80
Gulf Oil Corp	175	
Texaco, Inc	59	8/1/50
		6/1/74
		5/1/80
Texaco, Inc	56	10/2/50
		6/1/74
		5/1/80
Texaco, Inc	260	10/27/53
		6/1/74
		5/1/80
Superior Oil Co	2	6/17/53
		1/28/75
		7/15/76
		6/27/80
Texaco, Inc	528	8/1/75
		7/31/80
Aminoil of L. A., Inc	10	12/31/56
		6/1/79
Chevron U.S.A., Inc	176	12/31/56
		6/1/79
Mesa Petroleum Co	87	
Mesa Petroleum Co	86	
Santa Fe Energy Co	CS 71-206	6/31/79

Any person, other than the pipeline and the seller, desiring to be heard or to make any response with respect to these protests should file with the Commission, on or before January 8, 1981, a petition to intervene in accordance with 18 CFR 1.8. The seller need not file for intervention because under 18 CFR 154.94(j)(ii), the seller in the first sale is automatically joined as a party.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-581 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-85-M

[1] The term "third party protest" refers to a protest filed by a party who is not a party to the contract which is protest.

[2] "Order Adopting Final Regulations and Establishing Protest Procedure," Docket No. RM79-22, issued June 21, 1979.

[3] Docket No. RM79-22, issued August 6, 1979.

[Docket No. CP81-93-000]

Transcontinental Gas Pipe Line Corp.; Application

December 24, 1980.

Take notice that on December 11, 1980, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP81-93-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for United Gas Pipe Line Company (United), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to an agreement between the parties dated June 23, 1980, as amended November 17, 1980, Applicant proposes to transport up to 13,300 Mcf of natural gas per day on a firm basis for United both individually and as agent for Amoco Production Company. It is stated that Applicant would receive the gas at an interconnection between the facilities originating in Ship Shoal Block 84 jointly owned by Northern Natural Gas Company, Division of InterNorth, Inc., Southern Natural Gas Company and United and Applicant's Southeast Louisiana gathering system in Ship Shoal Blocks 70 and 72, offshore Louisiana. It is further asserted that Applicant would redeliver thermally equivalent quantities at (1) the existing interconnection between the systems of Applicant and United at Starks, Calcasieu Parish, Louisiana, (2) the existing interconnection between the systems of Applicant and United in Victoria County, Texas, (3) the existing interconnection between Applicant and Tennessee Gas Pipeline Company, a Division of Tenneco Inc. at Crowley, Acadia Parish, Louisiana, (4) the existing interconnection between Applicant and United at the Cameron Meadows Plant, Cameron Parish, Louisiana, (5) the existing interconnection between Applicant and Florida Gas Transmission Company in Vermilion Parish, Louisiana, and (6) any other mutually agreeable existing authorized points of interconnection between the systems of Applicant and United.

It is submitted that for all quantities transported, United would pay Applicant a monthly demand charge of $41,496 and Applicant would retain 1.2 percent of the quantities transported as compressor fuel and line loss make-up. It is further asserted that the agreement is for a primary term of ten years from the date of initial deliveries and from year to year thereafter.

Applicant states that the proposed transportation service would assist United in receiving quantities of gas into its system which United would purchase in Block 84, Ship Shoal area, offshore Louisiana.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 16, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-582 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 2899]

Twin Falls Canal Co. and North Side Canal Co., Ltd.; Application for Preliminary Permit

December 23, 1980.

Take notice that Twin Falls Canal Company and North Side Canal Company, Ltd. (Applicant) filed on November 5, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed project No. 2899 to be known as the Milner Hydroelectric Project located on the Snake River in Twin Falls, Jerome, Cassia, and Minidoka Counties, Idaho. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. John Rosholt, Esquire, P.O. Box 1906, Twin Falls, Idaho 83301, with copies to Mr. James G. Patrick, 1575 Kingswood Drive, Hillsborough, California 94010.

Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) the existing Applicant's Milner Dam, a 73-foot high by 2,160-foot long earth and rockfill structure creating; (2) the Milner Reservoir, with storage capacity of 40,000 acre-feet; (3) the existing Twin Falls South Side Canal; (4) a new forebay structure; (5) two 15-foot, 6-inch diameter penstocks, each approximately 390 feet long serving; (6) a new powerhouse to contain two Francis-type, turbine-generating units with a total rated capacity of 50.25 MW, operating under a head of 140 feet; (7) approximately 1.25 miles of 138–kV transmission line that would transmit project power to an existing Idaho Power Company's substation.

The Applicant estimates that the average annual energy output would be 161.5 GWhs.

Purpose of project—Applicant proposes to sell the project energy to Idaho Power Company (IPC) which would be used in IPC's electric service area.

Proposed Scope and Cost of Studies under Permit—Extensive studies including geological reconnaissance; preliminary engineering, cost estimates, and economic analysis have been undertaken. Applicant proposes no new road or ground disturbing field tests. Applicant seeks issuance of a preliminary permit for a period of 36 months during which it would prepare a definitive project report that would include further engineering and environmental data. The costs of these activities, the preparation of an environmental report, obtaining agreements with various Federal, State, and local agencies, and preparation of an FERC license application are estimated by the Applicant to be about $150,000.

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—Anyone desiring to file a competing application must submit to the Commission, on or before February 23, 1981, 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 April 24, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

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 Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before February 23, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for project No. 2899. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-563 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3540-000]

Utah Hydro Corp.; Application for Preliminary Permit

December 23, 1980.

Take notice that Utah Hydro Corporation (Applicant) filed on October 8, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3540-000 to be known as the East Canyon Hydroelectric Project located on East Canyon Reservoir in Weber County, Utah. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: J. D. Catten, 8184 Breeze Drive, Magna, Utah 84044. Any person who wishes to file a

response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize the existing Army Corps of Engineers' East Canyon Dam and would consist of a penstock, a powerhouse with one or more generating units having a total rated capacity of 1,416-KW, and an 11-mile long transmission line. The project would be capable of generating up to 12.0 GWH annually.

Purpose of Project—Energy generated at the project would be sold to Utah Power and Light Company.

Proposed Scope and Cost of Studies Under Permit—The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $35,000.

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 February 27, 1981, 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 April 28, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

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 Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). 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 received on or before February 27, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3540. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 N. Capitol St., NE., Washington, D.C. 20426. An additional copy must be sent to Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-542 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-85-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of November 10 Through November 14, 1980

During the week of November 10 through November 14, 1980, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Blex Oil Co., Minneapolis, Minnesota, BFA-0485, Freedom of Information

Blex Oil Company filed an Appeal from a partial denial by the DOE District Manager for the Central Enforcement District of a request for information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that certain of the documents which were initially withheld under Exemptions 7(C) and 7(D) should be released to the public. Since the person whose privacy was being protected had no objection to the release of the documents, the appeal was granted.

Deutsche Corporation, Tulsa, Oklahoma, BFA-0494, Freedom of Information

Deutsche Corporation filed an Appeal from two denials by the Acting Assistant Administrator for Enforcement, Economic Regulatory Administration, of a request for information which it had submitted under the Freedom of Information Act. In considering the Appeal, the DOE provided a more thorough description of the withheld documents but upheld the adequacy of the Acting Assistant Administrator's justifications for nondisclosure. Nevertheless, the DOE released a portion of a document withholdable under Exemption 2 because release of that material would not be contrary to the public interest. Important issues that were considered in this decision included (i) whether documents made available by the DOE to the General Accounting Office could continue to be withheld from the public under the FOIA and (ii) whether comments solicited by an agency from persons outside the government are protected by Exemption 5.

Husky Oil Co., Denver, Colorado, DEA-0541, Motor gasoline

Husky Oil Co. filed an Appeal of an Assignment Order issued to it by the ERA on June 26, 1979. The order increased Husky's base period supply obligations to Mapleton Sales, Inc., a wholesale purchaser-reseller who sought the assignment for a new retail outlet it planned to open. In considering the Appeal, the DOE determined that the ERA failed to set forth an adequate factual basis for the issuance of the assignment order. Accordingly, the Appeal was granted and the assignment order was remanded to ERA for further proceedings.

Leonard L. Kleinman, Cleveland, Ohio, BFA-0493, Freedom of Information

Leonard L. Kleinman filed an Appeal from a partial denial by the District Manager of the Central Enforcement District of a request for information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that the determination by the District Manager failed to adequately explain the withholding of documents under Exemption 7(A). The DOE also found the District Manager failed to include in his partial denial an index of those documents which were withheld under Exemption 7(A). Finally, the DOE found that the determination by the District Manager under 10 CFR 1004.1 was inadequate. The DOE therefore remanded the matter to the District Manager for corrective action.

Joe A. Rudberg, Dallas, Texas, BFA-0496, Freedom of Information

Mr. Joe A. Rudberg filed an Appeal from a partial denial by the Economic Regulatory Administration (ERA) of a request for information which he had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that the ERA correctly withheld five documents under Exemption 5 and one document under Exemption 2. Accordingly, the Appeal was denied.

Remedial Orders

Bill Dobko d.b.a. Bill Dobko Chevron, Redwood City, California, BRO-1218, Motor gasoline

Bill Dobko d.b.a. Bill Dobko Chevron objected to a Proposed Remedial Order which the Western District of the Economic Regulatory Administration Office of Enforcement (ERA) issued to the firm on April 29, 1980. In the Proposed Remedial Order, ERA found that during the audit period, Dobko sold motor gasoline to its retail customers at prices in excess of its maximum lawful selling prices in violation of 10 CFR 212.93, charged for services by means of a fee computed on a cents-per-gallon basis in violation of 10 CFR 210.62(d), and failed to make records available for inspection upon request in violation of 10 CFR 210.92(b). In considering the firm's objections, the DOE upheld ERA's findings that Dobko violated 10 CFR 212.93, 10 CFR 210.62(d), and 10 CFR 210.92(b). The DOE therefore concluded that the Proposed Remedial Order should be issued as a final Order. The important issues discussed in the Decision and Order include (i) whether § 212.93 of the DOE regulations violates Section 324 of the Clean Air Act, and (ii) whether the Administrative Procedure Act permits Dobko to require a subpoena before producing records.

Shoreline Texaco, San Francisco, California, BRO-1169, Motor gasoline

Shoreline Texaco objected to a Proposed Remedial Order that the DOE Office of Enforcement issued to the firm on March 21, 1980. In the Proposed Remedial Order, the Office of Enforcement found that Shoreline had charged prices higher than those permitted by 10 CFR 212.93(a)(2). After considering the firm's objections, the DOE concluded that the Proposed Remedial Order should be issued as a final Remedial Order. The important issues discussed in the Decision include (i) whether charging a combined cents-per-gallon price for gasoline and service in excess of the maximum lawful selling price permitted by DOE regulations violates 10 CFR 212.93(a)(2), and (ii) the procedural and substantive validity of 10 CFR 210.62(d)(1).

Ye Old Pumphouse, San Francisco, California, BRO-1154, Motor gasoline

Ye Old Pumphouse objected to a Proposed Remedial Order that the DOE Office of Enforcement issued to the firm on March 21, 1980. In the Proposed Remedial Order, the Office of Enforcement found that Ye Old Pumphouse had charged prices higher than those permitted by 10 CFR 212.93(a)(2). After considering the firm's objections, the DOE concluded that the Proposed Remedial Order should be issued as a final Remedial Order. The important issues discussed in the Decision include: (i) whether charging a combined cents-per-gallon price for gasoline and service in excess of the maximum lawful selling price permitted by DOE regulations violates 10 CFR 212.93(a)(2), and (ii) the procedural and substantive validity of 10 CFR 210.62(d)(1).

Remedial Orders

In the following case involving a Proposed Remedial Order and/or an Interim Remedial Order for Immediate Compliance, no Statement of Objections was filed. The DOE therefore issued the order in final form.

Company Name, Case No. and Location

Robert J. Kutinac, BRW-0070, Cicero, IL.

Requests for Exception

A&B Holding Company, Inc., San Antonio, Texas, BEE-1210, Gasohol

A&B Holding Company, Inc. filed an Application for Exception from the provisions of 10 CFR Part 211. In its Application, the firm sought an increase in its base period allocation of unleaded gasoline so that it could produce gasohol for sale to three large multiple-retailers that were not base period customers of A&B. In considering the request, the DOE found that exception relief was necessary to provide A&B with an assured supply of additional unleaded gasoline so that it would undertake the planned expansion of its gasohol marketing operations. Accordingly, exception relief was granted increasing A&B's base period allocation of unleaded gasoline by 130,000 gallons per month.

Belco Petroleum Company, Houston, Texas, DXE-2251, Crude oil

Belco Petroleum Company filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. Exception relief was granted to permit Belco to sell at market prices not to exceed $20.76 per barrel 100 percent of the crude oil produced from the White River Unit located in Vintah County, Utah.

Big K Oil Company, Rockingham, North Carolina, DEE-5009, Motor gasoline

Big K Oil Company filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. The firm also sought a change of its base period supplier from Swink Quality Oil Company to Texaco, Inc. In considering the request, the DOE found that the firm had failed to demonstrate that it would experience a gross inequity or serious hardship in the absence of exception relief increasing its base period allocation. The DOE also determined that Big K's mere preference not to do business with its base period supplier was insufficient justification for the approval of an exception authorizing the change of supplier sought by the firm. Accordingly, exception relief was denied.

David Douglas Public Schools, Portland, Oregon, BEE-1124, Motor gasoline

David Douglas Public Schools filed an Application for Exception from the provisions of 10 CFR Part 211 in which the school district sought a change in its base period suppliers of motor gasoline. In considering the request, the DOE found that in the absence of convincing evidence of fraud or a deteriorating business relationship between David Douglas and its base period suppliers, an exception terminating the existing supplier/purchaser relationships and assigning an unwilling supplier to the School District was not warranted. Accordingly, exception relief was denied.

Marion DX, Marion, Iowa, BEO-0786, Motor gasoline

Marion DX filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increased base period allocation of motor gasoline. In considering the request, the DOE found that any difficulties which the firm might be experiencing were attributable to competitive market conditions rather than DOE regulations. Accordingly, exception relief was denied.

Northland Oil Company, Ely, Minnesota, DEE-7737, motor gasoline

Northland Oil Company (Northland) filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increased allocation of motor gasoline. In considering the firm's request, the DOE determined that the firm had failed to show that its community is bearing a disproportionate share of the burden of the current gasoline supply situation. Accordingly, the firm's Application for Exception was denied.

BYS, Inc., Dallas, Texas, BXE-0617, crude oil

BYS, Inc. filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. Exception relief was granted to permit BYS, Inc. to sell at market prices 100 percent of the crude oil produced from the Humble-Dowdy Fee Lease located in Duval County, Texas.

J.R.'s Servicenter, Arona, Pennsylvania, BEO-0636, motor gasoline

J.R.'s Servicenter filed an Application for Exception from the provisions of 10 CFR 211.102 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm would not experience a

gross inequity in the absence of exception relief. The DOE also found that residents in the firm's market area are not experiencing any difficulties in obtaining gasoline as a result of the DOE regulatory program. Accordingly, exception relief was denied.

Mechanical Technology Incorporated, Ballston SPA, New York, BEE-0421, motor gasoline; propane

Mechanical Technology Inc. (MTI) filed an Application for Exception from the provisions of § 212.83(c)(2) of the DOE price regulations. If granted, MTI's exception request would permit Mobil Oil Corporation to retain for its own benefit utility cost reductions experienced at Mobil's Torrance, California refinery as the result of the installation of an experimental system developed by MTI which converts industrial waste-heat into electrical power. In considering MTI's request, the DOE found that MTI's system has the potential to reduce significantly the amount of energy consumed by the petroleum refining industry. The DOE also found that the price regulations reduced Mobil's incentive to install MTI's system and thereby frustrated the national energy policy objective of reducing energy consumption. The DOE therefore determined that the application of the price regulations in this instance resulted in a gross inequity. Consequently, MTI's exception request was granted.

Nova Mud Corporation, Ely, Nevada, BEO-0535, motor gasoline

Nova Mud Corporation filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that it was experiencing a serious hardship, gross inequity, or unfair distribution of burdens since it was able to purchase its increased requirements for motor gasoline from retail outlets. Accordingly, exception relief was denied.

River Valley Marina, Little Rock, Arkansas, BEO-1071, motor gasoline

River Valley Marina filed an Application for exception from the provisions of 10 CFR Part 211 in which the firm sought an increased based period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that it or its customers were experiencing a gross inequity, serious hardship, or unfair distribution of burdens as a result of the DOE regulations. Accordingly, exception relief was denied.

U.S. Oil Company, Combined Locks, Wisconsin, DEE-3174, DEE-6387, motor gasoline

U.S. Oil Company of Combined Locks, Wisconsin, filed two Applications for exception from the provisions of 10 CFR Part 211, in which the firm requested that the DOE issue orders directing new, lower-priced suppliers to furnish the firm with its base period volumes of motor gasoline. The DOE upheld the tentative finding reached in a November 2, 1979 Proposed Decision and Order that in the absence of exception relief providing U.S. Oil Company with competitively priced gasoline the competitive viability of the firm's distribution system was in serious jeopardy. The DOE also considered and rejected the following contentions advanced in Statements of Objections to the proposed determination: (i) U.S. Oil's difficulty is unrelated to DOE regulations, (ii) the Proposed Decision and order was not based upon a sufficient factual or legal basis, (iii) national energy policy objectives were frustrated by the issuance of the Proposed Decision (iv) the firms selected as new suppliers to U.S. Oil did not receive adequate notice of their selection or an opportunity to comment on the firm's exception applications, and (v) the Economic Regulatory Administration lacks the authority to make assignments pursuant to a directive from the Office of Hearings and Appeals. However, the DOE sustained the contention that permanent exception relief is unwarranted in the present case. Accordingly, the Proposed Decision and Order was modified to specify that the exception relief granted U.S. Oil will terminate on December 31, 1980.

Weitzel Brothers, Inc., Baltimore, Maryland, DEE-6102, motor gasoline

Weitzel Brothers, Inc. filed an Application for exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm failed to establish that its base period allocation is unrepresentatively low or that the retail outlets in its market area cannot satisfy the demand for gasoline. Accordingly, exception relief was denied.

Request for Modification

Cities Service Company, Tulsa, Oklahoma, BMR-0058, gasohol

Cities Service Company filed an Application for Modification of a Decision and Order issued to Ewing Oil Company. As a result of that determination, Cities was directed to supply Ewing with motor gasoline so that Ewing could produce and market gasohol. In its Application, Cities sought a modification of the period for which exception relief was granted to Ewing. In considering the request, the DOE found that the changed circumstances upon which Cities' Application was based were the result of discretionary decisions by Cities and did not constitute an appropriate basis for modification of the Order. Cities' Application for Modification was accordingly denied.

Motion for Discovery

Marathon Oil Company, Washington, D.C., BED-0138, BEJ-0138

In a Motion for Discovery, Marathon sought access by its in-house counsel and other employees to the entire record of a proceeding initiated by an Application for Exception from the provisions of 10 CFR 211.67, the Entitlements Program, filed by Little America Refining Company (Larco). Although the DOE recognized the need of Marathon for Larco's confidential financial data, the DOE noted a concern for a proper balance between the data needs of Marathon and the protection that should be afford Larco against harm caused by a disclosure of proprietary data to its competitors. The DOE also noted that this concern led it to direct Larco to provide its confidential data to independent counsel of each party to the proceeding, but not to employees of intervenors, in previous Discovery Decisions in connection with the Larco proceeding. In the current Decision, however, the DOE found that Marathon correctly maintained that its outside counsel, may benefit from consultation with Marathon's employees, and the consultation may be improved if the individuals on Marathon's staff have had an opportunity to review the confidential data involved. The DOE therefore ordered Marathon and Larco to negotiate an agreement on the designation of three of Marathon's employees in addition to Marathon's in-house counsel to review Larco's confidential data. The DOE also ordered the parties to submit a Stipulation of Protective Order once the agreement is reached.

Supplemental Orders

Kenny's Food Market, Richfield, Minnesota, BEX-0132, motor gasoline

Kenny's Food Market originally filed an Applicant for Exception from the provisions of the Mandatory Petroleum Allocation Regulation in which the firm sought an increase in its base period allocation of motor gasoline. The DOE granted that request upon a finding that exception relief was necessary to prevent the firm from experiencing a gross inequity. However, the decision granting relief to the firm stipulated that Kenny's provide the DOE with certain financial information by July 31, 1980. Because the firm did not submit this information, the DOE concluded that Kenny's had failed to establish that it continued to experience a gross inequity in the absence of exception relief. Accordingly, the exception relief which was previously approved was rescinded on a prospective basis.

Publix Oil Company, Morristown, Tennessee, BEX-0087, motor gasoline

In a Decision and Order issued to Publix Oil Company on July 24, 1980, the Office of Hearings and Appeals assigned five firms to supply Publix with specified volumes of motor gasoline during the period August 1, 1980 through July 31, 1981. Beginning August 1, 1981, Marathon Oil Company was required to supply the assigned volumes to Publix under the same terms and conditions of a supply contract which was in existence between Marathon and Publix prior to the imposition of the base period for motor gasoline allocation. This supplemental order modified the July 24 Decision and Order by: (1) rescinding the condition that limited Publix's profit margin to a specified level; (2) permitting Publix to sell gasoline that it purchases on the surplus market to non-base period customers; (3) adjusting the amount of relief to reflect the adjusted base period volumes of Publix's customers; (4) permitting assigned suppliers without a Tennessee rack price to place Publix in their appropriate class of purchaser and charge the corresponding price; and (5) adjusting the amount of relief to reflect Publix's reduced supply obligations to a group of former Arco jobbers.

Interim Orders

The following firms were granted interim exception relief which implements the relief which the DOE proposed to grant in an order issued on the same date as the Interim Order:

Company Name, Case No., and Location

Bell's Service, BEN–0023, Rialto, CA
Colstrip Town Pump, BEN–1158, Wash., DC
Hogan's Marathon, BEN–1438, Wash., DC
East 60 Marathon, BEN–1454
Dave's Marathon (Lansing), BEN–1458
Leon's Marathon, BEN–1462
Dry Ridge Marathon (Marathon Oil Co.), BEN–1471

Petitions Involving the Motor Gasoline Allocation Regulation

The following firms filed Applications for Exception, Temporary Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in increases in the firm's base period allocations of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be denied.

Company Name, Case No., and Location

Belle Meade, BEO–0245, Nashville, TN
Columbia Amoco, DEE–6129, Ellicott City, MD
E. W. Massey Gulf Service Station, DEO–0385, Sulphur Springs, TX
Get It and Go Shell, BEE–0395, Leeds, AL
Penn Flat Service Center, Inc., BEO–0141, Brooklyn, NY

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

Name and Case No.

Avondale Shell, DEO–0344
Bruton Pet. Co., DEE–6661
Crown Central Petroleum Corp., BEA–0429
Flint Ink Corp., BEL–0288
Hunt Oil Co., DEE–7604
J. D. Streett & Co., BRS–0107; BRT–0107
R & D Texaco, BEE–1867
Rama, Alan, BFA–0506
Tony's Elmora Shell, Inc., DEO–0322

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reported system.

George B. Breznay,

Director, Office of Hearings and Appeals.

December 31, 1980.

[FR Doc. 81–493 Filed 1–7–81; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[AD–FRL 1674–3]

Collection of SO_2 Emissions Data From Certain Coal-Fired Electric Utility Steam Generating Units

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The purpose of this Notice is to announce a one-year program being considered by the Administrator to expand the availability of short-term SO_2 emissions data from certain coal-fired electric utility steam generating units and to invite comment on the intended program before it is made final. The program would require, under authority granted to the Administrator by Section 114 of the Clean Air Act, that utilities report the 24-hour (daily) SO_2 emission rate (lb. $SO_2/10^6$ Btu) and the daily heat input (10^6 Btu) for each coal-fired steam generator capable of firing at least 3,000 million Btu/hr heat input (300–MW potential electrical output capacity). Utilities will be allowed to use continuous (and possibly intermittent) emission monitoring or fuel sampling and analysis methods to determine the required emissions information in accordance with criteria set forth by the Administrator.

Today's Notice describes the basis for the one-year program under consideration and presents the tentative requirements which would have to be met in complying with the program. Final requirements will be established after the Administrator has had an opportunity to consider the comments received pursuant to this Notice.

DATES: EPA will consider comments received on or before March 9, 1981.

ADDRESS: Comments should be submitted (in duplicate, if possible) to: Central Docket Section (A–130), U.S. Environmental Protection Agency, 401 M St. SW, Washington, D.C. 20460, Attention: Docket No. OAQPS–79–12.

Docket No. OAQPS–79–12, containing material relevant to this Notice, is located in the Central Docket Section of the U.S. Environmental Protection Agency, West Tower Lobby Gallery I, 401 M St. SW, Washington, D.C. 20460. The docket may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays and a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Joseph Sableski or Daniel deRoeck, Plans Guidelines Section (MD–15), U.S. Environmental Protection Agency, Research Triangle, Park, N.C. 27711; Telephone No. (919) 541–5437, or (FTS) 629–5437.

SUPPLEMENTARY INFORMATION:

I. Background

The Administrator of the U.S. Environmental Protection Agency is considering the implementation of a one-year reporting program applicable to coal-fired electric utility steam generating units. The program, requiring the submission of daily SO_2 emissions data, would enable the Agency to significantly improve its ability to define the emissions from power plants and would provide a data base to more effectively assess the environmental impacts of SO_2 emissions.

Relatively little short-term SO_2 emissions data from power plants are currently available. While several special studies of short duration have been made on individual plants, EPA's main data base defines annual average SO_2 emissions. The interpretation of short-term averages using long-term averages is very difficult at best because of the tendency for power plants burning coal to experience highly variable emissions, especially over short averaging periods of 24 hours or less. This emissions variability results from the natural variation in the sulfur content of coal. In recent years there has been a growing awareness of the problems associated with sulfur variability in developing meaningful emission limits and determining compliance for coal-fired sources. The data that would be acquired through the program being considered by the Administrator could assist the Agency in its planned review of existing policies and procedures for developing, evaluating, and enforcing emission limits for coal-fired power plants (45 FR 9994, February 14, 1980).

SO_2 Emission Limits for Power Plants

Traditionally, the setting of emission limits for coal-fired power plants has been done without allowances for sulfur variability. Mathematical dispersion models used to predict ground-level concentrations of SO_2 have generally assumed a constant emission rate. The predictions from these models were then used to develop emission limits which typically did not specify an averaging period over which the limit would apply. As a result, the tendency has been that such inadequately-defined emission limits are interpreted inconsistently and are usually not applied to short-term periods such as 24 hours or less.

EPA is evaluating various alternative methods for establishing emission limits for power plants. In some cases, the methods make specific allowances for

sulfur variability. In any event it is clear that meaningful emission limits must specify averaging periods over which the limit will apply. Additionally, the Agency believes that the averaging period should be adequate to demonstrate protection of the ambient standards.

One of the approaches being evaluated includes a modeling technique that replaces the constant emission rate with a distribution of SO_2 emission rates to determine statistically the air quality impact that may result. (45 FR 9996, February 14, 1980). Another approach, which is already being applied by some States, is to set a 24-hour maximum limit with several exceptions allowed per month. Also, a number of States and industries have recommended a 30-day averaging period. While the Agency does not endorse any such approaches for general application at this time, the availability of an emissions data base defining the short-term variability of SO_2 emissions is an important element in appraising the implications of various alternative approaches for setting future SO_2 emission limits.

Compliance Status of Power Plants

As the trend for enforcement programs moves away from determining compliance on an infrequent basis and towards continuous determination of compliance, the routine availability of data becomes an important consideration. Routine data collection is especially important when enforcing regulations for sources whose emissions tend to vary even under constant operating loads.

II. Proposed Program

The program being considered by the Administrator would require the owners or operators of prescribed coal-fired electric utility steam generating units (see *Affected Sources* below), to calculate and report to EPA the following information:

1. *SO_2 emission rate* ($lb.SO_2/10^6 Btu$) expressed as a 24-hour (daily) average; and

2. *Heat input* (10^6 Btu) expressed on a 24-hour (daily) basis.

The above information would be reported quarterly according to a schedule that would be announced after the Administrator has considered comments on the proposed program. Also, utilities would be required to submit additional information, as part of the initial quarterly report, to identify the source(s), characterize the coal being consumed, and to describe the methods used for determining the SO_2 emissions. Table 1 summarizes the information that the Administrator intends to require.

Through the response to question number 12 at the end of this Notice, the Administrator will be able to assess the feasibility of collecting data for averaging periods less than 24 hours. This requirement would potentially only apply to utilities having continuous emission monitors that provide data on as short a time frame as 15 minutes.

One way to expedite the Agency's acquisition of short-term data is to establish retroactive reporting requirements. That is, utilities would be required to determine their daily 24-hour emission rate for a one year period which has already commenced, e.g., January 1 to December 31, 1980. In order for this to be feasible, utilities must have adequate historical data from which emission rates and heat inputs can be determined. Therefore, this notice solicits comments on the availability of historical data retained by utilities, and the time that would be needed to review such data and make the appropriate daily determinations.

Affected Sources: Coal-fired electric utility steam generating units having a potential electrical output capacity of 300 MW (3,000 million Btu/hr input) would be subject to the requirements of the proposed program. Information available to the Agency indicates that, based on this cutoff size, approximately 225 coal-fired steam generators would be affected. These units account for about half the SO_2 emissions produced by the electric utility industry. The Administrator believes that the selected cutoff size would serve to minimize the burden on the electric utility companies and keep the amount of data received by EPA to a manageable level, while providing the Agency with a meaningful data base.

Sampling Methods: The Administrator intends to accept SO_2 emissions information that is derived from either continuous emission monitoring or fuel sampling and analysis methods. He is also considering another method, known as intermittent monitoring; this method is further discussed below.

An affected coal-fired steam generating unit that has installed a continuous monitor to comply with Federal (40 CFR Part 60) or State regulations to install and operate a continuous emission monitoring system for SO_2 must use that system as the basis for calculating the required emissions information. The program described herein does not attempt to impose additional monitoring requirements for continuous monitoring on utilities, but it will specify that required monitors be calibrated and operated in accordance with the applicable regulations.

Table 1. Summary of Information Required by Proposed EPA Program

Quarterly Reports

- 24-hr. (daily) emission rate ($lb. SO_2/10^6 Btu$)
- 24-hr. (daily) heat input (10^6 Btu)

Initial Report Only

1. Source Information:
- Company name and address
- Plant name and address
- Unit I.D.
- Heat input capacity/Potential electrical output capacity
- Name and title of reporting official

2. Emissions Characterization Information:
- Type(s) of coal used (Bituminous, etc.)
- Source of coal (Bureau of Mines Coal Districts)
- Standard sampling method (CEM vs. coal sampling and analysis)
- Identification of ASTM procedures, where applicable
- Use of flue gas desulfurization
- Use of coal cleaning methods

Where continuous monitoring is not currently required and installed, SO_2 emissions from affected coal-fired steam generators would have to be estimated from the collection and analysis of daily coal samples. The Administrator is mindful of the comments received from utility representatives in response to the Advance Notice of Proposed Rulemaking entitled "Emission Monitoring of Stationary Sources" (44 FR 46481, August 8, 1979). Those comments strongly suggested that fuel sampling and analysis techniques could be used to determine SO_2 emissions in lieu of continuous monitors.

EPA is continuing its investigation of the need for requiring continous monitoring for existing coal-fired steam generators, but intends to examine the feasibility of allowing other methods, such as fuel sampling and analysis, where they are shown to be acceptable alternatives. The fact that the proposed program would allow the use of fuel sampling and analysis techniques does not imply that they will be prejudged as acceptable alternatives for future regulatory programs; however, the Administrator may be able to use the data to assist in making that kind of decision at a later date.

The main steps in a fuel sampling and analysis program include (1) collection of a representative sample, (2) preparation of the sample for analysis, and (3) analysis of the sample for its essential components and heat content. Information available to EPA indicates

that many, if not most, utilities generally follow standard testing procedures published by the American Society of Testing Materials (ASTM). Therefore, in a manner consistent with current industry practices, the Administrator intends to specify that utilities use the following methods to collect, prepare, and analyze their coal samples:

•ASTM D–2234 (Standard Methods for Collection of a Gross Sample of Coal);

•ASTM D–2013 (Standard Method for Preparing Coal Samples for Analysis);

•ASTM D–3177 (Standard Test Method for Total Sulfur in the Analysis of Coal and Coke), or an acceptable automatic analytical device;

•ASTM D–2015 (Standard Test Method for Gross Calorific Value of Solid Fuel by the Adiabatic Bomb Method).

A very difficult step in the fuel sampling and analysis program is the initial step of collecting a representative gross sample. This is complicated by the fact that there is no single standard method of collection or coal sampling universally employed by utilities or prescribed by ASTM. The coal sampling procedure for each power plant is designed in conjunction with the specific coal distribution system in use at the plant. The introduction to ASTM D–2234 acknowledges this situation in the following way:

> These standard methods give the over-all requirements for the collection of coal samples. The wide varieties of coal handling facilities preclude the publication of detailed procedures for every sampling situation. The proper collection of the sample involves an understanding and consideration of the physical character of the coal, the number and weights of increments, and the over-all precision required.

Thus, ASTM D–2234 is actually a series of methods that are classified according to the reliability of each individual method. Classifications are based upon the type (human discretion vs. no human discretion) of increment collection, the conditions (e.g., full stream cut, part stream cut) of increment collection, and the kind of intervals or spacing (systematic vs. random) between increments. Accordingly, the owner or operator of each affected steam generator will be expected to use the most reliable classification method that can reasonably be applied without major expenditure and equipment replacement by the utility.

Utilities will be expected to collect, to the extent feasible, samples of coal on a daily "as-fired" basis. "As-fired" is interpreted here to mean that the sample is collected from the coal stream just prior to filling the bunkers (or silos) or at any point downstream of the bunkers before it is conveyed to the combustion chamber of the boiler.

Where "as-fired" sampling is not feasible, utilities would have to estimate their daily emissions on the basis of sampling performed at other locations. In most instances, where an "as-fired" sampling procedure cannot be implemented, coal will be sampled when it is received from the supplier or mine prior to storage for later use. Utilities must apply their best engineering judgment when basing their emission estimates on "as-received" samples since these coal samples generally will not be representative of the coal which is actually burned during any particular day.

The methods involved in the preparation and analysis of coal samples appear to be more straightforward than those for collecting the gross sample. Preparation and analysis methods are not dependent on the differences in individual coal distribution systems from one plant to another. Consequently, these methods are more readily standardized. One disadvantage of the ASTM method for sulfur analysis, however, is that it generally takes several hours to complete. For this reason, a number of utilities have switched to an automated analytical device so that sulfur content can be determined much more rapidly. Therefore, where such automated devices are used, the Administrator intends to accept them in lieu of the standard ASTM method.

As mentioned above, the Administrator is also considering intermittent monitoring as a method for determining SO_2 emmissions under this program. In this method, the SO_2 is collected by an in-stack sampling train, captured in a solution, and analyzed. The operation of the train is controlled intermittently by a timer or on a continuous basis by a pump with a low, constant flow rate. This method would allow an extended sampling period (in this case, 24 hours) and the determination of the average SO_2 emission rate for that period. As of this writing, EPA is preparing a notice that would propose the intermittent monitoring method as an acceptable procedure for compliance with § 60.47a(f) of 40 CFR Part 60, Subpart DA; Subpart DA covers new source performance standards for fossile fuel-fired steam electric plants. Paragraph (f) requires that in the event of a breakdown in the continuous emission monitoring system, emission data must be obtained by other monitoring systems or reference methods approved by EPA.

Emission Calculations

(1) Utilities would be required to calculate a daily average emission rate through the use of continuous emission monitoring or coal sampling and analysis methods for each affected coal-fired steam generator according to the following procedures:m urage

(i) For continuous emission monitoring, the hourly SO_2 emission rate is to be arithmetically averaged for each hour of boiler operation per day. The hourly emission rates are calculated according to the procedures in 40 CFR 60.45 (e) and (f).

(ii) For coal sampling and analysis, the following equation is to be used:

$$\overline{E} = \frac{2.0(\%S)}{GCV} \times 10^4$$

Where:

E = Daily sulfur dioxide emission rate from fuel analysis; lb/million Btu.

%S = Sulfur content of daily fuel supply, on a dry basis; weight percent.

GCV = Gross calorific value of daily fuel supply, on a dry basis; Btu/lb.

(2) Values for the 24-hour (daily) heat input, expressed in million Btu's per day, could be determined directly from knowledge of the gross calorific value of the coal and the amount of coal consumed during each daily 24-hour period. However, where information pertaining to the daily tonnage of coal consumed cannot readily be determined, it is more likely that utilities will depend upon daily megawatt production data which can be converted to a daily heat input value when the efficiency of the boiler is taken into account. The Administrator intends to accept either method for determining the daily heat input.

Additional Consideration: In addition to comments on the program described above, EPA is also interested in obtaining comments on the following indirectly related matter.

In the Federal Register of October 6, 1975, EPA promulgated regulations requiring continuous emission monitoring on certain source categories under Part 60 (New Source Performance Standards) (40 FR 46250). Subpart D of that regulation allows fossil fuel-fired steam generators without flue gas desulfurization units to use continuous emission monitors or fuel sampling and analysis to determine SO_2 emissions. At

the time of promulgation, however, EPA concluded that a meaningful fuel analysis procedure could not be developed that would be adequate or consistent with the then-current fuel situation. EPA indicated that further study was necessary to specify a procedure. Facilities that elected to use fuel analysis instead of continuous SO_2 monitoring did not actually have to begin sampling and analysis until EPA published a sampling and analysis procedure. Therefore, a gap currently exists in the Federal regulations. Nevertheless, almost all utilities which are burning low sulfur coal to meet the NSPS are reportedly analyzing coal sample and in many cases they are also monitoring SO_2 in stack gases. EPA is therefore posing another question in this notice on the feasibility of requiring power plants to use the data obtained from fuel analysis in preparing excess emission reports.

III. Program Authority

Section 114 of the Clean Air Act provides administrative authority for EPA to require the owner or operator of any emissions source to report its emissions and any other information as may be reasonably required by the Administrator. The Administrator believes that the one-year program being considered is an appropriate use of Section 114 in that the data which would be required will be used by the Agency to evaluate techniques for setting SO_2 emission limits and to orient and prioritize new enforcement initiatives to bring sources into compliance with the requirements of implementation plans.

In light of the nationwide impact of the requirements, the Administrator is announcing his intentions so that utilities and other interested persons may respond. After all relevant comments have been considered, the Administrator will announce the final program in a subsequent Federal Register Notice. However, each utility will be sent a certified letter citing the authority under Section 114 which will require that the prescribed emissions information for affected coal-fired steam generating units be reported to EPA. Utilities will be required to provide a written acknowledgement of receipt of the Section 114 letter to EPA.

IV. Comments

The Administrator invites general comments on the overall program described in this Notice. Also, he is particularly interested in comments pertaining to coal sampling and analysis methods and the extent of their use by utilities. In order to direct commenters to specific areas of interest, comments should address, but not be limited to, the following:

1. What are the specific problems associated with estimating the daily SO_2 emission rate on the basis of "as-received" coal samples?

2. What additional costs will be incurred in order to collect and analyze daily coal samples?

3. What types of modifications to existing coal sampling systems would have to be made to increase their reliability (based on ASTM classification)?

4. What procedures are used to assess the reliability of current coal sampling methods?

5. How often is the steam-electric heat rate evaluated?

6. Does the heat rate vary significantly from day to day?

7. Is daily coal consumption data (i.e., tons of coal burned per day) routinely documented?

8. What additional costs would be incurred to make the required determinations of daily SO_2 emission rates and heat input for the one-year reporting period?

9. Is adequate historical data available to determine the daily SO_2 emission rate and heat input for the one-year period beginning January 1, 1980? How much time would be needed to make the necessary determinations based on historical data?

10. What duplication of burdens with other State, local or Federal requirements would result from compliance with the proposed requirements?

11. What has been control agency experience with the use of fuel analysis data to estimate emissions?

12. For those sources with continuous emission monitors, what additional costs would be incurred to make the required determinations of SO_2 emission rates and heat input, on a 3 hour basis, for the one-year reporting period?

13. What financial and technical problems are incurred if EPA specifies as-fired fuel analysis as described in 40 CFR Part 60, Appendix A, Method 19, Section 3.3 as the acceptable fuel sampling method of 40 CFR Part 60, Subpart D, Section 60.45 for the purposes of reporting excess emissions?

Dated: December 29, 1980.

Douglas M. Costle,

Administrator.

[FR Doc. 81-612 Filed 1-7-81; 8:45 am]

BILLING CODE 6560-26-M

[A-10-FRL 1721-8]

Fairchild Air Force Base; Issuance of PSD Permit

Notice is hereby given that on July 28, 1980, the Environmental Protection Agency issued a Prevention of Significant Deterioration (PSD) permit to Fairchild Air Force Base for approval to modify the central heating plant near Spokane, Washington.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR Part 52.21) regulations subject to certain conditions, including:

1. Emissions of sulfur dioxide (SO_2) shall not exceed the following:

Emission Limitations

Source	Pollutant	Pounds per hour	Tons per year
Coal-fired boilers	SO_2	17	[1]72

[1] 85 percent removal.

2. With the exception of SO_2, allowable emissions of particulate matter will be less than 50 tons per year, 100 pounds per hour and 1,000 pounds per day. Potential emissions of all other pollutants regulated under the Clean Air Act will be less than 250 tons per year.

Under Section 307(b)(1) of the Clean Air, judicial review of the PSD Permit is available *only* by the filing of a petition for review in the Ninth Circuit Court of Appeals within 60 days of today. 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.

Copies of the permit are available for public inspection upon request at the following location: EPA, Region 10, 1200 Sixth Avenue, Room 11C, Seattle, Washington 98101.

Dated: December 30, 1980.

Donald P. Dubois,

Regional Administrator.

[FR Doc. 81-609 Filed 1-7-81; 8:45 am]

BILLING CODE 6560-38-M

[A-10-FRL 1721-7]

Kaiser Aluminum; Issuance of PSD Permit

Notice is hereby given that on July 18, 1980, the Environmental Protection Agency issued a Prevention of Significant Deterioration (PSD) permit to Kaiser Aluminum and Chemical Corporation for approval to modify the primary aluminum reduction plant in Tacoma, Washington.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR Part 52.21) regulations subject to certain conditions, including:

1. Emissions of carbon monoxide (CO) shall not exceed the following:

Emission Limitations

Source	Pollutant	Tons per year
Six prebake reduction cells	CO	429

2. With the exception of CO, allowable emissions of particulate matter and fluorides will be less than 50 tons per year, 100 pounds per hour and 1,000 pounds per day. Potential emissions of all other pollutants regulated under the Clean Air Act will be less than 100 tons per year.

Under Section 307(b)(1) of the Clean Air Act, judicial review of the PSD Permit is available *only* by the filing of a petition for review in the Ninth Circuit Court of Appeals within 60 days of today. 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.

Copies of the permit are available for public inspection upon request at the following locations: EPA, Region 10, 1200 Sixth Avenue, Room 11C, Seattle, Washington 98101.

Dated: December 30, 1980.

Donald P. Dubois,

Regional Administrator.

[FR Doc. 81-610 Filed 1-7-81; 8:45 am]

BILLING CODE 6560-38-M

[A2-FRL 1721-2]

Prevention of Significant Air Quality Deterioration (PSD); Non-Applicability Determination

AGENCY: Environment Protection Agency.

ACTION: Notice of final action.

SUMMARY: The purpose of this notice is to announce that on December 17, 1980, the EPA Region II Office issued a determination of PSD non-applicability to Tishman, Speyer, Silverstein Partnership relative to an electrical cogeneration facility consisting of eight deisel fuel internal combustion generators located in a commercial office building at 11 West 42nd Street, New York, New York. This determination was issued under EPA's Prevention of Significant Air Quality Deterioration regulations (43 FR 26388 codifed at 40 CFR 52.21 (1978)) and is final action under the Clean Air Act (the Act).

DATES: This determination is effective on January 8, 1981. (See Supplementary Information).

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Eng, Chief, Air and Environmental Applications Section, Permits Administration Branch, Planning and Management Division, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, Room 432, New York, New York 10278, (212) 264-4711.

SUPPLEMENTARY INFORMATION: Under Section 307(b)(1) of the Act, judicial review of this determination is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit by March 9, 1981. Under Section 307(b)(2) of the Act, this determination shall not be subject to later judicial review in civil or criminal proceedings for enforcement.

Dated: December 17, 1980.

Charles S. Warren,

Regional Administrator.

Final Determination of the Applicability of Prevention of Significant Air Quality Deterioration (PSD) Review Requirements

In the matter of Tishman-Speyer-Silverstein, Partnership (11 West 42 Street).

Background

On August 25, 1980, the United States Environmental Protection Agency (EPA) issued a Preliminary Determination that the subject source, a co-generation facility consisting of eight internal combustion diesel generator units with associated heat recovery mufflers and ancillary equipment, is exempt from PSD review and that no EPA PSD permit was required prior to the commencement of construction of the facility. This preliminary determination was based upon the conclusion that the facility was exempted from the EPA PSD regulations under a so-called "grandfather" provision found at 40 CFR 52.21(i)(3) (1979 ed.). Comments on the preliminary determination were received from counsel for the Consolidated Edison Company of New York, Inc. (Con Ed) on October 24, 1980 and from counsel for Tishman-Speyer-Silverstein Partnership (Partnership), the owner of the facility, on November 5, 1980.[1]

Consideration of Comments

In its October 24, 1980 comments, Con Edison disagreed with EPA's Preliminary Determination. Although it acknowledged that actual construction of the facility apparently had begun prior to March 19, 1979, Con Ed contends that a necessary preconstruction permit, had not been obtained by the Partnership prior to that date. The permit, issued by the City of New York Department of Buildings, is entitled "Plumbing, Mechanical Equipment and Tank Installation". Con Ed argued that, because the permit was not finally approved until March 14, 1980, construction work that required a permit and took place prior to that date was "unlawful" and should not be "countenanced" by EPA in granting the facility an exemption from PSD review.

To have commenced construction for the purposes of EPA's PSD regulations, a facility owner must obtain all necessary preconstruction approvals or permits and begin, or cause to begin, a continuous program of physical on-site construction of the facility (40 CFR 52.21(b)(8)(i)).[2] Necessary preconstruction approvals or permits are those Federal, State or local permits or approvals required under Federal air quality control laws and regulations and those air quality control laws and regulations which are part of the applicable State implementation plan (SIP)(40 CFR 52.21(b)(9)). The Department of Buildings permit referred to be Con Ed is not such a required air quality control permit, as Con Ed concedes. Therefore, the date by which such permit was finally approved is irrelevant to determining when construction commenced for the purposes of EPA's PSD regulations.[3]

---

[1] EPA's PSD regulation found at 40 CFR 52.21 does not require that the Agency prepare and circulate for comment preliminary determinations as to the applicability of PSD requirements to a facility and the Agency does not routinely do so. However, in this instance, EPA became aware that the question of whether this source required a PSD permit was at issue in pending litigation, *Con Edison v. Realty Investment Associates*, 79 Civ. 618 (S.D.N.Y.). Although EPA was not a party to this action, the Court invited EPA to comment on the issues raised. Accordingly, EPA felt that it was appropriate, in this instance, to allow the parties to the litigation an opportunity to comment on any EPA determination that might touch upon issues in the litigation.

[2] Both Con Ed and the Partnership submitted comments addressing whether construction of the facility could be said to have commenced as a result of firm contractual obligations for construction of the facility having been entered into prior to March 19, 1979 (40 CFR 52.21(b)(8)(ii)). This test is an alternative test to the physical on-site construction test. Since EPA concludes that construction had commenced under the latter test, there is no need to address comments related to the former test.

[3] Whether, as a matter of local law, construction activity undertaken prior to the date of permit approval is otherwise "unlawful" is a question beyond the scope of this determination. The

Footnotes continued on next page

This Agency's Preliminary Determination proposed to find that construction of the facility had commenced prior to March 19, 1979 because a continuous program of actual on-site construction of the facility had begun prior to that date, because such construction, once commenced, was not discontinued and was completed within a reasonable period of time, and because all final Federal, State and local preconstruction permits necessary under the applicable SIP for this facility had been obtained (40 CFR 52.21(i)(3)). Nothing in the comments received leads EPA to alter this tentative conclusion.

No comments were received which challenged EPA's Preliminary Determination that the remaining criteria of 40 CFR 52.21(i)(3) were met by this facility.

Final Determination

Based upon EPA's Preliminary Determination of August 25, 1980, its analysis of comments received and the above discussion, EPA concludes that the Partnership's co-generation facility located at 11 West 42 Street is exempt from PSD review under the provisions of 40 CFR 52.21(i)(3) (1979 ed.).[4] Consequently, no EPA PSD permit is required, or was required, prior to the commencement of construction of the facility.

This determination is final action under the Clean Air Act (the Act). Under Section 307(b)(1) of the Act, judicial review of this determination is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit on or before March 9, 1981. Under Section 307(b)(2) of the Act, this determination shall not be subject to later judicial review in civil or criminal proceedings for enforcement.

Dated: December 17, 1980

Charles S. Warren,

Regional Administrator.

[FR Doc. 81-586 Filed 1-7-81; 8:45 am]

BILLING CODE 6560-38-M

Footnotes continued from last page

Partnership, in its comments of November 5, 1980, contends that the date of final permit approval is entirely *pro forma* and that it is the customary practice in the construction industry to begin work under such a permit immediately upon its being examined and recommended for approval by the borough examiner. Such recommendation for approval was given on January 24, 1979.

[4] On August 7, 1980, EPA promulgated extensive modifications to its PSD regulations (45 *Fed. Reg.* 52676 *et seq.*). No substantive changes were made to applicable provisions relied upon in making this determination; however, 40 CFR 52.21(i)(3) was recodified as 40 CFR 52.21(i)(4)(iv).

FEDERAL MARITIME COMMISSION

Performance Review Board

AGENCY: Federal Maritime Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given of the addition of M. David Vaughn, General Counsel, Federal Mediation and Conciliation Service and Robert P. Gajdys, Director of Administration, Federal Mediation and Conciliation Service to the list of members of the Performance Review Board.

DATE: January 8, 1981.

FOR FURTHER INFORMATION CONTACT: William J. Herron, Jr., Director, Office of Personnel, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573.

SUPPLEMENTARY INFORMATION: Sec. 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 board shall review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any recommendations to the appointing authority relative to the performance of the senior executive.

Richard J. Daschbach,

Chairman.

[FR Doc. 81-588 Filed 1-7-81; 8:45 am]

BILLING CODE 6730-01-M

GENERAL SERVICES ADMINISTRATION

[E-80-24]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Illinois Commerce Commission involving electric and gas utility rates, Docket No. 80-0511.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Illinois Commerce Commission involving the application of the Iowa-Illinois Gas and Electric Company for an increase in its electric and gas rates.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

d. The Department of Defense shall forward to the General Services Administration copies of its testimony and briefs within 60 days of formal submission.

Dated: December 22, 1980.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 81-585 Filed 1-7-81; 8:45 am]

BILLING CODE 6820-AM-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Advisory Committees; Renewals

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (5 U.S.C. Appendix I), the Alcohol, Drug Abuse, and Mental Health Administration announces the renewal by the Secretary of Health and Human Services, with the concurrence of the General Services Administration Committee Management Secretariat, of the following advisory committees:

Alcohol Abuse Prevention Review Committee.

Alcohol Biomedical Research Review Committee.

Alcohol Psychosocial Research Review Committee.

Authority for these committees will expire on December 31, 1982 unless the Secretary formally determines that continuance is in the public interest.

Dated: December 30, 1980.

Robert L. Trachtenberg,

Deputy Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 81-622 Filed 1-7-81; 8:45 am]

BILLING CODE 4110-88-M

Office of Assistant Secretary for Health

President's Council on Physical Fitness and Sports; Meeting

The President's Council on Physical Fitness and Sports (PCPFS) will hold its quarterly meeting on Thursday, January

22, 1981. The meeting will be held from 10:00 a.m. to 4:00 p.m. in Room 339–A, Hubert Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201.

The purpose of the meeting is to assess progress on the national program of physical fitness and sports; and to plan future directions of the PCPFS.

A list of the Council members and the Executive Order establishing their responsibilities may be obtained from: C. Carson Conrad, Executive Director, President's Council on Physical Fitness and Sports, Washington, D.C. 20201. Telephone: 202–755–7947.

The meeting will be open to the public.

Dated: December 30, 1980.

Glenn V. Swengros,

Acting Executive Director, President's Council on Physical Fitness and Sports.

[FR Doc. 81–651 Filed 1–7–81; 8:45 am]

BILLING CODE 4110–85–M

Office of the Secretary

Privacy Act of 1974; System of Records and Notice of Proposed Routine Uses

AGENCY: Department of Health and Human Services (HHS), Office of the Secretary (OS), Office of the General Counsel (OGC).

ACTION: Notice of new system of records.

SUMMARY: This notice describes a new system of records, Demonstration Project: Applications for Assistance in Order to Comment on Proposed Regulations, No. 09–90–0085, in accordance with requirements of the Privacy Act of 1974. The purpose of the system is to maintain assistance applications, evaluation results and other records generated during a demonstration project of assistance for persons who could help the Department decide issues in a proposed regulation, but who could not afford to participate in the rulemaking without assistance. OGC invites public comment on the routine uses proposed for the system.

DATES: OGC filed a new system report with the Speaker of the House, the President of the Senate, and the Director, Office of Management and Budget (OMB) on January 5, 1981. We have requested a waiver of OMB's requirement of 60 days advance notice before a new system may be made effective. After OMB acts on our request for a waiver, we will publish a notice of the effective date of the new system and proposed routine uses. Routine uses will become effective no earlier than February 9, 1981, in order to allow public comment on the routine uses proposed in this notice.

ADDRESS: The public should address comments to the Deputy General Counsel for Regulation Review, Room 706–E, Department of Health and Human Services, 200 Independence Avenue, S.W., Washington, D.C. 20201. Comments received will be available for inspection at this location.

FOR FURTHER INFORMATION CONTACT: Ms. Carel Hedlund, Demonstration Project, Room 706–E, Department of Health and Human Services, 200 Independence Avenue, S.W., Washington, D.C. 20201, telephone: (202) 245–7545.

SUPPLEMENTARY INFOBMATION: On December 17, 1980, the Department of Health and Human Services published a notice in the **Federal Register** announcing a demonstration project of assistance to persons wishing to comment on proposed Department regulations. The initial project will be based on the proposed regulations implementing the Adoption Assistance and Child Welfare Act of 1980. The project allows person who want to participate in public meetings or to submit written comments on the proposed regulation to apply for reimbursement for their costs in doing so. Assistance may be provided only if (1) the information the applicant plans to present will help the Department decide issues in the proposed regulation, (2) the applicant represents an interest that otherwise might not be heard, and (3) the applicant cannot otherwise afford the costs of participating in the rulemaking. The system of records will consist of the applications for assistance, additional information gathered to assess applications, evaluation results, award or denial notices to applicants, and post-award budget and cost documentation.

The system of records will have a minimal effect on the privacy and confidentiality rights of individuals. Application for assistance is completely voluntary, and the information solicited from applicants is the minimum necessary to determine eligibility. Each item of information supplied by applicants relates to one of the eligibility criteria which are required by law. Information in the system will be disclosed within the Department only to the extent necessary to evaluate applications, make awards or denials, provide assistance to successful applicants, and evaluate the demonstration project. Routine use disclosures are very limited: to the Treasury Department, to the Special Assistant to the President for Consumer Affairs, and to congressional offices acting on behalf of an individual. Disclosures to the Treasury Department and to the Special Assistant to the President for Consumer Affairs are compatible with the purposes for collecting these records because these disclosures are necessary to reimburse successful applicants and to evaluate the results of the demonstration project. Disclosures to congressional offices are compatible because they respond to inquiries by the individual to whom the record pertains. The Department believes this important test of ways to increase public participation in agency rulemaking justifies the small effect on privacy and confidentiality caused by creating the system of records for the demonstration project.

Dated: January 2, 1981.

Joan Z. Bernstein,

General Counsel.

09–90–0085

SYSTEM NAME:

Demonstration Project: Applications for Assistance in Order to Comment on Proposed Regulations (HHS/OS/OGC).

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Demonstration Project, Room 706–E, Department of Health and Human Services, 200 Independence Avenue, S.W., Washington, D.C. 20201.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system includes records of individuals who have applied for assistance to comment on proposed regulations.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records include information needed by the Department to evaluate and act on applications for assistance to comment on proposed regulations. The information includes name, address, telephone number, organization (if applicant represents a group), issues important to the applicant, information to be supplied in applicant's comment, income of individual, number of individual's dependents, additional financial information supplied by individual, information concerning cost of providing comments on regulation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system of records is authorized by Executive Order 12044 on Improving Government Regulations and Executive Order 12160 on Providing for

Enhancement and Coordination of Federal Consumer Programs.

PURPOSE(S):

The records in the system must be maintained to evaluate applications for assistance, to notify applicants of the Department's decision, to provide assistance to successful applicants, and to conduct evaluations of the demonstration project. System records are disclosed to members of the Evaluation Board and other Department employees as necessary to perform these and other functions in the demonstration project.

ROUTINE USES OF RECORDS IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the Treasury Department in order to reimburse costs of successful applicants.

To the Special Assistant to the President for Consumer Affairs for coordination of Executive Branch consumer affairs activities.

To a congressional office from the record of an individual in response to an inquiry made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Applications and related records are maintained in file folders.

RETRIEVABILITY:

Records are indexed and retrieved by the name of the applicant.

SAFEGUARDS:

Records are maintained in locked filing cabinets. Only individuals who perform functions necessary to conduct the demonstration project have access to system records.

RETENTION AND DISPOSAL:

Records are maintained for one year following the end of the demonstration project and then are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy General Counsel for Regulation Review, Room 706–E, Department of Health and Human Services, 200 Independence Avenue, SW., Washington, D.C. 20201.

NOTIFICATION PROCEDURE:

An individual should contact the System Manager at the address above and provide his or her name and address to find out whether the system contains his or her record. If access to the record is desired, the individual is encouraged to request access at the same time he or she requests notification of whether the system contains his or her record. The individual should also include his or her name and address for purposes of obtaining access.

RECORD ACCESS PROCEDURES:

See NOTIFICATION PROCEDURE above; the request for access should reasonably identify the records the individual wants to see.

CONTESTING RECORD PROCEDURES:

An individual should contact the System Manager at the address above if he or she wants to amend a system record because the record is not accurate, relevant, timely, or complete. The request for amendment should reasonably identify the records, specify the information to be amended, and describe the correction or amendment to be made.

RECORD SOURCE CATEGORIES:

Information in system records is obtained primarily from the individual applying for assistance. Additional information may be obtained from Department employees familiar with the applicant.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 81-682 Filed 1-7-81; 8:45 am]
BILLING CODE 4110-12-M

Public Health Service

National Institutes of Health; Statement of Organization, Functions and Delegations of Authority

Part H, Chapter HN (National Institutes of Health) of the Statement of Organization, Functions, and Delegations of of Authority for the Department of Health and Human Services (40 FR 22859, May 27, 1975, as amended most recently in pertinent part at 42 FR 61317, December 2, 1977), is amended to reflect the following changes in the National Institute on Aging:

(1) Abolish the Extramural and Collaborative Research Program,

(2) Establish the Biomedical Research and Clinical Medicine Program, and the Social and Behavioral Research Program, and

(3) Establish the Epidemiology, Demography and Biometry Program. These changes will enhance the Institute's ability to attract highly-qualified scientific staff. They will also better enable the Institute to utilize all available mechanisms in the conduct and support of research in the scientific areas of responsibility.

Sec. HN-B, Organization and Functions, is amended as follows: Under the heading *National Institute on Aging (HN-X),* make the following changes:

(1) Delete the statement for the *Extramural and Collaborative Research Program (HN-X3)* is its entirety.

(2) After the statement for the *Gerontology Research Center (HN-X2),* insert the following statements:

Biomedical Research and Clinical Medicine Program (HN-X4)

(1) Provides advice and assistance to the Institute Director and other officials on biological and clinical aging research, programs, activities, and organization; (2) plans and directs extramural and collaborative research and training in the areas of biological and clinical aging research; (3) plans, develops, and administers policies and operating procedures of the Program, evaluates scientific accomplishments of supported scientists and institutions for conformance to program goals and objectives; (4) determines the state-of-the-art of the Program's scientific fields of responsibility and recommends priorities and areas for emphasis; (5) collaborates with NIH Bureaus, Institutes and Divisions and other Federal agencies in the coordination and support of relevant scientific activities; and (6) Recommends mechanisms to be used or develops mechanisms to accomplish Program objectives.

Social and Behavioral Aging Research Program (HN-X5)

(1) Provides advice assistance to the Institute Director and other officials on social and behavioral aging research programs, activities, and organizations; (2) plans and directs a program of extramural and collaborative research and training in the areas of social and behavioral aging research; (3) plans, develops, and administers policies and operating procedures of the Program, and evaluates scientific accomplishments of supported scientists and institutions for conformance to program goals and objectives; (4) assesses needs for research and training in the Program's scientific fields of responsibility, and recommends priorities and area for emphasis; (5) colaborates with NIH Bureaus, Institues and Divisions and other Federal agencies in the coordination and support of relevant scientific activities; (6) recommends mechanisms to be used or develops mechanisms to accomplish program objectives; (7) consults with professional and scientific associations

in identifying research needs and develops programs to meet them.

Epidemiology, Demography, and Biometry Program (HN-X6)

(1) Plans, conducts, and directs epidemiology, demography, and biometry programs relevant to the mission of the National Institute on Aging; (2) collects and analyzes data regarding the distribution of the aged by such categories as sex, race, socio-economic and demographic characteristics and serves as a focal point for these data; (3) plans, initiates, coordinates, and analyzes national and international epidemiologic longitudinal studies and studies of special populations; (4) in collaboration with NIA staff and that of other Institutes, federal agencies and scientific organizations, recommends priorities and develops epidemiologic studies of specific diseases and conditions affecting the aged; (5) provides consultation and service to NIH program areas and private organizations on epidemiology, demography, and biometry studies on aging; (6) recommends mechanisms to be used or develops mechanisms to accomplish Program objectives; (7) plans and directs extramural and collaborative research and training in the areas of epidemiology, demography, and biometry research, and serves as the primary federal source of information regarding research and training in these areas.

Dated: December 29, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 81-680 Filed 1-7-81; 8:45 am]

BILLING CODE 4110-08-M

Bureau of Indian Affairs

Irrigation Operation and Maintenance Charges; Water Charges and Related Information on Fort Hall Irrigation Project, Idaho

This notice of proposed operation and maintenance rates and related information is published under the authority delegated to the Assistant Secretary—Indian Affairs by the Secretary of the Interior in 230 DM 1 and redelegated by the Assistant Secretary—Indian Affairs to the Area Director in 10 BIAM 3.

This notice is given in accordance with § 191.1(e) of Part 191, Subchapter T, Chapter I, of Title 25 of the Code of Federal Regulations, which provides for the Area Director to fix and announce the rates for annual operation and maintenance assessments and related information of the Fort Hall Irrigation Project for Calendar Year 1981 and subsequent years. This notice is proposed pursuant to the authority contained in the Acts of March 1, 1907 (34 Stat. 1024), and August 31, 1954 (68 Stat. 1026).

The purpose of this notice is to announce an increase in the Fort Hall Project assessment rates proportionate with actual operation and maintenance costs. The proposed assessment rates for 1981 will amount to an increase of approximately eight percent.

The public is welcome to participate in the rule making process of the Department of the Interior. Accordingly, interested persons may submit written comments, views and arguments with respect to the proposed rates and related regulations to the Area Director, Portland Area Office, Bureau of Indian Affairs, Post Office Box 3785, Portland, Oregon 97208, no later than February 9, 1981.

Fort Hall Irrigation Project

Regulations and Charges

Administration

The Fort Hall Irrigation Project, which consists of the Fort Hall Unit including ceded area south of the Fort Hall Indian Reservation, the Michaud Unit and the Minor Units on the Fort Hall Indian Reservation, Idaho, is administered by the Bureau of Indian Affairs. The Superintendent of the Fort Hall Agency is the Officer-in-Charge and is fully authorized to carry out and enforce the regulations, either directly or through employees designated by him. The general regulations are contained in Part 191, Operation and Maintenance, Title 25—Indians, Code of Federal Regulations (42 FR 30362, June 14, 1977).

Irrigation Season

Water will be available for irrigation purposes from April 15 to September 30 of each year. These dates may be varied by 15 days depending on weather conditions and the necessity for doing maintenance work.

Methods of Irrigation

Where soil, topography, and other physical conditions are unfavorable for surface irrigation, and the project facilities are designed to deliver water to farm units for sprinkler irrigation, the Officer-in-Charge may limit deliveries to this type of irrigation.

Distribution and Apportionment of Water

(a) *Delivery:* Water for irrigation purposes will be delivered throughout the irrigation season by either the continuous flow or rotation method at the discretion of the Officer-in-Charge. If during a time when delivery is by the rotation method, a water user desires to loan his turn to another eligible water user, he shall notify either the watermaster or the ditch rider who may permit such exchange, if feasible.

(b) *Preparation and Submission of a Water Schedule:* If the decision of the Officer-in-Charge is to deliver water by the rotation method, the watermaster will assist the water users on each lateral in preparing a rotation schedule should they choose to get together and prepare the schedule. In cases where the water users fail to exercise this right before March 1, the watermaster will prepare the schedule which shall be final for the season. Owners of 120 acres or more in one farm unit may elect between the continuous flow and rotation method of delivery, provided such choice does not interfere with delivery to other lands served by the lateral.

(c) *Application for Deliveries of Irrigation Water:* Requests for water changes will be made at least 24 hours in advance. Not more than one change will be made per day. Changes will be made only during the ditch rider's regular tour. Pump shut-down, regardless of duration, without the required notice will result in the delivery being closed and locked. Repeated violations of this rule will result in strict enforcement of rotation schedules. Water users will change their sprinkler lines without shutting off more than one-half of their lines at one time. Sudden and unexpected changes in ditch flow results in operation difficulties and waste of water.

Duty of Water

Dependent upon available supplies of water for each unit of the Project, the duty of water is based on the delivery to the farm unit of 3.5 acre-feet of water per acre per irrigation season. This duty of water may be varied at the discretion of the Officer-in-Charge depending on supplies available, but each irrigable acre shall be entitled to its pro-rata share of the total water supply.

Charges

Bill covering irrigation charges will be issued to the owner of record taken from the Bannock, Bingham or Power County records as of December 31, preceding the due date. In the case of Indian-owned land leased to a non-Indian, when an approved lease contract is on file with the Superintendent of the Fort Hall Agency, operation and maintenance charges will be billed to the lessee of record.

Basic and Other Water Charges

(a) The annual basic water charges for the operation and maintenance of the Fort Hall Irrigation Project lands in non-Indian ownership, and assessable Indian-owned lands leased to a non-Indian or a non-member of the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation, Idaho, are fixed for the Calendar Year 1981 and subsequent years until further notice as follows:

(1) Fort Hall Unit basic rate.—$15.35 per acre
(2) Michaud Unit basic rate—$19.15 per acre
Additional rate for sprinkler when pressure is supplied by project—$8.35 per acre
(3) Minor Units basic rate—$13.50 per acre

(b) In addition to the foregoing charges there shall be collected a minimum charge of $5 for the first acre, or fraction thereof, on each tract of land for which operation and maintenance bills are prepared. The minimum bill issued for any area will, therefore, be the basic rate per acre plus $5.

Payments

The water charges become due on April 1 of each year and are payable on or before that date. To all assessments on lands in non-Indian ownership, and lands in Indian ownership which do not qualify for free water, remaining unpaid on or after July 1 following the due date, there shall be added a penalty of one and one-half percent per month, or fraction thereof, from the due date until paid. No water shall be delivered to any farm unit until all irrigation charges have been paid.

Assessments on Indian Owned Land

When land owned by members of the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation is first leased to non-Indians or non-members of the tribe, and an approved lease is on file at the Fort Hall Agency, the leased land is not subject operation and maintenance assessments for three years. The three years the land is not subject to assessment need not run consecutively. When land has been leased for a total of three years, the land, when under lease to non-Indians or non-members of the tribe, is subject to operation and maintenance assessments the same as lands on non-Indian ownership and lands owned by non-members of the tribe within the project. (See Solicitor's Opinion M 28701, approved September 24, 1936, and the instructions of September 19, 1938, approved September 24, 1938, and instructions of December 1, 1938, approved December 17, 1938).

Wilford G. Bowker,

Acting Area Director.

[FR Doc. 81-604 Filed 1-7-81; 8:45 am]

BILLING CODE 4310-02-M

[INT FES 80-55]

Proposed Recreational Lease of Wildhorse Reservoir Lands to Shoshone-Paiute Indian Tribes of Duck Valley, Elko County, Nevada; Availability of Final Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Bureau of Indian Affairs, Department of the Interior has prepared the final environmental statement for the proposed lease of certain Wildhorse Reservoir lands to the Shoshone-Paiute Indian Tribes of Duck Valley, Nevada.

The environmental statement considers the effects of a proposal for the lease of a 150-acre parcel of Wildhorse Reservoir lands to the Duck Valley Indians, and the concurrent development of a study to determine the feasibility of leasing additional parcels of the BIA-administered lands at the reservoir to the Tribe for recreational purposes.

Copies of the statement are available for review at the following locations:

Bureau of Indian Affairs, Environmental Quality Services, Room 4554, Department of Interior, Washington, D.C., Telephone 202-343-8248

Bureau of Indian Affairs, Eastern Nevada Agency Office, 1555 Ruby View Drive, Elko, Nevada 89801, Telephone 702-738-5165

Bureau of Indian Affairs, Eastern Nevada Sub-Agency, Owyhee, Nevada 89832, Telephone 702-757-3068

Bureau of Indian Affairs, Phoenix Area Office, Room 502, 3030 North Central Avenue, Phoenix, Arizona 85012, Telephone 602-241-2275

Single copies of the statement can be available upon request to the Phoenix Area Office at the above address.

Dated: December 31, 1980.

James H. Rathlesberger,

Special Assistant to Assistant Secretary of the Interior.

[FR Doc. 81-647 Filed 1-7-81; 8:45 am]

BILLING CODE 4310-02-M

Umatilla Indian Reservation; Oregon's Acceptance of Retrocession of Jurisdication

December 16, 1980.

Pursuant to Resolution 79-31, enacted by the Umatilla Indian Reservation and to Oregon State Executive Order EO-80-8, signed by Governor Victor Atiyeh, all criminal jurisdiction exercised by the State of Oregon over the Confederated Tribes of the Umattila Indian Reservation will be returned to the United States as of January 2, 1981, at 12:01 am. Through retrocession to the United States, criminal jurisdiction will return to the Confederated Tribes of the Umatilla Indian Reservation.

This notice is published in exercise of the authority delegated to the Commissioner of Indian Affairs by the Assistant Secretary—Indian Affairs in 230 DM 2.[1]

William E. Hallett,

Commissioner of Indian Affairs.

[FR Doc. 81-408 Filed 1-7-81; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Burley District Advisory Council; Meeting

Notice is hereby given that in accordance with Section 309 of the Federal Land Policy and Management Act, (90 Stat. 2743-2749), as amended by the Public Rangelands Improvement Act (Pub. L. 95-514), the Burley District Advisory Council will meet on February 25, 1981.

The meeting will convene at 9:00 a.m. in the Conference Room of the Bureau of Land Management Office at 200 South Oakley Highway, Burley, Idaho.

Agenda items include:

1. Rangeland Management Program Document, outlining the course of action following the Bannock-Oneida EIS;
2. Twin Falls Planning, inventory review and specialist recommendations;
3. Issues and planning criteria for the Cassia Resource Management Plan.

The meeting is open to the public. Interested persons may make oral statements to the Council between 2:00 p.m. and 3:30 p.m. or they may file written statements for the Board's consideration. Written statement must be submitted to the District Manager by 4:30 p.m. February 24, 1981. Anyone wishing to make an oral statement must

[1] Certified copy of Executive Order No. EO-80-8, Tribal Resolution No. 79-31, and Superintendent William D. Sandoval's recommendation filed with the office of the Federal Register as part of the original document.

notify the District Manager, Bureau of Land Management, Route 3, Box 1, Burley, Idaho 83318, by February 20, 1981. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the Council meeting will be maintained in the District Office and will be available for public inspection and reproductions (during regular business hours 7:45 a.m. to 4:30 p.m., Monday through Friday) within 30 days following the meeting.

Nick James Cozakos,

District Manager.

[FR Doc. 81-628 Filed 1-7-81; 8:45 am]

BILLING CODE 4310-84-M

Burns District; Harney Planning Continuation

The Harney Environmental Impact Statement (EIS) is composed of the Andrews Resource Area (RA) and the Riley Resource Area for approximately 2.7 million acres within the Burns District. The EIS is scheduled for completion by September 30, 1982 and the planning effort is in various stages of completion.

The Burns District has compiled several major issues for the Harney EIS Area and would appreciate additional public comment. General issues that have been developed are as follows:

1. *Lands*—potential land exchanges; desert land entries, rights-of-way for energy corridors, private land exchanges; withdrawals for Areas of Critical Environmental Concern (ACEC), Research Natural Areas (RNA) and Outstanding Natural Areas (ONA).

2. *Geology—Energy—Minerals*—Geothermal energy development and mining.

3. *Range*—allocation of forage for livestock, wildlife, wildhorses, and watershed; stocking rates for livestock; seasons of livestock use; trespass; protection and management of riparian vegetation; rangeland improvements and the conflict with other resources such as wilderness interim management requirements, visual resources, watershed protection; shifting livestock operators within and to other allotments to bring grazing use in balance with grazing capacities.

4. *Wildlife*—habitat protection and development and the conflicts with other resource uses; riparian vegetation, and other habitat alterations.

5. *Cultural*—protection of cultural resources and the conflicts with useage of other resources.

6. *Recreation*—off-road vehicle management plans; areas of critical environmental concern; areas of outstanding natural areas; visual resource management classification.

7. *Watershed*—protection of the watershed; prevention of point and non-point pollution; and improvement of water quality; rare and endangered species of both flora and fauna species.

8. *Wilderness*—extent to which interim management requirements restrict use of other resources within study areas and eventual designated areas.

9. *ACEC's*—identification and protection of Areas of Critical Environmental Concern (ACEC); and protection of sensitive, threatened and endangered (S, T & E) species of plants and animals. ACEC's are areas where special management attention is required to protect and prevent irreparable damage to *important* historic, cultural or scenic values, fish and wildlife resources or other natural systems or processes, or to protect life and safety from natural hazards.

Public suggestions or nominations of areas must include the following elements to be considered for study:

—a legal description of the boundaries, or show on a map or aerial photo and describe by terrain features such as roads, streams, ridges, etc.

—a description of relevance and importance to historic, cultural or scenic values, fish and wildlife resources or other natural systems of processes, or to protect life and safety from natural hazards. Illustrate objective evidence the values are of more than *local* significant (for example, information or testimony from research entities, recognized scientists or consulting groups).

—your name, address, and telephone number.

All areas will be evaluated by an interdisciplinary team under the concepts of multiple use and Bureau ACEC guidelines.

It is important that the public participates in the planning system as increased private and public use of the resources in this area is anticipated. Public announcements and notices in local newspapers will provide times, dates and locations of upcoming meetings associated with the planning, environmental impact statement and decision phases of the effort.

Anyone who wishes to discuss the BLM planning effort and availability of information, may contact the Riley or Andrews Area Managers, Bureau of Land Management, 74 South Alvord, Burns, Oregon 97720, or call (503) 573-2071.

L. Christian Vosler,

District Manager.

December 29, 1980.

[FR Doc. 81-636 Filed 1-7-81; 8:45 am]

BILLING CODE 4310-84-M

Resource Management Plan and Environmental Impact Statement for the Northeast Resource Area and Fountain Creek Planning Unit; Canon City District, Colo.

The following three amendments to the original Federal Register announcement (Volume 45, No. 222/ Friday, November 14, 1980/page 75331) are hereby made:

(1) The first set of public meetings to identify issues and planning criteria will be held in April.

(2) Two locations, Boulder and Wray, are added to the list of meeting places.

(3) For further information contact:

Melvin D. Clausen, District Manager, P.O. Box 311, 3080 East Main Street, Canon City, Colorado 81212, (303) 275-0631; or

Francis Young, Area Manager, West 44th Avenue, Wheatridge, Colorado 80033, (303) 234-4988

Melvin D. Clausen,

District Manager.

[FR Doc. 81-629 Filed 1-7-81; 8:45 am]

BILLING CODE 4310-84-M

Salt Lake District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Public Law 92-463, that a meeting of the Salt Lake District Grazing Advisory Board will be held February 18, 1981.

The meeting will begin at 3:00 P.M. in the BLM conference room at 2370 South 2300 West, Salt Lake City, Utah 84119.

The purpose of the meeting will be to organize the new board, and give an update on the Randolph E. S. implementation and the Tooele planning process.

The meeting is open to the public. Interested persons may make oral statements at 4:00 P.M. on February 18, 1981 at the BLM office, or file written statements for the board's consideration. Anyone wishing to make oral statements must notify the District Manager, 2370 South 2300 West, Salt Lake City, Utah 84119 by February 11, 1981. The District Manager may establish a time limit for each person.

Dated: December 31, 1980.

Frank W. Snell,

District Manager.

[FR Doc. 81-638 Filed 1-7-81; 8:45 am]

BILLING CODE 4310-84-M

Wyoming; Intent To Reschedule Public Hearing on Federal Coal Leasing Target for Powder River Coal Production Region

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Public hearing.

SUMMARY: The public hearing on the Federal Coal leasing target for the Powder River Coal Production Region which was scheduled by the Powder River Regional Coal Team in Gillette, Wyoming, for December 23, 1980, as published in the **Federal Register** Notice December 3, 1980, was cancelled due to inclement weather. As outlined in the December 3 notice, the hearing is to receive oral and written comments in order to assist the Secretary of the Interior in the establishment of a Federal coal leasing target for the Powder River Coal Production Region. The hearing will be rescheduled as detailed below.

DATE: Written comments will still be accepted until close of business January 26, 1981. The public hearing will be held in Gillette, Wyoming, on January 15, 1981. The hearing will start at 7 p.m.

ADDRESS: The hearing will be held at the Holiday Inn, 2009 South Douglas Highway, Gillette, Wyoming.

FOR FURTHER INFORMATION CONTACT: J. Stan McKee, Powder River Project Manager, or Ron Moore, Wyoming Coal Coordinator, Bureau of Land Management (930), P.O. Box 1828, Cheyenne, Wyoming 82001, 307-778-2220, extension 2413, or FTS 328-2413.

Jack Belmain,

Acting State Director.

[FR Doc. 81-637 Filed 1-7-81; 8:45 am]

BILLING CODE 4310-84-M

[Colorado 017766 WR]

Colorado; Proposed Continuations of Withdrawals

December 30, 1980.

The appropriate district managers of the Bureau of Land Management have filed statements of justification for continuation of existing public land withdrawals made by Public Land Order 1608 of March 28, 1958. The Bureau desires to continue the withdrawals in their entirety for 20 years. The continuations are proposed pursuant to the provisions of Section 204 (1), Federal Land Policy and Management Act of 1976 (90 Stat. 2754; 43 U.S.C. 1714). The following public lands are affected:

Sixth Principal Meridian, Colorado

T. 7 N., R. 91 W.,
Section 35, Tract of land described by metes and bounds in SE¼SE¼, containing approximately 1 acre in Moffat County.

New Mexico Principal Meridian, Colorado

T. 45 N., R. 13 W.,
Section 27, Tract of land described by metes and bounds in NE¼NE¼, containing approximately .688 acres in San Miguel County.

The lands are withdrawn for administrative sites in Craig and Norwood, Colorado. Both tracts are being used for warehouse and storage areas.

The lands are withdrawn from all forms of appropriation under the public land laws, including the mining laws. They are not withdrawn from leasing under the mineral leasing laws nor from operation of the Materials Act of July 31, 1947 (61 Stat. 681), as amended. No changes in the effects of the withdrawals are proposed.

Notice is hereby given that an opportunity to request a public hearing is afforded in connection with the proposed continuations. Persons who desire to be heard on the proposals may submit written request for a hearing to the undersigned officer on or before February 1, 1981. Upon determination that a public hearing will be held, appropriate notice will be published in the **Federal Register.** In lieu of, or in addition to, attendance at a public hearing, written comments regarding the proposed action may be filed with the undersigned officer on or before February 1, 1981.

The final determination on continuation of these withdrawals will be published in the **Federal Register.** The withdrawals will remain in effect pending this final action.

All communications pertaining to this action should be addressed to the undersigned.

Robert D. Dinsmore,

Chief, Branch of Adjudication, Colorado State Office, Bureau of Land Management, 700 Colorado State Bank Building, Denver, Colorado 80220.

[FR Doc. 81-630 Filed 1-7-81; 8:45 am]

BILLING CODE 4310-84-M

La Sal Pipeline Co.; Right-of-Way

December 29, 1980.

AGENCY: U.S. Department of the Interior, Bureau of Land Management.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement on a Proposed Crude Oil Pipeline.

SUMMARY: The U.S. Department of the Interior, Bureau of Land Management, Colorado State Office will prepare an environmental impact statement on a proposed crude oil pipeline and related facilities including pumping stations, valve stations, scraper traps, and tankage. The proposal has been made through application for a right-of-way pursuant to Part 2880, 43 CFR regulations pertaining to oil and gas pipelines. The applicant is La Sal Pipeline Company, a wholly owned subsidiary of Exxon Pipeline Company. The pipeline would begin in an area north of Parachute, Colorado in the vicinity of the Colony Oil Shale Development Operation and end in a tankage facility near Casper, Wyoming. The total length of the proposed pipeline is approximately 300 miles.

The purpose of the proposal is to transport processed shale oil from the Colony Development to refinery capacity in Casper, Wyoming. The pipeline would transport approximately 50,000 barrels per day (bpd); the size of the pipe is nominally sixteen inches in diameter. The anticipated cost of the pipeline project would be approximately 100 million dollars (1980).

The proposed action is considered to be the construction, maintenance and operation of a sixteen inch crude oil pipeline and ancillary facilities. The pipeline will be analyzed as a discrete action; it is not an enabling action for other development at either end. The EIS will analyze the site specific and cumulative impacts of the proposed action and alternatives, including no action.

Alternatives that will be analyzed include the applicant's proposed route, alternate routes, alternate means of transport, and no action. Other alternatives may be developed subsequent to scoping. The level of detail in the EIS will be determined following the scoping process; it will be equivalent to the level of anticipated impacts. The impact analysis will define how the components of the proposed action and alternatives interact with the surrounding environment. Impacts will be traced beyond the end points and the right-of-way boundary to the point where they no longer have significant effects.

A series of scoping sessions will be held during the weeks of January 26, and February 2, 1981. Tentatively, one public session will be held in Grand Junction, Craig, and Denver, Colorado; and Casper, and Cheyenene, Wyoming.

Notice of all meetings will be published in local media at least two weeks before each meeting. The scoping process will involve personal contact with agencies and individuals, in addition to formal contact with other federal, state and local agencies and groups.

In accordance with the final regulations of the Council on Environmental Quality for Implementation of Procedural Provisions of the National Environmental Policy Act, the scoping meetings will:

a. Inform affected federal, state and local agencies, and other interested groups or individuals about the proposal.

b. Define the scope and significant issues to be analyzed in the EIS. This includes identification and elimination from detailed study those issues which are not significant.

c. Identify environmental reports which may be related to the proposal or may contain relevant data.

d. Identify related consultation and review requirements which will be addressed in the EIS, including identification of mandated documentation.

FOR FURTHER INFORMATION CONTACT:
James E. Dean, La Sal Pipeline EIS Coordinator, Colorado State Office, Bureau of Land Management, 1600 Broadway, Denver, CO 80202. Telephone: Commercial— 303–837–3515; FTS—327–3515.

George C. Hinton,
Acting State Director.

[FR Doc. 81–571 Filed 1–7–81; 8:45 am]
BILLING CODE 4310–84–M

Vale District; Northern and Southern Resource Areas; Invitation To Comment

The Bureau of Land Management, Vale District, is beginning multiple resource use planning on public lands in the Southern Malheur Resource Area, and a plan amendment in the Northern Resource Area in Malheur County and part of Harney County in eastern Oregon.

Resource inventories, were begun in Southern Malheur RA for soils, vegetation, water quality, and fisheries habitat in 1980, and are due for completion early in 1981. Inventory of other resources for the area, namely: cultural, wilderness, visual, recreation development, wildlife, forestry, and water are either complete, adequate for the need, covered by sufficient existing data, or are inadequate and will not be completed for this planning period due to manpower and funding deficiencies. Additional soil and vegetation inventories are now complete and must be considered along with Areas of Environmental Concern (ACEC's), Wilderness Study Areas, and proposed right-of-way Corridors identified in the Western Regional Corridor Study for Northern Malheur RA.

The inventory data will be used to evaluate the capability and limitation of the resources for intensive development and use. The evaluation will then be used to develop resource management recommendations for approximately 2,636,600 acres of public land in Southern Malheur and 1,324,900 acres in Northern Malheur under the jurisdiction of the Vale District, Bureau of Land Management.

BLM resource specialists in range management, minerals, wildlife, fisheries, forest management, hydrology, soils, recreation, cultural resources, wilderness review, ecology, and socio-economics, will comprise the interdisciplinary planning team. Planning will essentially be done at the district level with reviews and consultation occurring at the Oregon State Office level, with the District Multiple Use Advisory Council, District Grazing Advisory Board, Division of State Lands, Malheur County Planning Board, and the adjacent BLM district offices.

General types of issues surrounding the development and use of the resources are anticipated, as follows:

1. *Lands*—potential land exchanges; rights-of-way for energy corridors, roads, reservoirs, canals, and ditches; withdrawals to protect areas of critical environmental concern, natural areas, etc.; leases and permits to facilitate industrial and residential expansion, geothermal development, mining, other mineral extraction, sanitary landfills, education facilities, recreational parks expansion, etc.; trespass abatement; conflicting land uses, agriculture vs mining, water storage, etc.; and withdrawal restoration.

2. *Minerals*—potential development of geothermal, uranium, and oil and gas on public surface and subsurface ownership; social and economic impacts of rapid, large-scale development of oil and gas and uranium on small communities and other resource uses; rehabilitation of land disturbed by mineral exploration and development.

3. *Range*—allocation of vegetation for livestock, wildlife, wildhorses, and watershed; stocking rates for livestock; seasons of livestock use; protection and management of riparian vegetation; rangeland improvements and the conflict with other resources such as wilderness interim management requirements, visual (scenery) resources, watershed protection, etc.; shifting livestock operators within and to other allotments to bring grazing use in balance with grazing capacities.

4. *Wildlife*—habitat protection and development and the conflicts with other resource uses such as livestock grazing, mining, ORV, and recreation; introduction of new, non-native species such as Bighorn Sheep, which may cause competition for forage with livestock and other wildlife species; predator control and management.

5. *Cultural*—protection of cultural resources and the conflicts with useage of other resources.

6. *Recreation*—recreation potential and development of existing and new situations, including access, facility development, and protection; conflicting uses with other resources; and levels of ORV use.

7. *Water*—protection of the watershed; prevention of point and non-point pollution; and improvement of water quality to federal clean water standards.

8. *Wilderness*—determination of wilderness suitability for future wilderness designation; extent to which interim management requirements restrict use of other resources within study areas and within eventual designated areas.

9. *Public Access*—securing access to the Public lands for resource management and use by the public.

10. *Fire Management*—use of fire as a management tool to manipulate vegetation types. This includes the manipulation of wildfires as well as controlled (prescription) burning.

Issues relevant to Northern Malheur amendment must be confined to vegetative allocation for livestock, wildlife and watershed, ACEC's, Wilderness Study, and R/W Corridors.

Areas of Critical Environmental Concern (ACEC's)

Identification and protection of Areas of Critical Environmental Concern (ACEC), is of major concern at this point.

Areas of Critical Environmental Concern are areas where special management attention is required to protect and prevent irreparable damage to *important* historic, cultural or scenic values, fish and wildlife resources or other natural systems or processes, or to protect life and safety from natural hazards.

Public suggestions or nominations of areas must include the following elements to be considered for study:

—A legal description of the boundaries, or show on a map or aerial photo and describe by terrain features such as roads, streams, ridges, etc.

—A description of relevance and importance to historic, cultural or scenic values, fish and wildlife resources or other natural systems of processes, or to protect life and safety from natural hazards. Illustrate objective evidence the values are of more than *local* significance (for example, information or testimony from research entities, recognized scientists or consulting groups).

—Your name, address, and telephone number.

All areas will be evaluated by an interdisciplinary team under the concepts of multiple use and Bureau ACEC guidelines.

Threatened and Endangered (T&E) Plants and Animals

The identification and location of threatened and endangered plants and animals that occur in the district is desired at this time. Currently there are three threatened or endangered and seven sensitive species of animals on the Federal list. One additional threatened animal species occurs on the Oregon List. There are no plant species known to occur in the District that are listed Federally, however, there are 10 threatened or endangered and eight sensitive species that appear on the Oregon list.

It is important that the public participate in long range plans for this planning areas as increasd private and public use of the resources in anticipated. Public involvement will therefore be a continuing and key part of the Bureau's planning process. The BLM strongly urges the public to offer information and assistance to this planning effort. Specific notices of meetings and opportunities for public participation will be announced from time to time in advance of the acutal dates. A general schedule of dates and type of public participation is set forth as follows:

Planning element (or phase)	Type of public notice and involvement	Date of notice or meeting
A. Identification of Resource, Issues, and Areas of Environmental Concern (ACEC's), and notice of intent to begin planning in the Southern Malheur Resource Area and to amend the Northern Malheur Resource Area MFP.	Public will be notified by newspress, *this* FEDERAL REGISTER notice, and by special brochure mailing, and requested to respond orally or in writing within 30 days of notice. No public meetings are planned.	January 1981.
B. Development of Planning Criteria	Public will be notified by newspress and special newsletter, and requested to respond orally or in writing within 30 days of publication.	March 1981.
	Public meetings may be planned throughout the district to provide for personal contact with planning team and to answer general planning questions.	Specific dates will be announced.
C. Steps, 2, 3, and 4 of the Unit Resource Analysis (URA) Planning Area Analysis (PAA), and Step 1 of the Management Framework Plan (MFP).	Informal contact for professional consultations will be made with known technical interest groups and federal, state, and county agencies. General public involvement may occur through field tours from time to time of the planning area. No public meetings are planned. Public notice of tours will be by newspress.	January through October 1981.
D. Management Framework Plan (MFP) Alternatives	Public notice by newspress and special newsletter of public meetings to identify additional alternatives, and to express a preferred alternative. 15 days written response is allowed after meetings.	Winter 1981–82.
E. Publication of Management Framework Plan final alternatives with the preferred alternatives identified for the Southern Malheur Resource Area and the Northern Malheur Amendment. Scoping for the Southern Malheur Grazing Environmental Impact Statement will be done at this time.	Public notice by newspress and newsletter of public meetings. FEDERAL REGISTER notice of intent to begin Southern Malheur EIS and of scoping process. A 45-day written comment period is provided after publication of NOI, and public meetings.	Summer 1982.

Anyone desiring to discuss BLM planning and environmental assessment efforts and availability of information may do so by contacting the District Manager, Bureau of Land Management, P.O. Box 700, Vale, Oregon 97918 or by phone call to (503) 473–3144. Written or oral response relevant to the identification of additional issues and public concerns in the management of the resources must be made on or before February 23, 1981.

Recipients of this notice must contact the District Manager orally or in writing if they wish to receive future mailings from the District office relevant to Management Framework Planning in the Southern Malheur EIS area.

Dated: December 30 1980.

David Lodzinski,

Acting District Manager.

[FR Doc. 81-631 Filed 1-7-81; 8:45am]

BILLING CODE 4410-84-M

DEPARTMENT OF THE INTERIOR

Geological Survey

DEPARTMENT OF TRANSPORTATION

Coast Guard

Memorandum of Understanding; Outer Continental Shelf.

AGENCIES: U.S. Geological Survey, Department of the Interior; U.S. Coast Guard, Department of Transportation.

ACTION: Final document.

SUMMARY: The U.S. Geological Survey and the U.S. Coast Guard have signed a new Memorandum of Understanding (MOU) to promote the safety of activities and facilities on the Outer Continental Shelf (OCS) of the United States associated with the exploration, development, and production of mineral resources, to avoid duplication of effort, and to promote consistent, coordinated, and less burdensome regulation of these facilities. This MOU may identify changes required in individual regulations, or modifications to the OCS regulatory scheme, or both. This MOU is in response to the enactment of the OCS Lands Act Amendments of 1978 (Public Law 95–372).

DATES: This MOU is effective December 18, 1980.

ADDRESSES: A copy of the MOU may be obtained from the following offices:

Deputy Division Chief, Offshore Minerals Regulation, Conservation Division, U.S. Geological Survey, 640 National Center, Reston, Virginia 22092

Manager, Outer Continental Shelf Safety Project, U.S. Coast Guard (G-MP-30CS), 2100 2nd Street SW., Washington, D.C. 20593

FOR FURTHER INFORMATION CONTACT: Mr. Price McDonald, Chief, Branch of Offshore Field Operations, Conservation Division, U.S. Geological Survey, 640 National Center, Reston, Virginia 22092, telephone (703) 860-7571.

Dated: December 24, 1980.

Robert L. Rioux,

Deputy Division Chief, Offshore Minerals Regulation, Conservation Division.

The Memorandum of Understanding between the USGS and the USCG is revised in its entirety to read as follows:

Memorandum of Understanding Between the United States Geological Survey of the Department of the Interior and the United States Coast Guard of the Department of Transportation Concerning Regulation of Activities and Facilities on the Outer Continental Shelf of the United States

I. Purpose

The purpose of this Memorandum of Understanding is to promote the safety of activities and facilities on the Outer Continental Shelf of the United States (OCS) associated with the exploration, development, and production of mineral resources, to avoid duplication of effort, and to promote consistent, coordinated and less burdensome regulation of these facilities.

II. Definitions

For purposes of this Memorandum of Understanding, the following definitions apply:

Act—The Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1331 et seq.), as amended by the Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95-372).

Deepwater Port—A facility licensed by the Secretary of Transportation under the Deepwater Port Act of 1974.

Vessel—Every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the water. This term does not include atmospheric or pressure vessels used for the containment of fluids or gases.

Outer Continental Shelf—The submerged lands which are subject to the Act.

OCS Activity—Any offshore activity associated with exploration for, development of, or production of mineral resources of the OCS.

OCS Facility—Any artificial island, platform, installation, or other device, permanently or temporarily attached to the seabed or subsoil of the OCS, and used for any OCS activity. This term does not include a deepwater port or vessel engaged in transportation, but does include a:

1. *Fixed OCS Facility*—Any fixed, bottom-founded facility permanently attached to the seabed or subsoil of the OCS, including platforms, guyed towers, articulated columns, gravity platforms and other structures;

2. *Floating OCS Facility*—Any buoyant facility securely and substantially moored to the seabed or subsoil of the OCS, including tension leg platforms, permanently moored semi-submersibles, ship-barge shape hulls, or other buoyant structures. This term does not include mobile offshore drilling units;

3. *Mobile Offshore Drilling Unit (MODU)*—Any vessel capable of engaging in drilling operations for the exploration or exploitation of mineral resources of the OCS. This term includes mobile offshore drilling units engaged in OCS activities that are U.S., foreign, or not documented under the laws of any nation;

4. *OCS Terminal*—Any fixed or floating facility which is used or intended for use primarily as a port or terminal for transferring produced oil, gas or other OCS mineral resources to or from a vessel;

5. *Mobile Well Servicing Unit (MWSU)*—Any vessel other than a MODU which engages in well servicing operations on the OCS.

III. Agency Authorities on the OCS

A. General

1. The Department of the Interior is responsible for management of mineral leasing on the OCS of the United States, including coordinating Federal Activities related to this program. Within the Department of the Interior, the U.S. Geological Survey regulates all mineral exploration, drilling, and production activities on leased or leasable land.

2. The United States Coast Guard of the Department of Transportation regulates to promote the safety of life and property on OCS facilities and vessels engaged in OCS activities, and the safety of navigation.

B. Statutory Authorities of the Geological Survey on the OCS Include

1. Providing for the prevention of waste and the conservation of the natural resources of the OCS, and the protection of correlative rights.

2. Requiring suspension or temporary prohibition of any operation or activity on a lease if there is a threat of serious or irreparable harm or damage to life, to property, to mineral deposits or to the marine, coastal, or human environment.

3. Reviewing allegations of violations of safety regulations issued under the Act.

4. Reviewing and approving exploration plans, development and production plans, and applications for permits to drill necessary for prompt and efficient exploration, development, and production of a lease area.

5. Reviewing and approving applications for remedial work on completed wells.

6. Approving rights of use and easement.

7. Inspecting drilling and production operations to ensure compliance with applicable lease terms and Geological Survey regulations and orders.

8. Ensuring compliance with the national ambient air quality standards pursuant to the Clean Air Act (42 USC 7401 et seq.), to the extent that activities authorized under the Act significantly affect the air quality of any State.

9. Exercising the Secretary of the Interior's responsibilities for the assessment, compromise, and collection of civil penalties under section 24(b) of the Act.

C. Statutory Authorities of the Caost Guard on the OCS Include

1. Promoting the safety of life and property on OCS facilities and adjacent waters.

2. Requiring hazardous working conditions related to activities on the OCS to be minimized.

3. Reviewing allegations of violations of occupational safety and health regulations under the Act.

4. Administering applicable vessel navigation, safety and inspection laws contained in Titles 46 and 33 of the United States Code.

5. Inspecting OCS facilities and vessels engaged in OCS activities to ensure compliance with applicable Coast Guard requirements.

D. Similar Statutory Authorities Involving Both Agencies Include

1. Establishing minimum requirements or standards of design, construction, alteration, and repair for vessels, rigs, platforms, or other vehicles or structures engaged in OCS activities.

2. Performing scheduled and unannounced inspections of OCS facilities to assure compliance with regulations promulgated pursuant to the Act.

3. Enforcing regulations promulgated pursuant to the Act, including authority to utilize by agreement the services of personnel or facilities of other Federal agencies.

4. Investigating and making public reports on deaths, serious injuries, fires, and oil spillage occurring as a result of OCS operations.

5. Requiring the use of the best available and safest technologies on OCS drilling and production operations as set forth in section 21(b) of the Act.

IV. Responsibilities

To accomplish the purposes of this memorandum both agencies agree to observe the following guidelines with respect to overseeing OCS facility design and construction, systems and equipment, and operations.

A. Facility Design and Construction Requirements, Including Plan Approval

1. The Geological Survey exercises technical review and approval responsibility for design, fabrication, and installation of all fixed OCS facilities. Additionally, after technical review and approval of the design and fabrication of all floating OCS facilities by the Coast Guard, the Geological Survey will have final approval responsibility for the installation of such facilities. The Geological Survey will coordinate technical and plan review as necessary with the Coast Guard to ensure that any applicable Coast Guard requirements affecting design or construction are complied with.

The Geological Survey verifies the following for all OCS facilities:

a. Site-specific considerations, such as oceanographic, meteorological, geological and geophysical conditions including bottom conditions and the capability of the seabed to support or hold the position of the facility to be installed and operated.

The Geological Survey establishes requirements and verifies the following for fixed OCS facilities:

b. Structural integrity involving design, fabrication, and installation;

c. General arrangement of drilling, production, and well control systems and equipment;

d. Modification and repair related to structural integrity.

2. The Coast Guard exercises technical review and approval responsibility for design and construction of all floating OCS facilities, and all vessels engaged in OCS activities, including MODUs and MWSUs. The Coast Guard will coordinate technical and plan review as necessary with the Geological Survey to ensure that any applicable Geological Survey requirements affecting design or construction are complied with.

The Coast Guard establishes requirements for the following on all OCS facilities:

a. Structural fire protection, including specifying fire endurance capabilities of bulkheads, decks, and escape routes, testing and classification of materials, and requirements for ventilation systems;

b. Access, landings and emergency escape routes.

The Coast Guard establishes requirements for the following on floating OCS facilities and vessels engaged in OCS activities:

c. Design, loading, fabrication and construction requirements;

d. Stability and buoyancy;

e. Modification and repair requirements related to structural integrity;

f. General arrangement.

B. Systems and Equipment

Systems approved by one agency which are interconnected to systems approved by the other agency must be acceptable to both agencies.

1. The Geological Survey establishes requirements and verifies compliance with those requirements for systems and equipment for drilling, production, well control, and workover, on all OCS facilities.

Systems and equipment for which the Geological Survey establishes requirements, as necessary, on all OCS facilities include:

a. Blowout preventer and other well control equipment;

b. Surface production safety systems;

c. Emergency Shutdown System (ESD), including associated gas and fire detection systems;

d. Subsurface well-control equipment, including safety valves;

e. Atmospheric, pressure and fired vessels used for the processing of production;

f. Wellhead and flow-line equipment, including valves and sensors for wellheads, flow lines, and pipelines;

g. Dehydration equipment and gas compressor units used in production operations;

h. Hydrogen sulfide control equipment, including the hydrogen sulfide gas detection system;

i. Production and production-associated piping systems, including incoming and departing pipelines;

j. Pumps used to transfer liquids within the production process systems and into pipelines;

k. Fire Loop System which is used for detection and to initiate platform shutdown;

l. Subsea completions;

m. Wellhead fire-prevention;

n. Gas detection systems for drilling, production or gas transmission systems or equipment;

o. Oil and gas sale and metering equipment for production from OCS leases;

p. Containment systems for overflow from equipment associated with drilling and production.

Other systems and equipment for which the Geological Survey is responsible on fixed facilities include:

q. Electrical system design and equipment, including designation of classified locations;

r. Pressure vessels and piping associated with drilling operations;

s. Engine exhaust insulation and spark arrestors.

2. The Coast Guard establishes systems and equipment requirements, as appropriate, for propulsion machinery, auxiliary machinery and personnel safety equipment on all OCS facilities. The Coast Guard also establishes requirements for equipment on all OCS facilities to mitigate occupational safety or health hazards, or ensure the seaworthiness of a MODU, MWSU, floating OCS facility, or vessel. However, the Coast Guard will not establish requirements for drilling, production or workover equipment that would duplicate or conflict with Geological Survey requirements. Nor will the Coast Guard establish requirements for safety factors, shutdown or relief valves for pressure vessels or piping in systems for which Geological Survey has design approval.

Systems and equipment for which the Coast Guard establishes requirements, as necessary, on all OCS facilities include:

a. Lifesaving systems and equipment;

b. Fire detection, control and extinguishing systems and equipment not covered under IV.B.1. (c) and (k) of this Memorandum;

c. General alarms;

d. Cranes, booms or other material handling equipment, including industrial trucks;

e. Personnel protection equipment, excluding equipment for protection from hydrogen sulfide;

f. Communications;

g. Helicopter fueling facilities;

h. Helicopter deck installations;

i. Navigation lights, obstruction lights, and sound signals;

j. Boilers, pressure vessels, and piping not covered under IV.B.1. of this Memorandum;

k. Underwater working chambers designed for human occupancy and their support systems;

l. Hotel services including fresh water, flushing water, heating systems, etc.;

m. Permanent and portable quarters.

Other systems and equipment for which the Coast Guard establishes

requirements, as necessary, on floating OCS facilities, MODUs, MWSUs, and vessels include:

n. Electrical system design and equipment, including designation of classified areas;

o. Mooring systems.

Other systems and equipment for which the Coast Guard establishes requirements, as necessary, on OCS terminals include:

p. Oil transfer, gas inerting and vapor recovery systems.

C. Operations

1. The Geological Survey administers procedures, including training, drills, inspections and emergency procedures on all OCS facilities with respect to:

a. Drilling, workover, and production operations, including well control;

b. Pollution prevention, except for transfers to or from a vessel (as vessel is defined in section II. of this Memorandum);

c. Safe welding, burning and hot tapping procedures;

d. Control of hydrogen sulfide;

e. Pipeline operations associated with an OCS facility;

f. Wellhead and platform removal.

Other procedures which the Geological Survey administers on OCS fixed facilities include:

g. Underwater and above water structural inspection and repair.

2. The Coast Guard administers requirements, including those for training, drills, inspections and emergency procedures, on all OCS facilities for:

a. Firefighting;

b. Emergency egress from a facility, including use of lifesaving and other general emergency equipment;

c. Handling, transfer and stowage of explosives, radioactive, flammable (other than produced hydrocarbons), and other hazardous materials;

d. Transfer of petroleum and other products from or to a vessel (as vessel is defined in section II. of this Memorandum);

e. Transfer of materials and personnel on or off the facility by crane or other means;

f. Vehicle and vessel operations;

g. Helicopter operations on OCS facilities;

h. Occupational safety and health of personnel;

i. Diving operations.

Other requirements which the Coast Guard administers on OCS floating facilities and vessels include:

j. Underwater and above water structural inspection and repair;

k. Stability considerations.

V. Inspections

A. Each agency will conduct scheduled and unannounced inspections, as necessary, to ensure compliance with its own requirements. Both agencies will coordinate inspections to minimize disruption of operations. If, in the course of a routine inspection, deficiencies falling within the responsibility of the other agency are apparent, the deficiencies will be reported to the other agency for action. This is not intended, however, to prevent any inspector from either agency from taking such action as is considered necessary to prevent serious or irreparable harm to persons, property or the environment on the OCS. Such action, however, will be subsequently reported to the other agency.

B. The Geological Survey administers procedures for requiring shut-down of drilling and production operations and may initiate such procedures upon request by the Coast Guard.

C. The Cost Guard issues certificates indicating compliance with Cost Guard requirements for all floating OCS facilities and vessels engaged in OCS activities, including MODUs and MWSUs.

VI. Investigations

A. Responsibility

Investigation and public report by the Geological Survey or the Coast Guard are required for fires, oil pollution, deaths and injuries associated with OCS activities. In addition, the agencies investigate certain other incidents relating to other regulatory responsibilities, e.g. loss of well control, sinking, capsizing, or major damage to a vessel or facility. To avoid duplicative efforts and simplify administration, the primary agency regulating a particular facility, system, or operation will be responsible for leading the investigation and reporting on incidents involving that facility, system, or operation. Where only one agency has an investigative interest in an incident, that agency will investigate and report. Where both agencies have investigative interest in an incident, one agency will assume lead responsibility with supporting participation by the other agency. Assumption of lead agency responsibility, the extent of supporting participation, and procedures for coordination will be determined by the circumstances of the particular incident. Normally, all investigations which involve both agencies will be coordinated by applying the following guidelines in numerical order to determine lead agency.

B. Guidelines

1. *Collisions*—The Coast Guard will normally be the lead agency.

2. *Fires and Explosions*—The Geological Survey will normally be the lead agency for incidents of fires or explosion involving drilling or production operations. Coast Guard participation will be requested in all investigations of fires or explosions that involve death or injuries or vessels, equipment, or operations for which the Coast Guard is responsible under paragraphs IV. B.2. or C.2. of this Memorandum.

3. *Deaths and Injuries.*The Coast Guard will normally be the lead agency for all incidents involving death or injuries. Geological Survey participation will be requested in investigations of all deaths and injuries associated with oil or gas drilling or production operations or equipment, including hydrogen sulfide exposure.

4. *Pollution*—The Geological Survey will normally be the lead agency for incidents involving pollution from all OCS facilities. Coast Guard participation will be requested in all investigations of pollution.

5. *Facilities, Material and Equipment.*

a. The Coast Guard will normally be the lead agency for incidents involving damage to MODUs, MWSUs, or other vessels, or floating OCS facilities, and failure of or damage to propulsion, auxiliary, or emergency systems and equipment covered under IV. B.2 of this Memorandum.

b. The Geological Survey will normally be the lead agency for all other incidents involving failure of or damage to fixed OCS facilities.

C. Conduct of Investigations

1. The lead agency responsible for an investigation under these guidelines will conduct, review, approve and release the investigation report in accordance with the normal procedures of that agency. Comments by the supporting agency will be included in the investigation report.

2. If both agencies participate in an investigation, the lead agency will forward an information copy of the final report to the supporting agency.

3. Reports prepared by a single agency need not be routinely forwarded to the other agency, but will be available upon request.

VII. Oil Spill Contingency Plans

Exploration Plans or Development and Production Plans are submitted to the Geological Survey for review and approval. The Coast Guard will provide a technical review of that portion of the

Plan which addresses the adequacy of the oil spill contingency plan, including the adequacy of oil spill response, clean up equipment, and procedures. The criteria by which to judge the adequacy of a plan will be jointly agreed upon by the Geological Survey and the Coast Guard.

VIII. Exchange of Services and Personnel

To the extent its own operations permit, each agency will provide the other agency with such assistance, technical advice and support, including transportation, as may be requested. Such exchange of services and use of personnel shall be on a nonreimbursable basis.

IX. Cooperation in Standards and Regulation Development

A. Both agencies will exchange data and study results, participate in research and development projects of mutual interest, and exchange early drafts of rulemaking notices.

B. Both agencies will review current standards, regulations and orders and will propose revisions to them as necessary in keeping with the provisions of this Memorandum of Understanding.

C. Both agencies will review reporting and data collection requirements imposed on operators of OCS facilities and, wherever feasible, will eliminate or minimize duplicate reporting and data collection.

X. Implementation

A. Each agency will review its internal procedures and where appropriate, will revise them to accommodate the provisions of this Memorandum of Understanding. Each agency will also designate one senior official who will be responsible for continuing coordination and implementation of the provisions of this Memorandum of Understanding.

B. On the effective date of this agreement, the Coast Guard/Geological Survey Memorandum of Understanding for mobile offshore drilling units, dated April 11, 1977, is cancelled.

XI. Savings Provision

Nothing in this Memorandum of Understanding shall be deemed to alter, amend, or affect in any way the statutory authority of the Geological Survey or the Coast Guard.

XII. Effective Date

This Memorandum of Understanding is effective upon signature. It may be amended at any time by mutual written agreement of both agencies and may be terminated by either agency upon 30 days written notice.

Signed at Washington, D.C., this 18th day of December 1980.

J. B. Hayes,

Commandant, U.S. Coast Guard, Department of Transportation.

H. William Menard,

Director, U.S. Geological Survey, Department of the Interior.

[FR Doc. 81-824 Filed 1-7-81; 8:45 am]

BILLING CODE 4310-31-M

DEPARTMENT OF THE INTERIOR

Geological Survey

Advisory Committee on Water Data for Public Use; Renewal

This notice is published in accordance with the provisions of section 7(a) of the Office of Management and Budget Circular No. A-63 (Revised). Pursuant to the authority contained in section 14(a) of the Federal Advisory Committee Act (Pub. L. 92-463), the Secretary of the Interior has determined that renewal of the Advisory Committee on Water Data for Public Use is necessary and in the public interest.

The purpose of the Committee is to advise the Department of the Interior, through the Geological Survey, on plans, policies, and procedures related to Federal water-data acquisition programs and on the effectiveness of those programs in meeting national needs. Advice and counsel are also provided relative to the Survey's efforts to implement Office of Management and Budget Circular No. A-67, which provides guidelines for the coordination of the acquisition of certain water data by Federal agencies.

The General Services Administration concurred in the renewal of this Committee on December 15, 1980.

Further information regarding this renewal may be obtained from Porter E. Ward, Chief, Office of Water Data Coordination, Geological Survey, 417 National Center, Reston, Virginia 22092, (703) 860-6931.

Doyle G. Frederick,

Acting Director, U.S. Geological Survey.

[FR Doc. 81-393 Filed 1-7-81; 8:45 am]

BILLING CODE 4310-31-M

Earthquake Studies Advisory Panel; Renewal

This notice is published in accordance with the provisions of section 7(a) of the Office of Management and Budget Circular No. A-63 (Revised). Pursuant to the authority contained in section 14(a) of the Federal Advisory Committee Act (Pub. L. 92-463), the Secretary of the Interior has determined that renewal of the Earthquake Studies Advisory Panel is necessary and in the public interest.

The purpose of the panel is to advise the Geological Survey on earthquake plans and programs which are conducted in cooperation with universities, industry, and other Federal and State government agencies in a coordinated national program for earthquake research.

The General Service Administration concurred in the renewal of this Panel on December 15, 1980.

Further information regarding this renewal may be obtained from Dr. John R. Filson, Chief, Office of Earthquake Studies, Geological Survey, 905 National Center, Reston, Virginia 22092 (703) 860-6472.

Boyle G. Frederick,

Acting Director, U.S. Geological Survey.

[FR Doc. 81-394 Filed 1-7-81; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: This Notice announces that Chevron U.S.A Inc., Unit Operator of the High Island Block 52 Federal Unit Agreement No. 14-08-001-6381, submitted on December 12, 1980, a proposed annual plan of development/production describing the activities it proposes to conduct on the High Island Block 52 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act of 1978, that the Geological Survey is considering approval of the plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837-4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices

and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: December 18, 1980.

J. Courtney Reed,

Staff Assistant for Resource Evaluation.

[FR Doc. 81-442 Filed 1-7-81; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulfur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Ocean Production Company has submitted a unit Development and Production Plan describing the activities it proposes to conduct on Leases OCS 038, 063, 064, 065, 068, and 069, Blocks 120, 93, 114, 117, 118, and 119, Ship Shoal Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: January 2, 1981.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 81-640 Filed 1-7-81; 8:45 am]

BILLING CODE 4310-31-M

Office of the Secretary

Livestock Grazing on Public Lands; Schedule of Fees, 1981

Pursuant to the authority vested in the Secretary of the Interior, notice is hereby given of the schedule of fees for the 1981 fee year beginning March 1, 1981, and ending February 28, 1982, for livestock grazing on the public lands under the administration of the Bureau of Land Management.

For the purpose of establishing charges, one animal unit month (AUM) shall be considered equivalent to grazing use by one cow, five sheep, or one horse for one month.

Bills shall be issued in accordance with the rates prescribed in this notice.

Inside Statutory Grazing Districts

Pursuant to Department regulations (43 CFR 4130.5-1(a)), as published January 10, 1979 (44 FR 2173), fees within districts shall be $2.31 per AUM.

Exceptions to the above rates for certain LU project lands (Bankhead-Jones Land) will not apply for the 1981 grazing year or in subsequent years under the current grazing fee formula. The rates shall be the same as above, $2.31 per AUM. Areas for which different rates applied in previous years are as follows:

Arizona. The San Simon project (Cienega area) transferred to the Department by Executive Order 10322.

Colorado. The Great Divide project transferred to the Department by Executive Order 10046.

Montana. For all LU lands within districts transferred to the Department by Executive Order 10787.

New Mexico. For the Hope Land project transferred to the Department by Executive Order 10787, and the San Simon project (Cienega area) transferred to the Department by Executive Order 10322.

Outside Statutory Grazing Districts (Exclusive of Alaska)

Pursuant to Departmental regulations (43 CFR 4130.5-1(a)), the rate for grazing leases shall be $2.31 per AUM.

Exceptions to the above rate set for certain LU project lands and for all O&C and intermingled public lands in Western Oregon will not apply for the 1981 grazing year or in subsequent years under the current grazing fee formula. The rates shall be the same as above, $2.31 per AUM. Areas for which different rates applied in previous year are as follows:

Montana. Those Milk River project lands outside districts transferred to the Department by Executive Order 10787.

Wyoming. The Northeast Wyoming project lands transferred to the Department by Executive Order 10046 and amended by Executive Order 10175.

Western Oregon. O&C and intermingled public lands.

James W. Curlin,

Deputy Assistant Secretary for Land and Water.

January 2, 1981.

[FR Doc. 81-444 Filed 1-7-81; 8:45 am]

BILLING CODE 4310-84-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 347 (Sub-No. 1)]

Coal Rate Guidelines—Nationwide; Decision

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time to notice of proposed guidelines.

SUMMARY: At 45 FR 80370, December 4, 1980, the Commission proposed to expand the scope of this proceeding to coal rates nationwide. Comments were due 45 days from the date of Federal Register publication of the Notice of Proposed Guidelines on or before January 19, 1981. Several persons intending to comment have requested additional time to prepare their statements. The requests are granted.

DATE: Comments are now due April 17, 1981.

ADDRESS: An original and 15 copies of comments should be sent to: Room 5340, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder or Jane F. Mackall (202) 275-7656.

Decided: December 31, 1980.

By the Commission, Darius W. Gaskins, Jr., Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-620 Filed 1-7-81; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 394]

Cost Ratio For Recyclables—1980 Determination

AGENCY: Interstate Commerce Commission.

ACTION: Notice of decision.

SUMMARY: Section 204 of the Staggers Rail Act of 1980, Pub. L. 96-448, requires rail carriers to maintain rates for the transportation of recycled and recyclable materials, other than

recycled or recyclable scrap iron and steel, at revenue-to-variable cost ratio levels equal to or less than a described average revenue-to-variable cost ratio. The Commission has calculated this average cost ratio to be 146 percent. The rail carriers are prohibited from increasing rates on recyclables, other than recycled or recyclable scrap iron and steel, above the prescribed level.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder or Jane F. Mackall (202) 275–7656.

SUPPLEMENTARY INFORMATION: We instituted this proceeding by notice at 45 FR 76551 (November 19, 1980) in order to implement Section 204 of the Staggers Rail Act of 1980, Pub. L. 96–448. We have, on January 5, 1981, issued a final decision in Ex Parte 394 prohibiting the railroads from increasing rates on recycled and recyclable materials, other than recycled and recyclable iron and steel, which produce a revenue-to-variable cost ratio greater than 146 percent. *Copies of the complete decision are available from the Secretary, ICC, Washington, D.C.*

Dated: December 30, 1980.

Authority: 49 U.S.C. 10731.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam. Vice Chairman Gresham concurring in part and dissenting in part with a separate expression. Commissioner Gilliam dissenting in part with a separate expression. Commissioner Clapp dissenting with a separate expression. Commissioner Alexis absent and not participating.

Agatha L. Mergenovich,
Secretary.

Vice Chairman Gresham, concurring in part and dissenting in part:

The majority does not explain why it rounded the revenue to variable cost ratio of 146.3 percent to 146 percent. In my opinion, there is no basis for rounding this figure. To this extent, I dissent from the position of the majority.

Commissioner Gilliam, dissenting in part:

I do not agree with the majority that Section 204 of the Staggers Rail Act allows the railroads to take no action to reduce rates on recyclables. The Statute clearly states that such reductions must be made within 90 days. I believe that any ambiquity in the statutory requirement regarding rate reductions was a recognition by Congress that there was a need for practical reasons to allow flexibility in making each and every individual rate reduction. This would still require the railroads to make the necessary reduction on an average basis within 90 days.

Commissioner Clapp, dissenting:

Section 204 of the Staggers Rail Act calls for some immediate rate reductions on certain recyclable commodities. The approach taken in this decision raises substantial legal questions. The alleged statutory ambiguity which is the underpinning of the majority's rationale does not appear unless certain phrases in Section 204 and the Conference Report are read completely out of context.

Section 204 provides that the nation's railroads "notwithstanding any other provision (of law)" must act to "reduce and thereafter maintain" rates for recyclables, other than scrap iron and steel, to the level set forth in this decision. It also states that "as long as any rate equals or exceeds such average revenue-to-variable cost ratio established by the Commission, such rate shall not be required to bear any further rate increase." The Conference Report states that rates "currently" above the threshold could not take increases until the rate falls below the threshold.

How can the clear direction to "reduce and maintain" be excised from the statute? We have before us the statements of the architects of the version of Section 204 reported out of the Conference Committee. They contradict the majority's interpretation that no immediate decreases are needed.

Congressmen Madigan and Florio point out that Section 204 should not have a serious revenue impact on the railroads, since scrap iron and steel does not fall within its ambit. They note:

> It was understood (by the Conference Committee) as Section 204 provides, that railroads would have to first reduce and thereafter maintain rates on all other recyclable materials at or below the level to be established by the Commission annually.

Similarly, Senator Long states that "the proposed majority ruling * * * threatens to repeal, by administrative fiat, the specific initial rate reduction requirement of the statute." I disagreed with that proposal and I remain convinced that Section 204 requires immediate rate reductions. Average reductions (by commodity and/or geographic region) would suffice. If average reductions were made, some individual rates would fall above and some below the Section 204 ceiling. The statute and Conference Report language is consistent with this approach. Those individual rates that currently are and would remain above the threshold after an average reduction could not be increased unless they later fall below it.

[FR Doc. 81-675 Filed 1-7-81; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, 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). An interim proposed final Rule 240 reflecting changes to comport with the Motor Carrier Act of 1980 was published in the July 3, 1980, **Federal Register** at 45 FR 45529 under Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349.* Those rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 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. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(C) of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.240(B). A copy of any application together with applicant's supporting evidence can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.240(A)(H).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

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 environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves 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 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: December 23, 1980.

By the Commission, Review No. 5, Board member Krock, Taylor and Williams. (In MC-F-14519, Board member Taylor dissents. He finds no public benefit resulting from one party controlling two carriers which may at least in part, provide the same service.

MC-F-14513, filed November 25, 1980. Applicant: BURNS-PORTLAND EXPRESS, INC. (Burns-Portland) (P.O. Box 11915, Spokane, WA 99211)—purchase (portion)—System 99 (8201 Edgewater Drive, Oakland, CA 94621) Representative: John G. McLaughlin, Jerry R. Woods, Suite 1600, One Main Place, 101 SW Main Street, Portland, OR 97204. Burns-Portland seeks authority to purchase a portion of the interstate operating rights of System 99 contained in System 99 certificate MC-98327 (Sub 10), which authorizes 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 commodities requiring special equipment), over regular routes, between Bend, OR and Crane, OR, serving all intermediate points. From Bend over U.S. Highway 20 to Burns, OR, then over OR Highway 78 to Crane, and return over the same route. The rights to be sold by System 99 duplicate, in part, the rights to be retained by System 99 in MC-98327 (Sub 10) to provide service over U.S. Highway 20 between Bend, OR and Burns, OR in connection with its authorized operations under MC-98327 (Subs 10 and 22) between Portland, OR and Boise, ID. Donald A. Miles seeks control of the operating rights through the purchase. Buyer is affiliated with Crocker Truck Lines, Inc., which holds authority in No. MC-141441. Impediment: An impediment to the approval of this transaction exists due to the sale and retention of duplicating rights.

Note.—Application for temporary authority has been filed.

MC-F-14519F, filed December 1, 1980. ARKANSAS BEST CORPORATION (ABC) (1000 South 21st Street, P.O. Box 48, Fort Smith, AR 72902) —continuance in control—TRANS-STATES LINES, INC. (TSL) (2604 Industrial Park Road, Van Buren, AR 72956. Representatives: Thomas Harper and Don A. Smith, P.O. Box 43, Fort Smith, AR 72902. ABC, a non-carrier with its stock publicly held and widely distributed, seeks authority to continue in common control and management of TSL upon the institution by TSL of operations, in interstate or foreign commerce, as a motor common carrier. ABC holds no authority from this Commission. However, it contols through stock ownership, Arkansas Best Freight System, Inc. (ABF), a motor carrier operating pursuant to authority issued in MC-29910 and sub-numbers thereunder, and Container Carrier Corporation (CCC), a motor common carrier operating pursuant to authority issued in MC-135419 and sub-numbers thereunder. ABF has also been awarded authority pursuant to MC-F-12110 and MC-F-13608. TSL has been granted authority to operate as a motor common carrier in MC 149026 (Sub-5, 7, 8, 9, and 10), as follows: (1)(a) *new furniture*, from Fort Smith, AR, to points in the United States (except AK and HI), (b) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (a) above (except commodities in bulk), from points in the United States (except AK and HI), to Fort Smith, AR, and (c) *rough lumber*, from points in the United States (except AK and HI), to Russellville, AR; (2) *such commodities* as are dealt in by producers and distributors of alcoholic beverages (except commodities in bulk, in tank vehicles), between points in the United States (except AK and HI), on the one hand, and on the other, Little Rock, AR; (3) *office furniture, office supplies, tool boxes, cases, and metal articles*, between Fort Smith, AR, on the one hand, and on the other, points in the United States (except AK and HI); (4) *insulation materials and supplies* used in the manufacture of appliances (except in bulk), from Kansas City, MO, and Newark, OH, to the facilities of Whirlpool Corporation, at Fort Smith, AR; and (5) (a) *new furniture*, and (b) *materials, equipment, and supplies* used in the manufacture and distribution of new furniture (except commodities in bulk), between West Plains, MO, on the one hand, and on the other, points in the United States (except AK and HI). Condition: Arkansas Best Corporation, as a non-carrier holding company, shall continue to be considered a carrier within the meaning of 49 U.S.C. 11348 and is subjected to the requirements of 49 U.S.C. 11302 for those issuances of securities and assumptions of obligations which may relate to or affect those issuances of securities and assumptions of obligations which may relate to or affect the activities of its carrier subsidiaries. Regarding the reporting requirements of 49 U.S.C. 11145, Arkansas Best Corporation need only file such special reports as the Commission may from time to time require. Arkansas Best Corporation is not made subject to the accounting requirements of 49 U.S.C. 11142. Condition: Authorization and approval of this transaction is conditioned to provide that to the extent that Trans-States Lines, Inc.'s operating rights duplicate those of Arkansas-Best Freight System, Inc., and Container Carrier Corporation, they may not thereafter be severed from common ownership by sale or otherwise.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-619 Filed 1-7-81; 8:45 am]

BILLING CODE 7035-01-M

Office of Proceedings

[Volume No. 389]

Permanent Authority Decisions; Decision-Notice

Decided: December 12, 1980.

The following applications, filed on or after March 1, 1979, 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 petition for intervention, either in support of or in opposition 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**. Protests (such as were allowed to filings prior to March 1, 1979) *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) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those 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. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an Applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative 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 common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. 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 February 9, 1981 (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 following decision-notices on or before February 9, 1981 or the application shall stand denied.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

MC 121082 (Sub-17F), filed April 28, 1980. Applicant: ALLIED DELIVERY SYSTEM, INC., 2201 Fenkell, Detroit, MI 48238. Representative: Robert E. McFarland, 999 West Big Beaver Road, Suite 1002, Troy, MI 48084. Transporting *restaurant and store fixtures, office equipment, office supplies, printing machinery, printing supplies, janitorial supplies, iron and steel articles, and paper products*, between Detroit, MI, on the one hand, and, on the other, points in MI.

MC 144622 (Sub-104F), filed September 30, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Robert S. Lee, 1000 First National Bank Bkdg., Minneapolis, MN 55402. Transporting *foodstuffs*, from Louisville, KY, to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, LA, MA, ME, MD, MI, MN, MS, MO, NE, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, and WI.

MC 144622 (Sub-106F), filed October 1, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. Transporting *foodstuffs* (except commodities in bulk and frozen), (1) from Greenville, MS, to points in AL, GA, KS, MO, OK, TN and TX, and (2) from Millsboro, DE, to points in CT, MA, NY, PA, RI, VA, and WV.

MC 144622 (Sub-107F), filed October 1, 1979. Applicant: GLENN BROS. TRUCKING, INC. P.O. Box 9343, Little Rock, AR 72219. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. Transporting *such commodities* as are dealt in or used by grocery and variety stores (except foodstuffs and commodities in bulk), from points in IL, IN, MA, NH, NJ, NY, OH, SC, TN, and TX, to Harrison, AR.

MC 144622 (Sub-108F), filed October 1, 1979. Applicant: GLENN BROS.

TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. Transporting (1) *toilet preparations*, and (2) *such commodities* as are dealt in by retail chain stores, between Detroit, MI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

BILLING CODE 7035-01-M

Motor Carrier Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication 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, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able 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 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 protests in the form of verified statements filed on or before February 23, 1981 (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 notice that the decision-notice is effective. On or before March 9, 1981 an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP2–137

Decided: December 17, 1980.

By the Commission, Review Board Number 3, members Parker, Fortier and Hill.

MC 2962 (Sub-76F), filed December 8, 1980. Applicant: A. & H. TRUCK LINE, INC., 1111 E. Louisiana Street, Evansville, IN 47711. Representative: Robert H. Kinker, P.O. Box 464, Frankfort, KY 40602. 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)*, serving Forrest City, AR as an off-route point in connection with carrier's authorized regular routes.

MC 49052 (Sub-9F), filed December 10, 1980. Applicant: MACON TRADING POST, INC., d.b.a. TRADING POST, OF MACON, GA, P.O. Box 4032, 103 Cherry St., Macon, GA 31208. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW, Suite 1112, Washington, DC 20036. Transporting *household goods* as defined by the Commission, (1) between points in VA, NC, SC, KY, TN, MS, AL, GA, and FL, and (2) between the points described in (1), on the one hand, and, on the other, points in ME, NH, VT, MA, CT, RI, NY, NJ, PA, MD, DE, WV, OH, MI, IN, IL, WI, MN, IA, MO, AR, LA, KS, OK, TX, NM, AZ, CA, and DC.

MC 56062 (Sub-79F), filed December 8, 1980. Applicant: DAVIS & RANDALL, INC., 52 East Main Street, Fredonia, NY 14063. Representative: Anthony C. Vance, 1307 Dolley Madison Blvd., McLean, VA 22101. Transporting *malt beverages and empty containers* between Rochester, NY, on the one hand, and, on the other, points in PA and OH.

MC 103993 (Sub-1070F), filed December 5, 1980. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda (same address as applicant). Transporting *motor vehicles*, between points in Cuyahoga County, OH, on the one hand, and, on the other, points in the U.S.

MC 107012 (Sub-627F), filed December 9, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). Transporting (1) *institutional furniture*, and (2) *parts and accessories* for institutional furniture, between Broken Arrow, Tulsa, and Oklahoma City, OK, and Bedford, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Diversified Medical, Inc.

MC 109632 (Sub-34F), filed December 8, 1980. Applicant: LOPEZ TRUCKING, INC., 131 Linden St., Waltham, MA 02154. Representative: Joseph M. Klements, 84 State St., Boston, MA 02109. Transporting *construction materials, millwork, lumber, lumber products, metal articles, machinery, wood, and wood products*, between points in ME, NH, VT, MA, RI, CT, NY, NJ, PA, DE, MD, VA, WV, OH, SC, NC, and DC.

MC 118263 (Sub-107F), filed December 4, 1980. Applicant: COLDWAY CARRIERS, INC., P.O. Box 2038, Clarksville, IN 47130. Representative: William P. Whitney, Jr., Suite 708 McClure Building, Frankfort, KY 40601. Transporting *foodstuffs in vehicles equipped with mechanical refrigeration (except in bulk)*, from the facilities of American Home Foods at Milton, PA, to points in KY and WV.

MC 119493 (Sub-405F), filed December 8, 1980. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone (same as applicant). Transporting *alcoholic liquors* (except in bulk, in tank vehicles), and *materials, equipment, and supplies* used in the manufacture and distribution of alcoholic liquors, between points in IL, on the one hand, and, on the other, those points in the U.S. in and east of MT, WY, CO, and NM. (Board Member Hill dissenting).

MC 125973 (Sub-5F), filed December 8, 1980. Applicant: CROWN WAREHOUSE TRANSPORTATION COMPANY, INC., 710 E. 9th Avenue, Gary, IN 46401. Representative: Jack H. Blanshan, 205 W. Touhy Avenue, Suite 200, Park Ridge, IL 60068. Transporting *general commodities* (except household goods as defined by the Commission and Classes A and B explosives) between points in the U.S., under a continuing contract(s) with Indiana Wholesale Food Supply Corporation, of Gary, IN.

MC 128592 (Sub-15F), filed December 12, 1980. Applicant: KLM, INC., Old Hwy 49 South, P.O. Box 6098, Jackson, MS

39208. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Transporting *such commodities* as are dealt in or used by grocery and food business houses (except commodities in bulk), between points in the U.S., under continuing contract(s) with The Kroger Co., of Cincinnati, OH.

MC 148412 (Sub-4F), filed December 9, 1980. Applicant: GRIBBLE TRUCKING, INC., RD 3, Rockwood, PA 15557. Representative: John E. Fullerton, 407 N. Front St., Harrisburg, PA 17101. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of trucks and parts for trucks, between points in the U.S., under continuing contract(s) with Mack Trucks, Inc., of Allentown, PA.

MC 149492 (Sub-2F), filed December 8, 1980. Applicant: CHICAGOLAND QUAD CITIES EXPRESS, INC., 817 W. 21st St., Chicago, IL 60608. Representative: Philip A. Lee, 120 W. Madison St., Suite 618, Chicago, IL 60602. Transporting *plastic pellets and granules*, between points in the U.S., under continuing contract(s) with American Thermoplastics Co., of Calumet City, IL.

MC 150522 (Sub-2F), filed December 4, 1980. Applicant: VIRGINIAN ELECTRIC CO., a corporation, d.b.a. VIRGINIAN POWER TRANSPORT, 530 29th St., Parkersburg, WV 26101. Representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, WV 25526. Transporting (1) iron and steel articles, *metal products, pump jacks and conveyor systems*, and (2) *materials, equipment and supplies* used in the manufacture and production of the commodities in (1) above, between points in the U.S., under continuing contract(s) with CGM Contractors, of Vienna, WV.

Notes.—The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C 11343(a) or submit an affidavit indicating why such approval is unnecessary.

MC 151603 (Sub-1F), filed December 4, 1980. Applicant: JOSEPH F. BOISSONNEAULT, d.b.a. J. B. ARABIANS, 6105 Welsh Road, Whitemore Lake, MI 48189. Representative: Ralph S. Rumsey, 111 S. Fourth Avenue, Ann Arbor, MI 48104. Transporting *lumber products, wood products, and pre-cut logs* from the facilities of Yesteryear Log Homes at or near China Grove, MC to points in MI.

MC 153092 (Sub-2F), filed December 8, 1980. Applicant: RICHARD F. DEMORANVILLE, d.b.a. DEMO TRUCKING, Bedford Street, Lakeville, MA 02346. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Transporting *building materials* (except in bulk), between points in MA, on the one hand, and, on the other, points in ME, NH, VT, CT, and RI.

Volume No. OP4–174

Decided: December 22, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton, Liberman.

MC 42487 (Sub-1009F), filed December 12, 1980. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. Over regular routes, transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), (1) between Memphis, TN, and Baton Rouge, LA, over U.S. Hwy 61, serving all intermediate points; (2) between Memphis, TN, and Laplace, LA, over U.S. Hwy 51, serving all intermediate points; (3) Between Corinth, MS, and New Orleans, LA: From Corinth over U.S. Hwy 45 to Meridian, MS, then over U.S. Hwy 11 to New Orleans, and return over the same route, serving all intermediate points; (4) Between Shannon and Brooksville, MS, over Alternated U.S. Hwy 45, serving all intermediate points; (5) Between Memphis, TN, and Tuscumbia, AL, over U.S. Hwy 72, serving all intermediate points; (6) Between Clarksdale, MS, and Birmingham, AL: From Clarksdale over MS Hwy 6 to Tupelo, MS, then over U.S. Hwy 78 to Birmingham, and return over the same route, serving all intermediate points; (7) Between Greenville, MS, and Birmingham, AL: From Greenville over U.S. Hwy 82 to Tuscaloosa, AL, then over U.S. Hwy 11 to Birmingham, and return over the same route, serving all intermediate points; (8) Between Vicksburg, MS, and Birmingham, AL: From Vicksburg over U.S. Hwy 80 to Meridian, MS, then over U.S. Hwy 11 to Birmingham, and return over the same route, serving all intermediate points; (9) Between Memphis, TN, and Tupelo, MS, over U.S. Hwy 78, serving all intermediate points; (10) Between Jackson and Hattiesburg, MS, over U.S. Hwy 49, serving all intermediate points; (11) Between Natchez and Hattiesburg, MS: From Natchez over U.S. Hwy 84 to junction U.S. Hwy 98, then over U.S. Hwy 98 to Hattiesburg, and return over the same route, serving all intermediate points; (12) Between Hattiesburg, MS and Mobile, AL, over U.S. Hwy 98, serving all intermediate points; and (13) Between Meridian, MS and Mobile, AL, over U.S. Hwy 45, serving all intermediate points; serving the off-route points of Ackerman, Amory, Bude, Kosciusko, Louisville, New Albany, Philadelphia, Ripley, and Taylorsville, MS, Sulligent, AL, and Moscow and Grand Junction, TN, in connection with routes (1) through (13) above. NOTE: Applicant intends to tack the above described authority. Applicant also intends to tack to its existing authority.

MC 98047 (Sub-1F), filed December 12, 1980. Applicant: ALEXANDER NAHIGIAN, d.b.a. ALEXANDER TRANSPORT, 31 Middleby Rd., Lexington, MA 02173. Representative: Alexander Mahigian (same address as applicant). 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 points in CT, MA, ME, NH, RI, and VT.

MC 134197 (Sub-14F), filed December 12, 1980. Applicant: JACKSON AND JOHNSON, INC., West Church St., P.O. Box 327, Savannah, NY 13146. Representative: Raymond A. Richards, 35 Curtice Pk., Webster, NY 14580. Transporting (1) *foodstuffs*, and (2) *materials, equipment*, and *supplies* used in the manufacture and distribution of foodstuffs, between points in Erie County, NY, on the one hand, and, on the other, points in CT, MA, RI, ME, NH, VT, DE, PA, MD, NJ, and NY.

MC 138687 (Sub-5F), filed December 12, 1980. Applicant: BYNUM TRANSPORT, INC., 4609 Hwy. 92, East, Lakeland, FL 33801. Representative: Thomas F. Panebianco, P.O. Box 1200, Tallahassee, FL 32302. Transporting *feed, feed ingredients and feed supplements*, between points in FL, GA, LA, AL, MS, TX, MO, TN, SC, and NC.

MC 147047 (Sub-4F), filed December 8, 1980. Applicant: CAPITAL WIRE AND CABLE CORPORATION, d.b.a. CWC TRUCKING COMPANY, 910 10th St., P.O. Box 7, Plano, TX 75074. Representative: William Sheridan, 1025 Metker, P.O. Drawer 5049, Irving, TX 75062. Transporting *such commodities* as are dealt in or used by distributors of chemical products (except commodities in bulk), between points in OK and LA, and those points in the U.S. on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the U.S. and Canada, on the one hand, and, on the other, points in AZ, LA, MS, OK, and TX.

MC 150747 (Sub-1F), filed December 10, 1980. Applicant: L AND O TRUCKING COMPANY, INC., 2179 Freemont, Memphis, TN 38114. Representative: R. Connor Wiggins, Jr., Suite 909, 100 N. Main Bldg., Memphis, TN 38103. Transporting *concrete pipe*, and *accessories* for/concrete pipe, *iron and steel articles*, and *aluminum articles*, between points in Shely County, TN, and Crittenden County, AR, on the one hand, and, on the other, points in AR, MS, MO, and those in TN on and west of the Tennessee River.

MC 153177, filed December 15, 1980. Applicant: STEPHAN CORPORATION, d.b.a. SUBURBAN LINES, Framingham, MA 01701. Representative: D. W. Stepham (same address as applicant). Transporting *passengers and their baggage*, in the same vehicle with passengers, in charter and special operations, beginning and ending at points in MA and FL and extending to points in the U.S. (except AK and HI).

Volume No. OP4–180

Decided: December 29, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 139667 (Sub-7F), filed December 4, 1980. Applicant: CHARLES SCHMIDT, JR., d.b.a. C. SCHMIDT TRUCKING COMPANY, INC., 101 W. Sanger, Salem, IL 62881. Representative: Brenda Schmidt (same address as applicant). Transporting *automotive parts and accessories* used in the manufacture of automobiles, between points in MO, TX, IL, TN, OH, GA, NJ, AL, KY, WI, MI, NY, MD, LA, SC, NC, PA, OR and CA, on the one hand, and, on the other, points in the U.S. (except AK and HI). Member Hill dissenting in part: Member Hill would publish * * * Between points in the United States as originally sought.

Volume No. OP4–181

Decided: December 30, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Libernaw. Member Chandler not participating.

MC 36556 (Sub-48F), filed December 16, 1980. Applicant: BLACKMON TRUCKING, INC., P.O. Box 186, Somers, WI 53171. Representative: Howard E. Blackmon (same address as applicant). Transporting (1)(a) *fertilizer compounds, ice melting compounds, and vermiculite products*, from points in Kenosha County, WI, to points in IL, IN, IA, KS, MI, MN, MO, NE, ND, OH, and SD, and (b) *materials, equipment, and supplies* used in the manufacture and distribution the commodities in (1)(a) above, in the reverse direction, (2)(a) *lime and lime products, and masonry cement*, from points in Brown, Dodge, and Fond du Lac Counties, WI, to points in IL, IN, IA, MN, and MO, and (b) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (2)(a) above, in the reverse direction

MC 77016 (Sub-23F), filed December 18, 1980. Applicant: BUDIC TRUCKING CO., a corporation, 1100 Gest St., Cincinnati, OH 45203. Representative: George M. Catlett, 706 McClure Bldg., Frankfort, KY 40601. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between Boonville, MO, and Kansas City, KS, over U.S. Hwy 40, serving all intermediate points, and serving Wyandotte and Johnson Counties, KS, and points in MO, as off-route points; (2) Between Cincinnati, OH, and Lexington, KY, over Interstate Hwy 75, serving those intermediate points south of the Grant-Scott, KY, county line, with service at Lexington, restricted against traffic originating at, destined to, or interchanged at points in Mason County, KY; (3) Between St. Louis, MO, and Cincinnati, OH: From St. Louis over Interstate Hwy 70 to junction Interstate Hwy 74, then over Interstate Hwy 74 to Cincinnati, and return over the same route, serving all intermediate points, and serving those points in IL on and north of Interstate Hwy 64 and on and south of U.S. Hwy 36, those points in IN on and south of IN Hwy 28, Ft. Wayne, IN, and points in OH as off-route points; (4) Between St. Louis, MO, and Nashville, TN: From St. Louis over Interstate Hwy 64 to junction Interstate Hwy 57, then over Interstate Hwy 57 to junction Interstate Hwy 24, then over Interstate Hwy 24 to Nashville, and return over the same route, serving no intermediate points; (5) Between Louisville and Morehead, KY, over Interstate Hwy 64, serving those intermediate points east of the Woodford-Fayette, KY, country line, with service at Louisville, restricted against traffic originating at, destined to, or interchanged at points in Mason County, KY; (6) Between Louisville, KY, and Nashville, TN, over Interstate Hwy 65, serving Bowling Green, KY, as an intermediate point, with service at Nashville, restricted against traffic originating at, destined to, or interchanged at points in Fayette and Scott Counties, KY; and (7) Between Olive Hill, KY, and Charleston, WV, over U.S. Hwy 60, serving all intermediate points.

Note.—Applicant intends to tack the authority sought herein at common points and at Boonville and St. Louis, MO; Louisville, Morehead, Lexington, and Olive Hill, KY; and at Cincinnati and Aberdeen, OH, with its other authority.

MC 106647 (Sub-366F), filed December 16, 1980. Applicant: CLARK TRANSPORT COMPANY, INC., 13101 S. Torrence Ave., Chicago, IL 60633. Representative: Daniel C. Sullivan, 10 S. LaSalle St., Chicago, IL 60603. Transporting *motor vehicles*, (1) between points in Lake and Cook Counties, IL, and Lake and Porter Counties, IN, on the one hand, and, on the other, points in AL, AR, IN, IA, KS, KY, MN, MS, NE, ND, OH, PA, SD, TN, and WV, (2) between points in St. Louis, Jefferson, and St. Charles Counties, MO, and Madison, St. Clair, and Monroe Counties, IL, on the one hand, and, on the other, points in AR, IN, IA, MO, and TN, and (3) between points in Wayne County, MI, on the one hand, and, on the other, points in MI.

MC 107006 (Sub-14F), filed December 16, 1980. Applicant: THOMAS KAPPEL, INC., P.O. Box 1408, Springfield, OH 45501. Representative: John L. Alden, 1396 W. Fifth Ave., Columbus, OH 43212. Transporting *welding equipment and supplies*, between the facilities of Hobart Brothers Co., at or near Troy, Ohio, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 113436 (Sub-5F), filed December 10, 1980. Applicant: AUTOMOBILE CARRIERS, INC., 3401 North Dort Hwy., Flint, MI 48501. Representative: Joseph Gracia, Suite 2311–3221 W. Big Beaver Rd., Troy, MI 48084. Transporting *motor vehicles*, between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of General Motors Corporation or its dealers.

MC 114896 (Sub-90F), filed December 12, 1980. Applicant: PUROLATOR ARMORED, INC., 255 Old New Brunswick Rd., Piscataway, NJ 08859. Representative: Peter A. Greene, 1920 N St. N.W., Washington, DC 20036. Transporting *articles of unusual value*, between points in the U.S., under continuing contract(s) with Engelhard Industries Division, Engelhard Minerals & Chemicals Corp., of Iselin, NJ, LeaRonal, of Freeport, NY, and E. I. duPont de Nemours & Co., Inc., of Wilmington, DE.

MC 119726 (Sub-174F), filed December 17, 1980. Applicant: N.A.B. TRUCKING CO., INC., 1644 West Edgewood Ave., Indianapolis, IN 46217. Representative: James L. Beattey, 300 E. Fall Creek Pkwy., Suite 403, Indianapolis, IN 46205. Transporting *general commodities*

(except household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S. Condition: To the extent the certificate to be issued in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from its date of issue.

MC 119777 (Sub-504F), filed October 23, 1980, previously noticed in the Federal Register issue of November 18, 1980, and republished this issue. Applicant: LIGON SPECIALIZED HAULER, INC., Hwy. 85 East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. Transporting *such commodities* as are used in, or in connection with, the construction, operation, repair, servicing, maintenance or dismantling of pipelines, (1) between points in MT, ND, SD, MN, and IA, and (2) between points in (1) and points in the U.S. (except AK and HI).

Note.—The purpose of this republication is to correctly state the territorial description in (2) above.

MC 126436 (Sub-15F), filed December 16, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30059. Representative: Bruce E. Mitchell, 3390 Peachtree Rd. NE., 5th Fl.-Lenox Towers South, Altanta, GA 30326. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives) between points in the U.S., under continuing contract(s) with A.O. Smith Corporation, of Milwaukee, WI.

MC 136786 (Sub-239F), filed December 16, 1980. Applicant: ROBCO TRANSPORTATION, INC., P.O. Box 10375, Des Moines, IA 50306. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting (1) *plastic containers*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in Essex County, MA, McDonough County, IL, Lawrence County, TN, and Montgomery County, AL, on the one hand, and, on the other, points in the U.S.

MC 143776 (Sub-13F), filed December 17, 1980. Applicant: C.D.B., INCORPORATED, 155 Spaulding SE., Grand Rapids, MI 49506. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. Transporting *general commodities*, between the facilities used by Northern Industrial Warehouse Corp., at or near Chicago, IL, on the one hand, and, on the other, points in the U.S. Condition: To the extent the certificate to be issued in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from its date of issue.

MC 148727 (Sub-2F), filed September 22, 1980, published in the Federal Register issue of October 8, 1980, and republished this issue. Applicant: EAGLE CONTRACT CARRIER CORPORATION, P.O. Box 2367, Winchester, VA 22601. Representative: Lawrence E. Lindeman, 425 13th St. NW., Suite 1032, Washington, DC 20004. Transporting *general commodities* (except used household goods and classes A and B explosives), between points in the United States, under continuing contract(s) with National Fruit Product Co., Inc., of Winchester, VA, and United Drug Service, of Washington, D.C.

Note.—This application is republished pursuant to a Decision of the Commission, Division 2, Acting as an Appellate Division, decided December 12, 1980, for the purpose of including National Fruit Product Co., Inc., of Winchester, VA, as an additional contracting shipper.

MC 150626 (Sub-3F), filed December 12, 1980. Applicant: HAROLD IVES TRUCKING CO., P.O. Box 885, Hwy. 79 East, Stuttgart, AR 72160. Representative: Thomas B. Staley, 1550 Tower Bldg., Little Rock, AR 72201. Transporting *Chemicals*, in containers, between points in Philadelphia County, PA, on the one hand, and, on the other, points in AR, MC, and TN.

MC 151356 (Sub-1F), filed December 4, 1980. Applicant: THE BIRGE COMPANY, INC., 421 E. 16th St., Paterson, NJ 07514. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904. Transporting (1) *automotive products*, (2) *chemicals and cleaning compounds* (except commodities in bulk), and (3) *materials and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, between New York, NY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 153186F, filed December 16, 1980. Applicant: NOX-CHEM TRANSPORTATION, INC., 1444 S. 20th St., Omaha, NE 68108. Representative: Mark A. Kennally (same address as applicant). Transporting *chemicals*, and *materials, equipment, and supplies* used in the manufacture of chemicals, between points in CA, FL, NE, NJ, LA, IL, and WA, on the one hand, and, on the other, points in the U.S.

MC 153206F, filed December 16, 1980. Applicant: WORTH TRANSPORT COMPANY, a corporation, 857 Matzinger Rd., Toledo, OH 43612. Representative: Earl N. Merwin, 85 East Gay St., Columbus, OH 43215. Transporting *general commodities* (except household goods as defined by the Commission, classes A and B explosives, and commodities in bulk), between the facilities of Spartan Chemical Company, Inc., at Toledo, OH, on the one hand, and, on the other, points in the U.S.

MC 153236F, filed December 17, 1980. Applicant: NEW EXPERIENCE, INC., 23 No. Gore, Suite 206, St. Louis, MO 63119. Representative: Steve Vossmeyer, 393 No. Euclid Ave., Suite 300, St. Louis, MO 63108. To operate as a *broker*, in St. Louis County, MO, in arranging for the transportation by motor vehicle of *passengers and their baggage* in special and charter operations, between points in the U.S. (including AK and HI).

MC 153247F, filed December 16, 1980. Applicant: BOWLING GREEN ALL SPORTS, INC., Route 13, Box 99, Bowling Green, KY 42101. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. Transporting *passengers and their baggage*, in charter operations, between points in Allen, Barren, Butler, Simpson, and Warren Counties, KY, on the one hand, and, on the other, points in the U.S. (except HI).

Volume No. OP4–183

Decided: December 30, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill. Member Fortier not participating.

MC 73366 (Sub-1F), filed December 18, 1980. Applicant: FIRPO & SONS, INC., d.b.a. FIRPO'S MOVING & STORAGE, 900–B Tryens Rd., Aston, PA 19014. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 19113. Transporting *household goods*, between points in CT, DE, FL, GA, IN, IL, MA, MD, ME, NC, NH, NJ, NY, OH, PA, RI, SC, VA, VT, WV, and DC.

MC 123987 (Sub-39F), filed November 25, 1980, previously published in the Federal Register issue of December 16, 1980, and republished this issue. Applicant: JEWETT SCOTT TRUCK LINE, INC., Box 267, Mangum, OK 73554. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. Transporting (1) *forest products, lumber, and lumber and wood products* (except furniture), (2) *construction materials* (except commodities in bulk), (3) *iron and steel articles*, (4) *paper and paper products*, (5) *chemicals* (except commodities in bulk), and (6) *pipe*, between points in CA, NV, ID, WY, ND, SD, UT, IA, MO, AR, LA, NE, KS, OK, TX, CO, NM, MT, OR, WA, IL, and TN.

Note.—The purpose of this republication is to correct the commodity description.

MC 146646 (Sub-137F), filed December 18, 1980. Applicant: BRISTOW TRUCKING CO., INC., P.O. Box 6335–A, Birmingham, AL 35217. Representative: James W. Segrest (same address as applicant). 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), from New York, NY and Philadelphia, PA, to points in CA, WA, OR, AZ, CO, IL, FL, GA, MN, MO, TX, and UT, restricted to traffic originating at the facilities of West Coast Shippers Association and its members.

MC 153307F, filed December 18, 1980. Applicant: J. B. FLATOW & CO. OF INDIANA, INC., P.O. Box 3157, South Bend, IN 46619. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *metals, metal articles, and slag*, between points in the U.S., under continuing contract(s) with Hurwich Iron Company, Inc. and South Bend Baling & Iron Company, Inc., of of South Bend, IN, and Elkhart Metals Corporation, of Elkhart, IN.

Volume No. OP5–088

Decided: December 23, 1980.

By the Commission, Review Board Number 3. Members Parker, Fortier and Hill. Member Fortier not participating.

MC 83539 (Sub-541F), filed November 14, 1980. Applicant: C & H TRANSPORTATION CO., INC., 9757 Military Parkway, P.O. Box 270535, Dallas, TX 75227. Representative: Thomas E. James (same address as applicant). Transporting *wallboard, wallboard paper, and starch*, between points in AZ, CA, CO, NV, NM, OK, TX, and UT, restricted to traffic originating at or destined to the facilities of American Gypsum Company.

MC 105269 (Sub-92F), November 28, 1980. Applicant: GRAFF TRUCKING COMPANY, INC., 2110 Lake St., Kalamazoo, MI 49005. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. Transporting *general commodities* (except commodities in bulk, in tank vehicles), between points in IN, IA, KY, MN, MO, NY, OH, PA, WV, and WI, restricted to the transportation of traffic originating at or destined to the facilities and warehouses of International Paper Company, its subsidiaries and suppliers.

MC 108539 (Sub-36F), filed December 1, 1980. Applicant: EAGLE EXPRESS COMPANY, 11425 Williamson Rd., Cincinnati, OH 45241. Representative: Michael Spurlock, 275 E. State St., Columbus, OH 43215. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Knoxville, TN, and Somerset, KY: from Knoxville over U.S. Highway 25–W to Caryville, TN, then over TN Hwy 63 to junction U.S. Hwy 27, and then over U.S. Hwy 27 to Somerset (also from Caryville over U.S. Hwy 25–W to Corbin, KY, then over U.S. Hwy 25 to London, KY, and then over KY U.S. Hwy 80 to Somerset), and return over the same route; (2) between Jamestown and Lexington, KY: from Jamestown over U.S. Hwy 127 to Danville, KY, then over KY U.S. Hwy 34 to junction U.S. Hwy 27, and then over U.S. Hwy 27 to Lexington, and return over the same route; (3) between Russel Springs and Louisville, KY: from Russell Springs over KY Hwy to Columbia, KY, then over KY Hwy 61 to Elizabethtown, KY, and then over U.S. Hwy 31–W to Louisville, and return over the same route; (4) between Somerset, KY, and Cincinnati, OH: from Somerset over U.S. Hwy 27 to Lexington, KY, and then over U.S. Hwy 25 to Cincinnati, and return over the same route; (5) between Louisville, KY, and Cincinnati, OH: from Louisville over Interstate Hwy 71 to Cincinnati; (6) between Louisville, KY, and Morehead, KY: from Louisville over Interstate Hwy 64 to junction U.S. Hwy 60, then over U.S. Hwy 60 to Morehead, and return over the same route; and (7) between Lexington and Corbin, KY: from Lexington over Interstate Hwy 75 to Corbin, serving East Bernstadt, KY, as an off-route point, and serving all intermediate points on routes (1) through (7).

Note.—Applicant presently is authorized to provide service over these seven routes and some of the intermediate points. The purpose of this application is to allow applicant to serve all intermediate points.

MC 109238 (Sub-24F), filed November 19, 1980. Applicant: DEHART MOTOR LINES, INC., P.O. Box 368, Conover, NC 28613. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. Transporting *filters and filter media*, between points in Catawba County, NC, on the one hand, and, on the other, Los Angeles, CA.

MC 109818 (Sub-91F), filed November 25, 1980. Applicant: WENGER TRUCK LINE, INC., P.O. Box 34227, Davenport, IA 52808. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting *such commodities* as are dealt in or used by a manufacturer and distributor of automotive exhaust components, between points in Seward County, NE, on the one hand, and, on the other, points in IL, WI, WV, MI, OH, MD, and PA, restricted to traffic originating at or destined to the facilities of Walker Manufacturing Co.

MC 113678 (Sub-903F), filed November 21, 1980. Applicant: CURTIS, INC., 4810 Pontiac St., Commerce City, CO 80022. Representative: Roger M. Shaner (same as applicant). Transporting *instruments or photographic goods, optical goods and watches and clocks* as described in Item 38 of the Standard Transportation Commodity Code Traffic, between Denver, CO, Omaha, NE, points in Dakota and Washington Counties, MN, Yellowstone County, MT, Case County, ND, Dallas and Collin Counties, TX, Salt Lake City, UT, and Lewis and Spokane Counties, WA.

MC 117568 (Sub-24F), filed November 25, 1980. Applicant: WADE TRUCK LINES, INC., Box 156, Verona, MO 65769. Representative: Charles J. Fain, 333 Madison, Jefferson City, MO 65101. Transporting *general commodities* (except household goods as defined by the Commission, commodities in bulk, and classes A and B explosives) between points in the U.S., under continuing contract(s) with Syntex Agribusiness, Inc. of Springfield, MO.

MC 118959 (Sub-255F), filed November 10, 1980. Applicant: JERRY LIPPS, INC., 130 South Frederick St., Cape Girardeau, MO 63701. Representative: Donald B. Levine, 39 South LaSalle, Suite 600, Chicago, IL 60603. Transporting (1) *paper and paper products*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1), between points in St. Louis County, MO, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 121568 (Sub-66F), filed November 10, 1980. Applicant: HUMBOLDT EXPRESS, INC., 345 Hill Ave., Nashville, TN 37210. Representative: James G. Caldwell (same address as applicant). Transporting (1) *bearings and bushings*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of bearings and bushings (except commodities in bulk), between points in Haywood County, TN, on the one hand, and, on the other, points in the U.S. (except HI).

Note.—Applicant intends to tack.

MC 125708 (Sub-206F), filed November 13, 1980. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 1473 Ripley Road, P.O. Box 5216, Lake Station, IN 46405. Representative: Edward F. V. Pietrowski, 3300 Birney Ave., Moosic, PA 18507. Transporting (1) *steel and wood fence posts, fence post fittings, wire fencing, coiled wire and*

pipe, from points in TX to points in the U.S., and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1), in the reverse direction.

MC 125708 (Sub-212F), filed November 29, 1980. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 1473 Ripley Road, P.O. Box 5216, Lake Station, IN 46405. Representative: Edward F. V. Pietrowski, 3300 Birney Ave., Moosic, PA 18507. Transporting *metals and metal products*, and *materials and supplies* used in the manufacture and distribution of metals and metal products, between points in TX, NM, AZ, CO, AR, and LA.

MC 129708 (Sub-16F), filed November 18, 1980. Applicant: NASS TRUCK LINES, INC., Box H, Wenona, IL 61377. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh St., NW., Washington, DC 20001. Transporting (1) *glass and glass products*, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1), between points in La Salle County, IL, on the one hand, and, on the other, points in MI, WI, IN, KY, MO, and OH.

MC 134319 (Sub-16F), filed November 21, 1980. Applicant: BRAAFLADT TRANSPORT COMPANY, a corporation, 501 N. Broadway, P.O. Box 1065, Dimmitt, TX 79027. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. Transporting *propane*, in bulk, in tank vehicles, between points in TX and NM.

Note.—Any certificate issued in this proceeding shall expire 5 years from date of issuance.

MC 138438 (Sub-95F), filed November 21, 1980. Applicant: D. M. BOWMAN, INC., Route 2, Box 43A1, Williamsport, MD 21795. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740. Transporting (1) *building materials*, and (2) *accessories and supplies* used in the manufacture and installation of building materials, between points in the U.S., restricted to traffic originating at or destined to the facilities of Tamko Asphalt Products, Inc. and its suppliers.

MC 138438 (Sub-97F), filed November 26, 1980. Applicant: D. M. BOWMAN, INC., Route 2, Box 43A1, Williamsport, MD 21795. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740. Transporting (1)(a) *pipe and pipe fittings, couplings, building materials, insulating materials*, and (b) *materials and supplies* used in the installation of commodities in (1)(a), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities and warehouses of CertainTeed Corporation, its subsidiaries, and suppliers.

MC 143328 (Sub-37F), filed November 20, 1980. Applicant: EUGENE TRIPP TRUCKING, a corporation, P.O. Box 2730, Missoula, MT 59806. Representative: David A. Sutherland, 1150 Connecticut Ave., NW., Suite 400, Washington, DC 20036. Transporting *alcoholic beverages*, between points in Multnomah County, OR, on the one hand, and, on the other, points in AZ, CA, CO, ID, IL, MT, NE, NV, NM, ND, TX, UT, WA, and WY.

MC 144989 (Sub-20F), filed December 2, 1980. Applicant: Blue Ridge Mountain Contract Carrier, Inc., P.O. Box 1964, Dalton, GA 30720. Representative: S. H. Rich, 1600 Cromwell Ct., Charlotte, NC 28205. Transporting *such commodities* as are dealt in or used by a manufacturer of household products, between points in the U.S., under continuing contract(s) with Blue Cross Laboratories, Inc. of North Hollywood, GA.

Volume No. OP5–089

Decided: December 23, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill. Member Fortier not participating.

MC 145108 (Sub-27F), filed November 18, 1980. Applicant: BULLET EXPRESS, INC., 5600 First Ave., Brooklyn NY 11220. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting *general commodities* (except household goods as defined by the Commission, classes A and B explosives, commodities in bulk, in tank vehicles, and those requiring special equipment), between points in the U.S. under continuing contract(s) with Eagle Picher Industries, Inc., of Joplin, MO.

MC 145108 (Sub-29F), filed November 21, 1980. Applicant: BULLET EXPRESS, INC., 5600 First Ave., Brooklyn, NY 11220. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting *general commodities* (except household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment), between points in the U.S., under continuing contract(s) with The Enterprise Companies and Insilco Company, and their subsidiaries, of Wheeling, IL.

MC 145108 (Sub-30F), filed November 21, 1980. Applicant: BULLETT EXPRESS, INC., 5600 First Ave., Brooklyn, NY 11220. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting (1) *such commodities* as are dealt in by hardware stores, drug stores, discount houses, and food business houses (except frozen commodities and commodities in bulk), and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, between points in the U.S., under continuing contract with The Clorox Company, Oakland, CA.

MC 146079 (Sub-12F), filed November 29, 1980. Applicant: JACKSON TRANSPORTATION, INC., R.R. 1, Box 410A, Clayton, IN 46118. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between the facilities of The Richardson Company at (a) Detroit, MI, (b) Los Angeles and City of Industry, CA, (c) Berkeley Heights, NJ, (d) Lemont, Orland Park, and Chicago, IL, (e) Paterson, NJ, (f) West Haven, CT, (g) Holyoke, MA, (h) Beacon and Alden, NY, (i) Conneaut, OH, (j) Houston, TX, (k) Lynchburg, VA, (l) Indianapolis, IN, and (m) Philadelphia, MS, on the one hand, and, on the other, points in the U.S.

MC 146578 (Sub-20F), filed November 25, 1980. Applicant: PALMETTO MOTOR LINES, INC., P.O. Box 6445, Spartanburg, SC 29304. Representative: Nina G. Shults (address same as applicant). 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 points in Spartanburg County, SC, on the one hand, and, on the other, points in AL, AR, FL, and TX.

MC 150249 (Sub-1F), filed November 28, 1980. Applicant: RICHLAND TRUCKING, INC., Route 1, Tillar, AR 71670. Representative: Douglas W. Bonner, Jr., One Spring St., Little Rock, AR 72201. Transporting *paper, paper products and woodpulp*, and (2) *materials, equipment and supplies* used in the manufacture of the commodities in (1), between the facilities of Potlatch Corporation at or near Cypress Bend, AR, on the one hand, and, on the other, McGehee, Yellow Bend and Pine Bluff, AR, Greenville, MS, and Baton Rouge and New Orleans, LA, restricted to traffic having a prior or subsequent movement by rail or water.

MC 150339 (Sub-15F), filed November 21, 1980. Applicant: PIONEER TRANSPORTATION SYSTEMS, INC., 151 Easton Blvd., Preston, MD 21655. Representative: J. Cody Quinton, Jr. (same address as applicant). Transporting *general commodities*

(except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with Abbott Laboratories, of North Chicago, IL.

MC 150539 (Sub-1F), filed November 21, 1980. Applicant: CSI TRUCKING, INC., Foreign Trade Zone No. 2, Napoleon Ave. and Wharf, New Orleans, LA 70130. Representative: John B. Geddie, 2200 South Post Oak Road, Suite 707, Houston, TX 77056. Transporting (1) *flexible pipe, fittings, and carrying spools*, and (2) *equipment* used in the manufacture and distribution of the commodities in (1) between points in the U.S., under continuing contract(s) with Coflexip and Services Inc., of Houston, TX.

MC 151378 (Sub-4F), filed November 26, 1980. Applicant: BIG B TRUCK LINES, INC., P.O. Box 67, Jonesburg, MO 63351. Representative: John F. Clark (same address as applicant). Over *regular* routes, transporting *general commodities*, between St. Louis and Kansas City, MO; over Interstate Hwy 70, serving the intermediate and off-route points of Booneville, Washington, and Jefferson City, MO. Condition: Any certificate issued in this proceeding to the extent it authorizes transportation of classes A and B explosives shall be limited in point of time to a period expiring 5 years from the date of the certificate.

MC 151968 (Sub-2F), filed November 21, 1980. Applicant: ALLSTATE TRANSPORTATION COMPANY, a corporation, 10700 Lyndale Avenue, South, P.O. Box 877, Minneapolis, MN 55440. Representative: George L. Hirschbach, 920 West 21st St., P.O. Box 155, South Sioux City, NE 68776. Transporting (1) *generators, generator sets* and *internal combustion engines*, and (2) *materials, equipment and supplies* used in the manufacture and installation of the commodities in (1) above, between points in the U.S., under continuing contract with the Onan Corporation of Fridley, MN.

MC 151968 (Sub-3F), filed November 13, 1980. Applicant: ALLSTATE TRANSPORTATION COMPANY, a corporation, 10700 Lyndale Avenue, South, P.O. Box 877, Minneapolis, MN 55440. Representative: George L. Hirschbach, 920 West 21st St., P.O. Box 155, South Sioux City, NE 68776. Transporting *windows*, and *materials, equipment, and supplies* used in the manufacture, installation, and distribution of windows, between points in the U.S., under continuing contract(s) with DeVac, Inc., of Minneapolis, MN.

MC 152199 (Sub-1F), filed December 1, 1980. Applicant: VELDE EXPRESS, INC., 534 No. Iris Drive, Irving, TX 75061. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103. Transporting *confectionery, and materials, equipment, and supplies* used in the manufacture and distribution of confectionery, between points in the U.S., under continuing contract(s) with Pangburn Company, of Fort Worth, TX.

MC 152649 (Sub-1F), filed November 24, 1980. Applicant: RIVERLAND TRUCKNG CORPORATION, INC., West 10th Ave., Drawer E, Reserve, LA 70084. Representative: Harry M. England (same address applicant). Transporting (1) *non-alcoholic beverages*, and (2) *matrials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with Coastal Canning Enterprises, Inc. of LA, and Sewell Plastics, Inc. of GA.

MC 152769F, files November 21, 1980. Applicant: JOHN M. TICHENOR, d.b.a. CARDINAL TOURS, 9118 Tiverton Way. Representative: (same as applicant). Transporting *passengers and their baggage*, in special or charter operations, between Louisville, KY, on the one hand, and, on the other, points in IN, OH, and TN.

MC 152929F, filed November 25, 1980. Applicant: DELTA COAL SALES, INC., P.O. Box 307, Grantsville, MD 21536. Representative: Kenneth W. Johnson, 122 Market St., Rockwood, PA 15557. Transportating *general commodities*, between points in the U.S. under continuing contract(s) with Delta Mining, Inc., of Grantsville, MD. Condition: Any permit issued in this proceeding to the extent it authorizes transportation of classes A and B explosives shall be limited in point of time to a period expiring 5 years from the date of the certificate.

MC 152969F, filed December 2, 1980. Applicant: CLINTON WAYNE SELLERS, d.b.a. WOODYS TRUCKING SERVICE, Whiteville, NC 28472. Representative: Herbert Alan Dubin, 818 Connecticut Ave. NW., Washington, DC 20006. Transporting *lumber, and forest and wood products*, from points in NC, SC, GA, and VA, to points in the United States in the east of WI, IL, KY, TN, MS, and LA.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-607 Filed 1-7-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special Rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication 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.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstste Commerce Act. Each applicant is fit, willing, and able 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 noted, this decision is neithr 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 protests in the form of verified statements filed on or before February 23, 1981 (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 notice that the decision-notice is effective. On or before March 9, 1981 an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be

construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP4–175

Decided: December 22, 1980.

By the Commission, Review Board Number 2. Members Chandler, Eaton and Liberman.

MC 109887 (Sub-1F), filed December 18, 1980. Applicant: WEST END MOVING & STORAGE, INC., 241 Pine St., Bridgeport, CT 06605. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. As a *broker* to arrange for the transportation of *general commodities* (except household goods), between points in the U.S.

Volume No. OP4–182

Decided: December 30, 1980

By the Commission, Review Board Number 3. Members Parker, Fortier and Hill. Member Fortier not participating.

MC 140786 (Sub-5F), filed December 18, 1980. Applicant: THE UNITED STATES CARGO & COURIER SERVICE, INC., 1362 Essex Ave., Columbus, OH 43211. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

Volume No. OP5–090

Decided: December 23, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill. Member Fortier not participating.

MC 116299 (Sub-4F), filed November 18, 1980. Applicant: BRIDGEPORT UNITED DELIVERY COMPANY, a corporation, 80 Central Ave., Bridgeport, CT 06607. Representative: Gerald A. Joseloff, P.O. Box 3258, Hartford, CT 06103. Transporting *shipments* weighting 100 pounds or less if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 151799 (Sub-1F), filed November 18, 1980. Applicant: GLENNMAR, INC., 509 SW. 315th, Federal Way, WA 98003. Representative: Jim Pitzer, 15 S. Grady Way, Suite 321, Renton, WA 98055. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 15280, (Sub-9F), filed November 18, 1980. Applicant: FROSTY MAID ICE CREAM CO., INC., 98 Sidney St., Lodi, NJ 07644. Representative: Zimmerman & Zimmerman, 720 Anderson Ave., P.O. Box 6, Cliffside Park, NJ 07010. Transporting *food and other edible products (include edible byproducts but excluding alcoholic beverages and drugs)* intended for human consumption, agricultural limestone and other soil conditioners, and agricultural fertilizers, if such transportation is provided with the owner of the motor vehicle in such vehicle, except in emergency situtations, between points in the U.S., under continuing contract(s) with Olympic Ice Cream of Richmond Hill, NY and Southern Dairies of Fla., Inc., of Fort Lauderdale, FL.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-606 Filed 1-7-81; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP1-110]

Motor Carrier Permanent Authority Decisions; Decision-Notice

Decided: December 30, 1980.

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication 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.g.s., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able 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 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 interest in the form of verified statements filed on or before February 23, 1981 (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

On or before March 9, 1981 an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill. Member Fortier not participating.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

MC 142470 (Sub-3F), filed December 16, 1980. Applicant: FLEET TRANSIT, INC., 3225 Tate St., Baltimore, MD 21226. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the United States Government, between points in the U.S.

MC 151921 (Sub-2F), filed December 15, 1980. Applicant: McAFEE

ENTERPRISES, INC., P.O. Box 2099, Clarksville, IN 61020. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the United States Government, between points in the U.S.

[FR Doc. 81-605 Filed 1-7-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special Rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Finding

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations; or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able 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 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 sufficiant interest in the form of verified statements filed on or before February 23, 1981 (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

On or before March 9, 1981 an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP1-108

By the Commission, Review Board No. 2, Members Chandler, Eaton, and Liberman.

MC 42011 (Sub-69F), filed December 2, 1980. Applicant: D. Q. WISE & CO., INC., P.O. Drawer LL, Tulsa, OK 74112. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. Transporting (1) *machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts; (2) *machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof; (3) *earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with, (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells; (4) *commodities*, the transportation of which because of size or weight requires the use of special equipment, related articles and supplies when their transportation is incidental to the transportation of commodities which because of size or weight require special equipment, and parts of commodities which because of size or weight require special equipment; (5) *self-propelled articles* each weighing 15,000 lbs. or more, restricted to commodities which are transported on trailers; (6) *metal articles;* and (7) *construction materials, equipment, and supplies*, between points in AR, CO, IL, IN, IA, KS, LA, MN, MS, MO, MT, NE, NM, ND, OK, SD, TX, UT, WI, and WY, on the one hand, and, on the other, points in AL, AZ, CA, CT, DE, FL, GA, ID, KY, ME, MD, MA, MI, NV, NH, NJ, NY, NC, OH, OR, PA, RI, SC, TN, VT, VA, WA, WV, and DC.

MC 127550 (Sub-8F), filed December 8, 1980. Applicant: BOSCH TRUCKING COMPANY, INC., 5600 South Washington St., Bartonville, IL 61607. Representative: Edward G. Bazelon, 39 South LaSalle St., Chicago, IL 60603. Transporting (1) *heavy equipment and machinery*, (2) *parts* for the commodities named in (1) above, (3) *materials* used in the manufacture and distribution of the commodities in (1), and (4) office and maintenance supplies, between points in the U.S., under continuing contract(s) with Caterpillar Tractor Co., of Peoria, IL.

MC 143701 (Sub-32F), filed December 2, 1980. Applicant: HODGES FREIGHT LINES, INC., P.O. Box 20247, Kansas City, MO 64079. Representative: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, KS 67202. Transporting *cabinets*, from the facilities of Stanley Vidmar at or near Allentown, PA, to points in the U.S.

MC 144121 (Sub-6F), filed December 4, 1980. Applicant: LARRY'S EXPRESS, INC., 720 Lake St., Tomah, WI 54660. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Rd., Madison, WI 53719. Transporting (1) *heating units*, (2) *building and housing units, wood products and laminated products*, (3) *parts and accessories* for the commodities in (1) and (2) above, and (4) *materials, equipment and supplies* used or useful in the manufacture, distribution, erection and assembly of the commodities in (1), (2) and (3) above, between points in WI, on the one hand, and, on the other, points in the U.S.

MC 144860 (Sub-2F), filed December 1, 1980. Applicant: GLOBAL VAN LINES, INC., One Globan Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, 1700 K St., N.W., Washington, DC 20006. Transporting (1) *copying, duplicating or reproducing machines* and (2) *materials, supplies, parts and accessories* used in the manufacture, distribution, installation or operation of the commodities in (1) above, between points in the U.S., under

continuing contract(s) with Xerox Corporation, of Rochester, NY.

MC 147751 (Sub-1F), filed December 8, 1980. Applicant: NIGHT HAWK MOTOR TRANSPORT, INC., 4722 S. Dixie Drive, Dayton, OH 45439. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215. Transporting (1) *automotive parts, accessories and supplies*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between Dayton, OH Flint, MI, and Indianapolis, IN, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, KS, OK and TX.

Volume No. OPI-109

By the Commission, Review Board No. 3, Members Parker, Fortier, and Hill. Member Fortier not participating.

MC 11220 (Sub-231F), filed December 17, 1980. Applicant: GORDONS TRANSPORTS, INC., 185 West McLemore Ave., Memphis, TN 38101. Representative: James J. Emigh, P.O. Box 59, Memphis, TN 38101. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), (1) between points in AL, AR, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, OH, OK, TN, TX, WV, and WI, those in and north of Levy, Marion, Putnam, and St. Johns Counties, FL, those in Lancaster, Cass, Sarpy, Douglas, Saunders, Dodge, and Washington Counties, NE, those in and west of Orleans, Genesee, Wyoming, and Allegany Counties, NY, and those in and west of Warren, Forest, Clarion, Armstrong, Westmoreland, and Fayette Counties, PA, and (2) between those points in (1) above, on the one hand, and, on the other, points in the U.S.

MC 35320 (Sub-624F), filed December 12, 1980. Applicant: T.I.M.E.-DC, INC., 2598 74th St., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission) serving Amarillo, TX, as an off-route point in connection with applicant's otherwise authorized regular-route operations.

Note.—Applicant intends to tack this authority with its existing regular-route authority.

MC 80430 (Sub-184F), filed December 5, 1980. Applicant: GATEWAY TRANSPORTATION CO., INC., 455 Park Plaza Dr., P.O. Box 851, LaCrosse, WI 54601. Representative: A. David Millner, 167 Fairfield Rd., P.O. Box 1409, Fairfield, NJ 07006. *Over regular routes*, transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), (1) between San Antonio, TX and Richmond, VA, from San Antonio over Interstate Hwy 35 to junction Interstate Hwy 35E, then over Interstate Hwy 35E (also over Interstate Hwy 35W) to junction Interstate Hwy 35, then over Interstate Hwy 35 to junction Interstate Hwy 70, then over Interstate Hwy 70 to junction Interstate Hwy 64, then over Interstate Hwy 64 to Richmond, and return over the same routes, (2) between junction Interstate Hwys 35 and 20 and Richmond, VA, from junction Interstate Hwys 35 and 20 over Interstate Hwy 20 to junction Interstate Hwy 85, then over Interstate Hwy 85 to U.S. Hwy 301, then over U.S. Hwy 301 to Richmond, and return over the same routes, (3) between junction Interstate Hwys 20 and 30 and junction Interstate Hwys 40 and 85, from junction Interstate Hwys 20 and 30 over Interstate Hwy 30 to junction Interstate Hwy 40, then over Interstate Hwy 40 to junction Interstate Hwy 85, and return over the same routes, (4) between San Antonio, TX and junction Interstate Hwys 240 and 40, from San Antonio over Interstate Hwy 10 to junction Interstate Hwy 55, then over Interstate Hwy 55 to junction Interstate Hwy 240, then over Interstate Hwy 240 to junction Interstate Hwy 40, and return over the same routes, (5) between junction Interstate Hwys 35 and 40 and junction Interstate Hwys 30 and 40, over Interstate Hwy 40, (6) between junction Interstate Hwys 64 and 71 and Richmond, VA, from junction Interstate Hwys 64 and 71 over Interstate Hwy 71 to junction U.S. Hwy 50, then over U.S. Hwy 50 to junction Interstate Hwy 95, then over Interstate Hwy 95 to Richmond, and return over the same routes, (7) between junction Interstate Hwys 35 and 44 and junction Interstate Hwys 44 and 64, over Interstate Hwy 44, (8) between junction Interstate Hwys 40 and 55 and junction Interstate Hwys 57 and 64, from junction Interstate Hwys 40 and 55 over Interstate Hwy 55 to junction Interstate Hwy 57, then over Interstate Hwy 57 to junction Interstate Hwy 64, and return over the same routes, (9) between junction Interstate Hwy 40 and U.S. Hwy 78 and junction U.S. Hwy 78 and Interstate Hwy 85, over U.S. Hwy 78, (10) between junction Interstate Hwys 40 and 81 and junction Interstate Hwy 81 and U.S. Hwy 50, over Interstate Hwy 81, (11) between junction Interstate Hwys 81 and 77 and junction U.S. Hwy 50 and Interstate Hwy 95, from junction Interstate Hwys 81 and 77 over Interstate Hwy 77 to junction Interstate Hwy 79, then over Interstate Hwy 79 to junction U.S. Hwy 48, then over U.S. Hwy 48 to junction Interstate Hwy 70, then over Interstate Hwy 70 to junction Interstate Hwy 695, then over Interstate Hwy 695 to junction Interstate Hwy 95, then over Interstate Hwy 95 to junction Interstate Hwy 95 and U.S. Hwy 50 (also over Interstate Hwy 70 to junction Interstate Hwy 270, then over Interstate Hwy 270 to junction Interstate Hwy 495, then over Interstate Hwy 495 to junction Interstate Hwy 95 and U.S. Hwy 50), and return over the same routes, (12) between junction Interstate Hwys 20 and 85 and Richmond, VA, from junction Interstate Hwys 20 and 85 over Interstate Hwy 20 to junction Interstate Hwy 95, then over Interstate Hwy 95 to Richmond, and return over the same routes, (13) between junction Interstate Hwy 35 and U.S. Hwy 79 and junction TX Hwy 43 and Interstate Hwy 20, from junction Interstate Hwy 35 and U.S. Hwy 79 over U.S. Hwy 79 to junction TX Hwy 43, then over TX Hwy 43 to junction Interstate Hwy 20, and return over the same routes, (14) between junction of Interstate Hwys 20 and 59 and Pittsburgh, PA, from junction Interstate Hwys 20 and 59 over Interstate Hwy 59 to junction Interstate Hwy 75, then over Interstate Hwy 75 to junction Interstate Hwy 71, then over Interstate Hwy 71 to junction Interstate Hwy 70, then over Interstate Hwy 70 to junction Interstate Hwy 79, then over Interstate Hwy 79 to Pittsburgh, and return over the same routes, (15) between junction Interstate Hwys 20 and 65 and junction Interstate Hwys 65 and 64 over Interstate Hwy 65, (16) between Houston, TX and junction Interstate Hwys 45 and 20, over Interstate Hwy 45, (17) between Houston, TX and junction U.S. Hwy 59 and Interstate Hwy 20, over U.S. Hwy 59, (18) between junction U.S. Hwy 59 and Interstate Hwy 20 and junction U.S. Hwy 71 and Interstate Hwy 70, from junction U.S. Hwy 59 and Interstate Hwy 20 over U.S. Hwy 59 to junction U.S. Hwy 71, then over U.S. Hwy 71 to junction Interstate Hwy 70, and return over the same routes, (19) between Baton Rouge, LA and junction Interstate Hwys 20 and 95, from Baton Rouge over Interstate Hwy 12 to junction Interstate Hwy 10 then over Interstate Hwy 10 to junction Interstate Hwy 95, then over Interstate Hwy 95 to junction Interstate Hwys 95 and 20, and return over the same route; (20) between junction Interstate Hwys 12 and 59 and junction Interstate Hwys 59 and 20, over Interstate Hwy 59; (21) between junction Interstate Hwy 95 and U.S. Hwy 17 and

junction Interstate Hwys 26 and 40, from junction Interstate Hwy 95 and U.S. Hwy 17 over U.S. Hwy 17 to junction Interstate Hwy 26, then over Interstate Hwy 26 to junction Interstate Hwy 40, and return over the same route, (22) between Mobile, AL and Richmond, VA, from Mobile over Interstate Hwy 65 to junction Interstate Hwy 85, then over Interstate Hwy 85, to Richmond, and return over the same routes, (23) between Montgomery, AL and Evansville, IN, from Montgomery over Interstate Hwy 65 to junction Interstate Hwy 24, then over Interstate Hwy 24 to Evansville, and return over the same route, (24) between Beaumont and Lufkin, TX, over U.S. Hwy 69, (25) between Charleston, WV, and junction Interstate Hwys 70 and 77, over Interstate Hwy 77, (26) between Atlanta, GA and Jacksonville, FL, from Atlanta over Interstate Hwy 75 to junction Interstate Hwy 10, then over Interstate Hwy 10 to Jacksonville, and return over the same route, serving all intermediate points in routes (1) through (26) above, and serving points in AL, AR, FL, GA, IL, IN, KS, KY, LA, MD, MS, MO, NC, OH, OK, SC, TN, TX, VA, WV, and DC, as off-route points.

MC 115331 (Sub-550F), filed December 15, 1980. Applicant: TRUCK TRANSPORT INCORPORATED, 11040 Manchester Road, St. Louis, MO 63122. Representative: Edward J. Kiley, 1730 M St., NW., Washington, DC 20036. Transporting *general commodities*, in bulk, between points in the U.S. Condition: Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation, at applicant's written request, of MC–115331 or Subs which duplicates the above authority.

MC 119741 (Sub-287F), filed December 16, 1980. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Ave., NW., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). Transporting *pretzels* from Reading, PA, to Terre Haute, IN.

MC 121470 (Sub-71F), filed December 2, 1980. Applicant: TANKSLEY TRANSFER COMPANY, a corporation, 801 Cowan St., Nashville, TN 37207. Representative: Helen Jones (same address as applicant). Transporting *such commodities* as are dealt in or used by manufacturers and distributors of roofing and roofing materials, (1) between points in Jasper County, MO, Frederick County, MD, Phillips County, KS, Tuscaloosa County, AL, Knox County, TN, Arapahoe County, CO, Douglas County, NE, Wyandotte County, KS, and Tulsa County, OK, on the one hand, and, on the other, points in the U.S., and (2) between points in Jasper County, MO, Frederick County, MD, Phillips County, KS, Tuscaloosa County, AL, Knox County, TN, Arapahoe County, CO, Douglas County, NE, Wyandotte County, KS, and Tulsa County, OK.

MC 121741 (Sub-2F), (Partial Republication), filed October 10, 1980, previously noticed in **Federal Register** issue of November 4, 1980. Applicant: WESTERN TEX-PACK, INC., 3200 W. Bolt St., Fort Worth, TX 76110. Representative: Austin L. Hatchell, P.O. Box 2165, Austin, TX 78768. Over regular routes, transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (b) restricted against any shipments originating at and destined to Wichita Falls, Fort Worth, Dallas, Albany, and Abilene, TX.

Note.—The purpose of this partial republication is to clarify the restriction in (b). The rest of the publication remains the same.

MC 128951 (Sub-41F), filed November 18, 1980. Applicant: ROBERT H. Dittrich d.b.a. BOB DITTRICH TRUCKING, 1000 North Front Street, New Ulm, MN 56073.Representative: Rodney H. Jeffery (same address as applicant). Transporting *gaskets and parts for gaskets*, and *weather stripping and parts for weather stripping*, between points in Brown County, MN, on the one hand, and, on the other, those points in IA on and west of U.S. Hwy 35, and those points in KS and NE on and east of U.S. Hwy 77.

MC 141220 (Sub-4F), filed December 12, 1980. Applicant: MOYER TRUCK LINE, INC., P.O. Box 253, Centralia, MO 65240. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. Transporting *fertilizer and fertilizer ingredients*, between Lawrence, KS, on the one hand, and on the other, points in MO, IA, and AR.

MC 142941 (Sub-75F), filed December 15, 1980. Applicant: SCARBOROUGH TRUCK LINES, INC., P.O. Box 6716, Phoenix, AZ 85005. Representative: Doug W. Sinclair (same address as applicant). Transporting *such commodities* as are dealt in by wholesale and retail food business houses (except commodities in bulk), between points in the U.S., restricted to traffic originating at or destined to the facilities of Shurfine-Central Corporation and its members.

MC 143531 (Sub-6F), filed December 12, 1980. Applicant: POWDER RIVER MOTOR TRANSPORT CORPORATION, P.O. Box 300, Provo, UT 84601. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City, UT. Transporting *building materials*, between points in the U.S., under continuing contract(s) with Acropolis Wholesale Lumber, of West Valley City, UT.

MC 144740 (Sub-29F), filed December 15, 1980. Applicant: L. G. DEWITT, INC., P.O. Box 70, Ellerbe, NC 28338. Representative: Fred Daugherty (same address as applicant). Transporting (1) *confectionery* and (2) *materials and supplies* used in the manufacture and distribution of confectionery (except commodities in bulk), between points in the U.S., under continuing contract(s) with Charms Company of Frehold, NJ.

MC 147321 (Sub-5F), filed December 15, 1980. Applicant: BILL STARR TRUCKING, INC., 1041 Vista Dr., Independence, MO 64056. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Kansas City, MO 64105. Transporting *malt beverages* from Fort Worth, TX to Kansas City and Excelsior Springs, MO.

MC 151441 (Sub-1F), filed December 12, 1980. Applicant: SHAKER MOUNTAIN TRANSPORT, INC., 2550 Purvis Dr., Burbank, CA 91504. Representative: Donald R. Hedrick, P.O. Box 88, Norwalk, CA 90650. Transporting *edible salt, canned or preserved foodstuffs, dairy products, and materials and supplies* used in the manufacturing of dairy products, between points in the U.S., under continuing contract(s) with Masson Cheese Corporation, of Bell, CA, and Star Valley Cheese Corporation, of Thayne, WY.

MC 151730 (Sub-1F), filed December 16, 1980. Applicant: QUINTON L. SIMPKINS AND JUNE R. SIMPKINS, d.b.a. S.S.S. EXPRESS, P.O. Box 605, Christiansburg, VA 24073. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. Transporting (1) *new furniture* and *parts* for new furniture, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in Montgomery County, VA, and Catawba and Guilford Counties, NC, on the one hand, and, on the other, points in AL, AR, AZ, CA, CT, DE, FL, GA, IL, IN, KS, KY, LA, MA, MD, MI, MO, MS, NC, NH, NJ, NM, NV, NY, OH, OK, PA, RI, SC, TN, TX, VA, WI, WV, and DC.

MC 151921 (Sub-1F), filed December 15, 1980. Applicant: McAFEE ENTERPRISES, INC., P.O. Box 2099, Clarksville, IN 47130. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. Transporting (1) *heavy machinery and equipment* and (2) *materials, equipment, and supplies*

used in the manufacture and distribution of the commodities in (1) above between points in Jefferson County, KY, and Clark and Jefferson Counties, IN, on the one hand, and, on the other, points in the U.S.

Volume No. OP4–184

By the Commission, Review Board No. 3, Members Parker, Fortier, and Hill. Member Fortier not participating.

MC 5227 (Sub-77F), filed December 19, 1980. Applicant: ECKLEY TRUCKING, INC., P.O. Box 201, Mead, NE 68041. Representative: A. J. Swanson, P.O. Box 1103, 226 N. Phillips Ave., Sioux Falls, SD 57101. Transporting (1) *retail store and office fixtures and equipment*, and (2) *materials and supplies* used in the manufacture of the commodities in (1) between points in Sedgwick County, KS, on the one hand, and, on the other, points in the U.S.

MC 42487 (Sub-1013F), filed December 19, 1980. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), serving Randolph, VT as an off-route point and points in Windsor County, VT as intermediate or off-route points in connection with carrier's otherwise authorized regular-route operations.

Note.—Applicant intends to tack to its existing authority and any authority it may acquire in the future.

MC 51146 (Sub-861F), filed December 19, 1980. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Matthew J. Reid (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., restricted to traffic originating at or destined to the facilities of American Cyanamid Company, and its subsidiaries.

MC 60186 (Sub-70F), filed December 19, 1980. Applicant: NELSON FREIGHTWAYS, INC., 47 East St., P.O. Box 1358, Rockville, CT 06066. Representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Ave. and 13th St., N.W., Washington, DC 2004. Transporting *foodstuffs* (except frozen and in bulk), and *materials, equipment, and supplies* used in the manufacture, packaging and distribution of foodstuffs, (1) between the facilities of William Underwood, at or near Portland, ME, on the one hand, and, on the other, the facilities of William Underwood, at or near Hannibal, MO, and (2) from the facilities of William Underwood, at or near Hannibal, MO, to points in NY, NJ, PA, and MD.

MC 105566 (Sub-239F), filed December 19, 1980. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: William F. King, Suite 400, Overlood Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., restricted to traffic originating at or destined to the facilities of Rohm and Haas Company and its subsidiaries.

MC 120636 (Sub-12F), filed December 24, 1980. Applicant: BURNTON STORAGE & VAN CO., INC., 6th and Locust Sts., P.O. Box 577, Chatsworth, IL 60921. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, DC 20001. Transporting (1) *foodstuffs and kindred products*, and (2) *materials, equipment, and supplies* (except commodities in bulk), used in the manufacture and distribution of the commodities in (1) between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Bunge Edible Oil Corporation, at Kankakee, IL.

MC 124887 (Sub-127F), filed December 19, 1980. Applicant: SHELTON TRUCKING SERVICE, INC., Rt. 1, P.O. Box 230, Altha, FL 32421. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. Transporting *general commodities* (except household goods as defined by the Commission, classes A and B explosives, and commodities in bulk), between points in FL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 140086 (Sub-11F), filed December 19, 1980. Applicant: DELARIA TRANSPORT, INC., 327 8th Ave., N.W., New Brighton, MN 55112. Representative: James M. Christenson, 4444 IDS Center, 80 So. Eighth St., Minneapolis, MN 55402. Transporting (1) *animal byproducts* and (2) *feed ingredients*, between points in IL, IN, IA, MI, MN, NE, ND, SD, and WI.

Volume No. OP4–185

By the Commission, Review Board No. 3, members Parker, Fortier, and Hill. Member Fortier not participating.

MC 297 (Sub-13F), filed December 16, 1980. Applicant: WOODLAND TRUCK LINE, INC., P.O. Box 70, Woodland, WA 98674. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210. Transporting (1) *pulp, paper, or allied products* as described in Item 26 of the Standard Transportation Commodity Code, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in WA, OR, ID, MT, WY, UT, NV, CA, CO, NM, NE, and AZ.

MC 39406 (Sub-22F), filed December 15, 1980. Applicant: CENTRAL MOTOR LINES, INC., P.O. Box 34303, Charlotte, NC 28234. Representative: Leonard A. Jaskiewicz, 1730 M St., N.W., Washington, DC 20036. Transporting *general commodities* (except household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment), between points in GA, NC and SC, on the one hand, and, on the other, points in IL, IN, KY, OH, TN, VA, and WV. Condition: Issuance of a certificate in this proceeding is subject to the prior or coincidental cancellation, at applicant's written request, of the regular route authority held in MC 39406, lead and subs 8, 10, 11, 13, 14, 15, and 16.

MC 59117 (Sub-81F), filed December 8, 1980. Applicant: ELLIOT TRUCK LINE, INC., P.O. Box 1, Vinita, OK 74301. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Transporting *foundry materials*, between points in Franklin, Jefferson, Jasper, St. Charles, St. Louis, St. Genevieve, and Washington Counties, MO, on the one hand, and, on the other, points in OK and KS.

MC 118127 (Sub-29F), filed December 10, 1980. Applicant: HALE DISTRIBUTING COMPANY, INC., 2301 E. Francis St., P.O. Box 3187, Ontario, CA 91761. Representative: William J. Augello, 120 Main St., P.O. Box Z, Huntington, NY 11743. Transporting *frozen foods*, between points in CT, DE, IL, IN, MA, MD, ME, MI, MO, NJ, NY, OH, PA, RI, TX, VA, VT, WI, WV, and DC, on the one hand, and, on the other, points in AZ, CA, CO, ID, IL, IN, KS, KY, MO, MT, NM, NV, OH, OK, OR, TN, TX, UT, WA, and WY.

MC 124887 (Sub-125F), filed December 16, 1980. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, FL 32421. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. Transporting (1) *primary metal products*, including galvanized (except coating or other allied processing) as described in Item 33 of the Standard Transportation Commodity Code Tariff, and (2) *pipe*, between points in the U.S., restricted to traffic originating at or

destined to the facilities of Concol Pipe Co.

MC 124887 (Sub-126F), filed December 16, 1980. Applicant: SHELTON TRUCKING SERVICE, INC., Rt. 1, Box 230, Altha, FL 32421 Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. Transporting *building and construction materials*, between points in AL, AR, FL, GA, KY, LA, MO, MS, NC, OK, SC, TN, TX, and VA.

MC 128837 (Sub-24F), filed December 15, 1980. Applicant: TRUCKING SERVICE, INC., P.O. Box 229, Carlinville, IL 62626. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701. Transporting *glass containers, and materials and supplies* used in the manufacture and distribution of glass containers, between points in the U.S.

MC 128837 (Sub-26F), filed December 16, 1980. Applicant: TRUCKING SERVICE, INC., P.O. Box 229, Carlinville, IL 62626. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701. Transporting *vinegar and sweet cider*, between points in Madison and Richland Counties, IL, on the one hand, and, on the other, points in AR, CO, IA, IN, KS, KY, MO, NE, OH, MI, MN, and TN.

MC 144957 (Sub-8F), filed December 18, 1980. Applicant: PETERCLIFFE, LTD., 12623 East Imperial Hwy., Suite 204, Santa Fe Springs, CA 90670. Representative: Patrick H. Smyth, 19 So. LaSalle St., Suite 401, Chicago, IL 60603. Transporting *general commodities* (except classes A and B explosives), between points in AZ, CA, NV, and UT, on the one hand, and, on the other, points in AL, AR, MS, VA, WV, and DC, restricted to traffic moving on bills of lading of freight forwarders.

MC 144957 (Sub-9F), filed December 17, 1980. Applicant: PETERCLIFFE, LTD., 12623 East Imperial Hwy., Suite 204, Santa Fe Springs, CA 90670. Representative: Patrick H. Smyth, 19 So. LaSalle St., Suite 401, Chicago, IL 60606. Transporting *general commodities* (except classes A and B explosives), (1) between points in AZ, CA, NV, and UT, and (2) between points in AZ, CA, NV, and UT on the one hand, and, on the other, points in NE, IA, CO, MN, and KS, restricted to traffic moving on bills of lading of freight forwarders.

MC 145267 (Sub-15F), filed December 11, 1980. Applicant: CAMPBELL TRANSPORT, INC., P.O. Box 386, Vineland, NJ 08360. Representative: Mark D. Russell, Suite 348, Pennsylvania Bldg., 425 13th St., NW, Washington, DC 20004. Transporting (1) *drugs and toilet preparations*, and (2) *materials* used in the manufacture and packaging of the commodities in (1) above, between points in the U.S., under continuing contract(s) with Whitehall Laboratories, of New York, NY.

MC 145267 (Sub-16F), filed December 11, 1980. Applicant: CAMPBELL TRANSPORT, INC., P.O. Box 386, Vineland, NJ 08360. Representative: Mark D. Russell, Suite 348, Pennsylvania Bldg., 425 13th St., NW, Washington, DC 20004. Transporting (1) *foods and foodstuffs*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) between points in the U.S., under continuing contract(s) with Fearn International, Inc., and its subsidiaries, of Franklin Park, IL.

MC 145557 (Sub-13F), filed December 16, 1980. Applicant: LIBERTY TRANSPORT, INC., P.O. Box 9182, Kansas City, MO 64168. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. Transporting (1) *such commodities* as are dealt in or used by grocery, variety, discount, and drug stores, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) between points in Wyandotte County, KS, on the one hand, and, on the other, points in AZ, CA, ID, MT, NV, OR, UT, WA, and WY.

MC 145957 (Sub-4F), filed December 15, 1980. Applicant: PETTIS TRUCKING COMPANY, INC., Rt. 4, Box 249-B, Brewton, AL 36426. Representative: Thomas M. Pettis (same address as applicant). Transporting *lime and lime products*, in dump vehicles, from points in AL to points in MS, FL and GA.

MC 145997 (Sub-33F), filed December 16, 1980. Applicant: J.E.M. EQUIPMENT, INC., P.O. Box 396, Alma, AR 72921. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72701. Transporting *alcoholic liquors, and materials, equipment and supplies* used in the manufacture and distribution of alcoholic liquors, between points in IL, on the one hand, and on the other, points in the U.S.

MC 146937 (Sub-7F), filed December 16, 1980. Applicant: ALL STAR AIR FREIGHT, INC., 7001 West 20th St., Hialeah, FL 33014. Representative: Richard B. Austin, 320 Rochester Bldg., 8390 N.W. 53 St., Miami, FL 33166. Transporting *yarn, fabrics, garments and garment hangers*, between points in the U.S., under continuing contract(s) with Niki-Lu Industries, Inc., of Miami Lakes, FL.

MC 147196 (Sub-12F), filed December 16, 1980. Applicant: ECONOMY TRANSPORT, INC., 1205 St. Louis St., New Orleans, LA 70150. Representative: Donald A. Larousse (same address as applicant. Transporting *iron and steel pipe, casing, fittings and accessories*, between points in the U.S., under continuing contract(s) with Readd Supply Company, of Houston, TX.

MC 150567 (Sub-19F), filed December 16, 1980. Applicant: TRAVIS TRANSPORTATION, INC., 123 Coulter Ave., Ardmore, PA 19003. Representative: William E. Collier, 8918 Tesoro Dr., Suite 515, San Antonio, TX 78217. Transporting *used heavy construction and mining equipment*, between points in the U.S. (excluding AK and HI), under continuing contract(s) with Mesaba Service & Supply of San Mateo, CA.

MC 152917 (Sub-1F), filed December 16, 1980. Applicant: J. HOOVER ENTERPRISES, INC., d.b.a. GO-FER EXPRESS, 903 East Lincolnway, LaPorte, IN 46350. Representative: Patrick H. Smyth, 19 South LaSalle St.—Suite 401, Chicago, IL 60603. Transporting (1) *machinery parts, and plastic products*, and (2) *equipment and supplies* used in the manufacture of the commodities in (1) above, between points in Porter, LaPorte, St. Joseph, Elkhart and Marshall Counties, IN, on the one hand, and on the other, points in IL, IA, MI, MO, OH, and WI.

MC 153226F, filed December 12, 1980. Applicant: THE STANDARD WAREHOUSE COMPANY, a corporation, P.O. Box 5263, Columbia, SC 29250. Representative: Claude M. Walker, Jr. (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, in household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in SC, NC, and GA.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-679 Filed 1-7-81; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Clark Oil and Refining Corp.; Consent Decree in Action To Enforce Compliance With Clean Air Act

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a consent decree in *United States* v. *Clark Oil and Refining Corp.*, was lodged with the United States District Court for the Northern District of Ohio. The decree requires defendant to comply with the applicable portion of the federally-approved Ohio

state implementation plan and provides that defendant will pay a civil penalty of $5,000.

The Department of Justice will receive on or before February 9, 1981, written comments relating to the proposed consent decree. Comments should be addressed to the Deputy Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should refer to *United States* v. *Clark Oil and Refining Corp.*, D.J. Ref. 90-5-2-1-207.

The consent decree may be examined at the office of the United States Attorney, Northern District of Ohio, Room 400, U.S. Courthouse, Cleveland, Ohio 44114, at the Region V office of the Environmental Protection Agency, Enforcement Division, 230 South Dearborn Street, Chicago, Illinois 60604, and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1254, Tenth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

Angus Macbeth,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 81-642 Filed 1-7-81; 8:45 am]

BILLING CODE 4410-01-M

Douglas County Sewer Improvement District No. 1, et al.; Consent Decree in Action To Enforce Compliance With Terms of NPDES Permit

In accordance with Departmental policy, 28 CFR § 50.7, 38 FR 19029, notice is hereby given that a proposed consent decree in *United States* v. *Douglas County Sewer Improvement District No. 1, et al.*, has been lodged with the United States District Court for the District of Nevada. The decree requires the defendant to install certain equipment to ensure that it complies with the terms of its permit.

The Department of Justice will receive on or before February 9, 1981, written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should refer to *United States* v. *Douglas County Sewer Improvement District No. 1, et al.*, D.J. Ref. 90-5-1-6-103.

The consent decree may be examined at the office of the United States Attorney, District of Nevada, United States Courthouse, 300 Las Vegas Boulevard, Las Vegas, Nevada 89101; at the Region IX office of the Environmental Protection Agency, 215 Fremont Street, San Francisco, California 94102; and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1254, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

Angus Macbeth,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 81-645 Filed 1-7-81; 8:45 am]

BILLING CODE 4410-01-M

Honokaa Sugar Co. and Laupahoehoe Sugar Co.; Proposed Consent Decree in Actions To Enjoin Discharge of Air and Water Pollutants

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on December 11, 1980, a combined proposed Consent Decree in *United States v. Honokaa Sugar Company*, Civil No. 78-0017 and proposed Amended Consent Decree in *United States* v. *Laupahoehoe Sugar Company*, Civil No. 76-0057, was lodged with the United States District Court for the District of Hawaii. The proposed decree will require Theo H. Davies & Co., Ltd. and its subsidiary, Davies Hamakua Sugar Company to come into compliance with the provisions of the Clean Air Act, 42 U.S.C. 7401, and Clean Water Act, 33 U.S.C. 1251 *et seq.*, and to pay a civil penalty.

The Department of Justice will receive on or before February 9, 1981, written comments related to the proposed judgment. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20503, and refer to *United States* v. *Honokaa Sugar Company*, DJ Ref. 90-5-1-1-859.

The proposed consent decree may be examined at the office of the United States Attorney, 300 Ala Moana Boulevard, Honolulu, Hawaii 96850; at the Region IX Office of Environmental Protection Agency, Enforcement Division, 215 Fremont Street, San Francisco, California 94105; and at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice (Room 1254), Tenth Street and Pennsylvania Avenue, NW, Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice. In requesting a copy, please enclose a check in the amount of $1.00 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

Angus Macbeth,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 81-646 Filed 1-7-81; 8:45 am]

BILLING CODE 4410-01-M

Kaiser Steel Corp.; Proposed Consent Degree in Actions To Enjoin Discharge of Air Pollutants

In accordance with Departmental Policy, 28 CFR 50.7, FR 19029, notice is hereby given that on December 29, 1980, a proposed amendment to the consent decree in *United States of America* v. *Kaiser Steel Corporation*, was lodged with the United States District Court for the Central District of California. The proposed amendment to the decree makes certain changes in the existing decree concerning the abatement of emission of air pollutants from coke batteries.

The proposed consent decree may be examined at the office of the United States Attorney, Room 1123, U.S. Courthouse, 312 North Spring Street, Los Angeles, California 90012; at the Region IX office of the Environmental Protection Agency, Enforcement Division, 215 Fremont Street, San Francisco, California 94105; and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1252, Ninth and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.00 (10 cent per page reproduction charge) payable to the Treasurer of the United States. The Department of Justice will receive written comments relating to the proposed consent decree on or before February 9, 1981. Comments should be directed to the Assistant Attorney General for the Land and Natural Resources Division of the Department of Justice, Ninth and Pennsylvania Avenue, NW., Washington, D.C. 20530 and should refer to *United States of America*

v. *Kaiser Steel Corporation*, DJ Reference #90-5-2-1-24.

Anthony C. Liotta,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 81-644 Filed 1-7-81; 8:45 am]

BILLING CODE 4410-01-M

Marathon Oil Co. and Amoco Oil Co.; Consent Decrees in Actions To Enforce Compliance With Clean Air Act

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that consent decrees in *United States* v. *Marathon Oil Company* and *United States* v. *Amoco Oil Company*, were lodged with the United States District Court for the Northern District of Illinois. The decrees require Marathon Oil Company and Amoco Oil Company to comply with the applicable portion of the federally-approved Ohio state implementation plan and provide that Marathon and Amoco will pay civil penalties of $8,000 and $5,000, respectively.

The Department of Justice will receive on or before February 9, 1981, written comments relating to the proposed consent decree. Comments should be addressed to the Deputy Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C., 20530 and should refer to *United States* v. *Marathon Oil Company*, D.J. Ref. 90-5-2-1-340 and *United States* v. *Amoco Oil Company*, D.J. Ref. 90-5-2-1-357.

The consent decrees may be examined at the office of the United States Attorney, Northern District of Illinois, Everett McKinley Dirksen Building, Room 1500 South, 219 S. Dearborn Street, Chicago, Illinois 60604, at the Region V office of the Environmental Protection Agency, Enforcement Division, 230 South Dearborn Street, Chicago, Illinois 60604, and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1254, Tenth Street and Pennsylvania Avenue, NW, Washington, D.C. 20530. A copy of each proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Divison of the Department of Justice.

Angus Macbeth,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 81-643 Filed 1-7-81; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

[Docket No. 80-24]

Clifton Jack Alexander; Hearing

Notice is hereby given that on August 22, 1980, the Drug Enforcement Administration, Department of Justice, issued to Clifton Jack Alexander, M. D., Phoenix, Arizona, an Order To Show Cause as to why the Drug Enforcement Administration should not deny Respondent's application for registration under Section 303 of the Controlled Substances Act (21 U.S.C. 823), executed on April 11, 1980, to distribute and dispense Schedule IV and V controlled substances.

Thirty days having elapsed since the said Order To Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 10:00 a.m. on Thursday, January 29, 1981 in Hearing Room "A", U.S. District Court Courthouse, 55 East Broadway, Tucson, Arizona.

Dated: January 2, 1981.

Peter B. Bensinger,

Administrator, Drug Enforcement Administration.

[FR Doc. 81-650 Filed 1-7-81; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL FOUNDATION FOR 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 (Public Law 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, NW., Washington, D.C. 20506:

Date: January 19, 1981.
Time: 9:15 a.m. to 5:30 p.m.
Room: Room 109 Parlor, O'Hare Hilton, Chicago, Illinois.
Program: This meeting will review applications for Residential Fellowships for College Teachers in English and Composition, submitted to the Division of Fellowships and Seminars for projects beginning after January 1, 1981.

Date: January 19, 1981.
Time: 9 a.m. to 5:30 p.m.
Room: 807.
Program: This meeting will review applications for Residential Fellowships for College Teachers in Sociology, submitted to the Division of Fellowships and Seminars 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) linformation 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.

V. Loughnan,

Acting Advisory Committee Management Officer.

[FR Doc. 81-684 Filed 1-7-81; 8:45 am]

BILLING CODE 7536-01-M

Theatre Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that a meeting of the Theatre Panel to the National Council on the Arts will be held on January 22-23, 1981, from 9:00 a.m.-5:30 p.m., in room 1422, Columbia Plaza Office Complex, 2401 E Street, NW., Washington, D.C.

A portion of this meeting will be open to the public on January 23, 1981, from 9:00 a.m.-5:30 p.m. to discuss policy. The remaining sessions of this meeting on January 22, 1981, from 9:00 a.m.-5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by

grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 81-639 Filed 1-7-81; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 81-2]

Reports, Recommendation Responses; Availability

Aircraft Accident Reports in Brief Format

U.S. Civil Aviation, Issue No. 1 of 1980 Accidents (NTSB–BA–80–10).—The first of the series of volumes containing abbreviated reports on U.S. civil aviation accidents which occurred last year was released by the National Transportation Safety Board on December 31.

In Press Release No. SB 80–106 announcing issuance of this first volume, the Safety Board provided a winter reminder to general aviation pilots of the frequent hazards of fog on approach and landing in cold weather. The Board cited as an example one of 299 accidents reported in Issue No. 1, where the pilot and all six passengers aboard a twin-engine corporate aircraft were killed when it crashed in fog below the glideslope and 400 yards left of the localizer on an instrument landing system (ILS) approach.

The pilot had been briefed on his destination weather before his departure, and again when he was several miles away from the airport. Each briefing reported that the airport weather was below the pilot's landing minimums for the ILS approach he attempted—a 200-foot ceiling and visibility of half a mile. Five minutes before the crash, the tower broadcast an alert to all aircraft that prevailing visibility was a quarter of a mile and apparently deteriorating. The Board listed the weather at the accident scene as a ceiling of 100 feet and visibility of a quarter of a mile or less in fog.

The ILS was checked after the accident and found to be operating within tolerances. Examination of the wreckage disclosed no evidence of pre-impact malfunction or failure. The Board determined that the cause of the accident was the pilot's "improper Instrument Flight Rules operation." The fog and low ceiling were cited as contributing factors.

Note.—The brief format reports in this publication present the facts, conditions, circumstances, and probable cause(s) for each accident. Additional statistical information is tabulated by injury index, injuries and causal factors. While these brief reports contain essential information, more detailed data may be obtained from the original factural reports on file in the Washington Office of the Safety Board. Upon request, factual reports will be reproduced commercially at an average cost of 20 cents per page for printed matter, 65 cents per page for black-and-white photographs, and $4.37 per page for color photographs, plus postage. Requests concerning aircraft accident report briefs should include (1) date and place of occurrence, (2) type of aircraft and registration number, and (3) name of pilot. Requests should be addressed to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Copies of the publication may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22161.

Responses to Safety Recommendations

Aviation

A–80–8, from the Federal Aviation Administration, December 18, 1980.—Letter is in further response to a recommendation issued last January 21, supplements FAA's letter of last April 18 (45 FR 29145, May 1, 1980), and responds to the Safety Board's comments of June 6. The recommendation resulted from a Trans World Airlines B–727 maneuver accident over southern Michigan on April 4, 1979. The aircraft entered a high-speed spiral dive while cruising at 39,000 feet, from which it did not recover until it desenced to an altitude between 5,000 and 6,000 feet. An emergency landing was made at an alternate airport. There was extensive in-flight damage. The No. 7 landing edge slat on the right wing, the No. 10 spoiler panel, and several other components were missing. The Board recommended that FAA disseminate to all Boeing 727 operators and flightcrews information of the type included in Boeing Operations Manual Bulletin 75–7 and TWA Flight Operations Safety Bulletin 6903, which address control problems associated with high-speed asymmetrical leading edge slat configuration on B–727 aircraft.

The Board stated in its June 6 letter that it was difficult to accept FAA's reasons for not concurring in this recommendation. Investigation was still under way but the Board noted that isolation of the No. 7 leading edge slat in the extended position created lateral control problems. Both referenced bulletins address operational aspects related to high-speed asymmetric slat extension, not just "failures discovered during scheduled maintenance * * *." The Boeing bulletin indicates that if a slat should extend in flight, "Significant lateral control would be required to prevent high roll rates." The Board believes that the flight simulations mentioned in the TWA bulletin have accurately demonstrated the measure of lateral control needed by a pilot to cope with a high-speed asymmetric leading edge slat configuration in the B–727. Consequently, notwithstanding the low probability of slat extension without some advance warning, the Board believes it is important that B–727 pilots be made aware of the control problems associated with an asymmetrical configuration. This obviously was part of the original intent of the Boeing bulletin which, according to several pilots involved in the investigation, was never brought to their attention.

The Board believes that sufficient factual information has been developed in the investigation to define the dimensions of the problems and the measures of control needed by a pilot to retain control of the aircraft. The Board further believes this information should be made available to the pilot.

In response, FAA states that its previous nonconcurrence with A–80–8 was based on FAA's contention that selected information relative to control problems associated with high-speed asymmetrical leading edge slat configuration on B–727 aircraft is not meaningful and could, in fact, be misleading. Specifically, FAA refers to information such as that contained in Boeing Operations Manual Bulletin 75–6 and TWA Flight Operations Safety Bulletin 79–3.

FAA notes that certain information referred to in the TWA Safety Bulletin was predicated upon developmental simulator tests conducted by the Boeing Company. To the best of FAA's knowledge, no FAA representatives were involved in this testing, and the conclusions obtained have not been validated by FAA. Thus, FAA is reluctant to agree that such information should be widely disseminated throughout industry. Further discussions with representatives of the Boeing Company relative to this subject revealed that a viable flight-test program began in July 1980. This

program involves the use of a Boeing-owned B-727 which has been dedicated for use in the test program. FAA anticipates that conditions similar to those which led to the TWA Flight 841 upset will be investigated at length. A detailed report of findings will be made available to the Safety Board, the FAA, and the industry. FAA plans no further action in regard to recommendation A-80-8 pending the outcome of this test program.

A-80-101 through -104, from the Federal Aviation Administration, December 15, 1980.—Response is to recommendations issued September 25 as a result of the Safety Board's study of air taxi accidents which occurred in Alaska from 1974 through 1978. (See 45 FR 73828, November 6, 1980.)

FAA reports that its Alaskan Region, in cooperation with the State of Alaska and the National Weather Service (NWS), is currently involved in high frequency (HF) transmissions to collect weather and airport information. Also, FAA is evaluating "meteor burst" technology and televisions weather observations.

Recommendation A-80-101 asked FAA to evaluate, in cooperation with the State of Alaska and NWS, the feasibility of equipping its flight service stations and the NWS-certified weather observers in rural villages with high-frequency transceivers that have the appropriate frequencies to facilitate the ground-to-ground communication of weather and runway conditions. FAA concurs, noting that such an effort is now in progress. FAA's Alaskan Region is presently using HF transceivers to collect weather and airport information from remote locations. Due to the unreliable nature of HF (atmospheric influences, skip, etc.), FAA plans to provide HF transceivers as needed, until they can be replaced with more reliable "meteor burst" or satellite communications.

With respect to recommendation A-80-102, which asked FAA to locate and maintain permanently a Principal Operations Inspector and a Principal Maintenance Inspector at Nome, Bethel, Ketchikan, and at as many other regional aviation hubs as possible, FAA says it appreciates the intent but does not concur in substance in this recommendation. FAA states that the establishment of GADO's or satellite offices at any location, including those in Alaska, is based upon a number of factors including the need for full-time FAA services and consideration of the various alternatives available to provide these services. FAA has considered establishing additional GADO's at the locations identified in recommendation A-80-102. However, the workload historically has been cyclic, and FAA has been unable to justify domiciled GADO personnel at those locations. FAA inspectors from the Alaskan Region GADO's and FSDO's have provided required services through expanded travel and extended duration of assignment at these locations when activity has warranted. FAA states that this flexibility of assignment has permitted FAA managers to meet the changing demands of the work situation in Alaska while still controlling growth of the Federal work force. A present review of future inspector staffing requirements in Alaska includes potential location assignment of domiciled inspectors. FAA expects to complete its study in April 1981 and will inform the Board of findings and long-term staffing plans at that time.

In response to recommendation A-80-103 which called on FAA to continue to develop, in cooperation with NWS, the concept of "meteor burst" technology for transmission of weather observations from rural villages to regional aviation hubs in Alaska, FAA reports that "meteor burst" technology is presently being tested at two locations in Alaska, and so far the results have been favorable. Future plans are pending, and FAA will continue to monitor this effort.

With respect to recommendation A-80-104, which asked FAA to continue to develop and improve in cooperation with MWS, the technology of the television weather observation system in Alaska, FAA reports that "slow scan" and "live scan" television observations are being tested at two Alaskan locations. More locations are planned subject to the outcome of these tests, and FAA will continue to monitor this effort.

Marine

M-79-68 and -69, from the United States Coast Guard, December 16, 1980.—Letter is in response to the Safety Board's comments of July 11 on Coast Guard's initial response of May 13 (45 FR 36232, May 29, 1980) to recommendations developed as a result of investigation and analysis of the capsizing of the clam dredge PATTI-B at Ocean City, Md., May 9, 1978.

The Safety Board's July 11 letter first addresses recommendation M-79-67, noting that the recent revision to Coast Guard's *Addendum, National Search and Rescue Manual* fulfills, as far as possible, the intent of the recommendation. The Board realizes that there is no way to require the wearing of personal flotation devices (PFD's) as a contingency to receiving Coast Guard assistance, and the Board did not intend for this recommendation to carry such a message. The Board finds the instructions in the revision to the SAR Manual adequate and will produce at least an enhanced probability of PFD's being worn by persons on board a vessel being assisted. The Board classified recommendation M-79-67 as "Closed—Acceptable Action."

The Board accepts Coast Guard's proposed boarding and education program along with the proposed media campaign as being acceptable toward eventual fulfillment of M-79-68. The Board said it would hold the file open and asked to be notified of the initiation of the boarding and education program. The Board also asked to be furnished copies of hand-outs and other examples of the proposed media campaign which directly address the issues of the recommendation, i.e., the adverse effects of anchoring by the stern, water on deck, and loss of stability due to a boat's momentarily being poised on a wave.

With respect to recommendation M-79-69, the Board notes that current Coast guard regulations (46 CFR 179.10-5) require all passenger vessels over 65 feet in length and vessels under 65 feet in length which carry more than 150 passengers to be checked for stability according to the standards and procedures set forth in 46 CFR Part 74. The Board notes that § 74.10 states that a vessel must meet both the weather and passenger criteria for stability unless it is not of an ordinary form.

The Board refers to Coast Guard's May 13 statement that Coast Guard weather criteria has "shortcomings" in application to small vessels and that because of this, some undefined "righting energy criteria" is applied to vessels when Coast Guard questions the intact stability of a vessel. Further, Coast Guard stated that it had sponsored research into the seakeeping characteristics of various hull forms which "did not provide all the answers, but did offer considerable insight into small vessel seakeeping problems." From this, the Board concluded that "it is highly doubtful" that practical definitive intact stability criteria can be developed for small vessels. This response left the Board with two pertinent questions: What is the undefined righting energy criteria applied to overcome the shortcomings of the weather criteria? What has Coast Guard done with the "considerable insight" gained from stability studies to further the development of stability requirements for small vessels similar in design to the PATTI-B?

In response to the Board's comments, Coast Guard on December 16 reported that it will forward to the Safety Board the implementing documents of the Uninspected Vessel Boarding Program when it becomes fully operational. Coast Guard provided a sample of the handouts currently available for use by fishing vessel operators and recreational boaters. Also, Coast Guard provided a copy of an instructional slide show which is available at no cost to groups of interested fishermen or the boating public. These handouts and related educational materials are representative of what is currently available to the public. Coast Guard said similar materials will be developed when the need is identified, but there are no present plans to publish handouts dealing specifically with water on deck or loss of stability due to a vessel's being momentarily poised on a wave. Coast Guard said that should casualty trend data indicate particular problems in these areas, the matter will be reconsidered.

With respect to recommendation M-79-69, Coast Guard notes that a previous Safety Board letter asked Coast Guard what the undefined righting energy criteria is which is applied to overcome the shortcomings of the weather criteria. Coast Guard believes that further calculations in the form of a righting energy analysis is required when it is considered that the weather criteria is not exclusively an adequate measure of a vessel's intact stability due to the vessel's hull form or operation. Compliance with one of the following two standards has been accepted in the past as demonstrating adequate righting energy:

(a) Navigation and Vessel Navigation Inspection Circular (NVC) No. 3-73 dated 18 April 1973 derived from IMCO Resolution A.167.

(b) A criteria commonly known as "Rahola Criteria" developed from a doctoral thesis by Vaakko Rahola entitled "The Judging of the Stability of Ships and the Determination of the Minimum Amount of Stability."

In answer to the Safety Board's inquiry as to what insight Coast Guard has gained from stability studies to further the development of stability requirements for small vessels similar in design to the PATTI-B, Coast Guard says it has issued warnings to the public stating that there is no established stability standard that is considered full satisfactory for small vessels. An example of such a warning can be found in NVC 3-76 dated 29 September 1976, entitled "Stability of Fishing Vessels." Coast Guard has also encouraged research into the seakeeping characteristics of small vessels on the international level, but is no longer able to continue small vessel research due to limited funds and other priorities.

Railroad

R-80-23 and -24, from The Atchison, Topeka, and Santa Fe Railway Company (Santa Fe), December 12, 1980.—Letter is in response to the Safety Board's comments of November 7 on Santa Fe's initial responses of last June 23 (45 FR 52521, August 7, 1980). The recommendations, issued following investigation of an Amtrak passenger train derailment on the Santa Fe tracks at Lawrence, Kans., October 2, 1979, asked Santa Fe to establish rules and procedures to verify that locomotive engineers are familiar with a district so that they can operate safely in the event any fixed or other pertinent sign is inoperative or missing (R-80-23), and to establish special rules which explain and identify the location of automatic train stop indicators that are not located at automatic block signals (R-80-24).

The Safety Board's November 7 letter commended the Santa Fe for acting to ensure that locomotive engineers are familiar with the districts over which they are eligible to operate. Based on the stops indicated in Santa Fe's June 23 letter, the Board classified recommendation R-80-23 in a "Closed-Acceptable Action" status. However, the Board asked Santa Fe for a copy of its bulletin or instruction requiring locomotive engineers to report semiannually their actual trip experience over the various districts on which they may be called to operate trains.

With respect to recommendation R-80-24, the Safety Board asked Santa Fe to reconsider its response concerning the need for special rules to explain and identify automatic train stop (ATS) inductors not located at automatic block signals. Even though speed restrictions are identified in the Santa Fe timetable by milepost location, the Board's accident investigation disclosed that, in practice, engineers will depend upon the various types of trackside signs in advance of the speed restrictions, rather than a timetable, for identifying where to begin slowing their trains. The Board notes that had the dispatcher been notified of the missing ATS and 30/25 speed signs by crewmembers of freight trains that preceded Amtrak No. 4 into Lawrence during the previous 12 hours, the dispatcher may have made the engineer of No. 4 aware of the missing signs. Consequently, the engineer would not have been depending upon the signs for controlling the speed of the train as he approached Lawrence, and may have used the timetable to determine the milepost location of the speed restriction.

Santa Fe in its December 12 letter states that it is not able to furnish the additional documentation requested as no other bulletin other than Bulletin 308 has been issued concerning the engineer's familiarization trips over various districts over which he may be called for service.

Santa Fe notes that its June 23 statement to the effect that "enginemen are now required to report semiannually their trip experience over various districts * * *" was based on advice received that such an understanding had been reached with employee respresentatives. The terms of an agreement with the Brotherhood of Locomotive Engineers to which reference was made had been generally determined in conference and included a provision for semiannual familiarization trips. However, other aspects of this agreement have not been finalized and, thus, no formal agreement yet requires the semiannual familiarization trip.

In order to assure compliance with Bulletin 308 (now renumbered 309), Santa Fe has directed the Road Foreman of Engines to furnish on a monthly basis to the Superintendent, Trainmasters, and Chief Dispatcher a listing of enginemen who are qualified in passenger service and who have complied with that Bulletin. Santa Fe notes that the Road Foreman of Engines develops the necessary information from correspondence direct with the enginemen and this information is kept on record in the Trainmaster's office. Further, in filling unexpected vacancies, the Crew Clerks are now required to obtain the names of qualifed passenger enginemen from the Chief Dispatcher's office. Snta Fe believes this procedure effectively assures compliance with Bulletin 309 as only Enginemen so listed by the Road Foreman of Engines are eligible for passenger engine assignments.

With reference to the Board's request for reconsideration of recommendation R-80-24 concerning the need for special rules to explain and identify ATS inductors not located at automatic block signals, Santa Fe states that it would be willing to include within the special rules of the Time Table, relating to speed regulations, and appropriate notation such as an asterisk with explanation footnoted identifying those curves at which ATS inert inductors are located. Santa Fe enclosed a copy of page 3 of the Eastern Division Time Table No. 11 showing how the additional designation could be presented. Santa Fe stated that if this is

the type of special rule that the Safety Board had in mind in recommendation R-80-24, this notation will be made in the next publication of the Time Table.

Note.—Copies of the Safety Board's recommendation letters, as well as responses and related correspondence, are provided free of charge. All requests for copies must be in writing, identified by recommendation number. Address requests to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

(49 U.S.C. 1903(a)(2), 1906)

Margaret L. Fisher,

Federal Register Liaison Officer.

January 2, 1981.

[FR Doc. 81-601 Filed 1-7-81; 8:45 am]

BILLING CODE 4910-58-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

The standard Industrial Classification (SIC) codes, referring to specific respondent groups that are affected;

Whether small businesses or organizations are affected;

A description of the Federal budget functional category that covers the information collection;

An estimate of the number of responses;

An estimate of the total number of hours needed to fill out the form;

An estimate of the cost to the Federal Government;

The number of forms in the request for approval;

The name and telephone number of the person or office responsible for OMB review; and

An abstract describing the need for and uses of the information collection.

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 reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Assistant Director for Regulatory and Information Policy, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

Department of Agriculture

Agency Clearance Officer—Richard J. Schrimper—202-447-6201

New

Federal Grain Inspection Service
Certificate of Temporary License Examination
CP-10
On occasion
Individuals or households
Employ of official grain inspection agencies
Agricultural research and services.
500 responses; 40 hours;
$260 Federal cost, 1 form
Charles A. Ellett, 202-395-7340.
Used to certify applicant's competency and applicant's and chief inspector's understanding license is only temporary. Will result in savings of time and reduce travel cost if examination for a temporary license is administered by chief inspector instead of field office personnel.

Extensions (no change)

Farmers Home Administration
7 CFR 19331, Self-help technical assistance grants on occasion
Businesses or other institutions
Public and private nonprofit corporations
Small businesses or organizations
Public assistance and other income supplements, 690 responses; 1,265 hours; 0 form
Charles A. Ellett, 202-395-7340.
Section 523 of title V of the Housing Act of 1949 and Public Law 90-448, authorize self-help technical assistance grants to develop modest housing for low and moderate-income individuals and families.

Reinstatements

Food and Nutrition Service
Food stamp points and hours demonstration project
Nonrecurring
State or local governments
Demon. proj. which test changes to increa. prog. ben.
Public assistance and other income supplements, 30 responses; 45 hours; 0 form
Charles A. Ellett, 202-395-7340
Study to determine the costs, participant needs, and the results of extra service in a variety of settings.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph Strnad—202-245-7488

New

Center for Disease Control
Study of birth defects risk factors including military service in Vietnam

Nonrecurring
Individuals or households
Mot./Fat./Grandmothers of babies born in Atlanta 1968–80
Health, 25,100 responses; 10,800 hours; $1,000,000 Federal cost; 4 forms
Richard Eisinger, 202–395–6880
The major objective of this study is to determine whether an unusually high proportion of fathers of babies born with D served in Vietnam. This comparison will yield an estimate of the risk of siring a child with a defect for Vietnam veterans relative to that risk for nonveterans. Will begin as soon as clearance received, interviews will last about one year. (If done under contract, may be delayed up to one year.)

Health Care Financing Administration
Uniform billing form
HCFA–1480
On occasion
Businesses or other institutions
Public and private hospitals and skilled nursing facilities
SIC: 321
Small businesses or organizations
Health, 1,905,000 responses; 555,625 hours; $11,441,783 Federal cost; 1 form
Richard Eisinger, 202–395–6880
Billing form used by hospitals (including psychiatric and TB) and skilled nursing facilities for inpatient and outpatient services. Can be used to obtain payment under medicare, medicaid, Blue Cross, CHAMPUS, or commercial insurance plans.

Revisions

Health Care Financing Administration
Evaluation of second surgical opinion programs for elective surgery
HCFA–6, HCFA–6A, HCFA–L–6
On occasion, nonrecurring
Individuals or households
Per. cal. listholders organ. in the Nat'l sec. surgical opin.
Health, 1,345 responses; 1,272 hours; 3 forms
Richard Eisinger, 202–395–6880
Need: To encourage patients considering surgery to obtain advice on which to base their decision about whether to have surgery.
Use: To determine what happens after patients contact the NSSOP and how patients feel about the SSO process in which they have been engaged.

DEPARTMENT OF LABOR

Agency Clearance Officer—Paul E. Larson—202–523–6341

New

Occupational Safety and Health Administration
Federal cash transaction report
OSHA–160, SF–272 and 272A
Quarterly
Businesses or other institutions
Labor organizations, education instit., employer assoc.
SIC: Multiple
Small businesses or organizations
Consumer and occupational health and safety, 620 responses; 3,100 hours; $0 Federal cost, 1 form
Arnold Strasser, 202–395–6880
This form is used by grantee to account for funds. The financial documents are used to maintain the financial management system which provides the control of grant funds.

Occupational Safety and Health Administration
Financial Status Report
OSHA–175 SF–269
Annually
Businesses or other institutions
Labor Organ., Educ. Instit., Employer Assoc. & Others
SIC: Multiple
Small business or organizations
Consumer and occupational health and safety, 155 responses; 310 hours; $0 Federal cost, 1 form
Arnold Strasser, 202–395–6880
This form is used by the grantee to provide a status of funds. The financial documents are used to maintain the financial management system which provides the control of grant funds.

Occupational Safety and Health Administration
Consultation Program Monthly Report
OSHA–174
Monthly
State or local governments
Employees in 33 States and 5 private contractors
SIC: Multiple
Consumer and occupational health and safety, 456 responses; 3,648 hours; $0 Federal cost, 1 form
Arnold Strasser, 202–395–6880
The consultation program monthly report would serve five purposes. It provides a backlog report for each project to OSHA. It provides a status for each project. It provides a report for each project of new visits. It provides a report of contractor activity for all 5 private contract projects. It provides an invoice for reimbursing 5 private contractors.

Occupational Safety and Health Administration
2-Acetylaminofluorene, 29 CFR 1910.1014(F)—Reports on Regulated Areas and Exposure Incidents
OSHA–157
On occasion
Businesses or other institutions
Bus. estab. where this substance is manufactured
SIC: 281, 282, 285, 286, 289
Small businesses or organizations
Consumer and occupational health and safety, 50 responses; 50 hours; $0 Federal cost, 1 form
Arnold Strasser, 202–395–6880
These reports are used to alert OSHA compliance safety and health officers to the presence of regulated carcinogenic substances in the workplace and to inform OSHA of incidents of employee exposure to these regulated carcinogens.

Occupational Safety and Health Administration
BETA-Propiolactone, 29 CFR 1910.1013(F)—Reports on Regulated Areas and Exposure Incidents
OSHA–158
On occasion
Businesses or other institutions
Bus. estab. where this substance is manuf., processed
SIC: 281, 282, 285, 286, 289
Small businesses or organizations
Consumer and occupational health and safety, 50 responses; 50 hours; $0 Federal cost, 1 form
Arnold Strasser, 202–395–6880
These reports are used to alert OSHA compliance safety and health officers to the presence of regulated carcinogenic substances in the workplace and to inform OSHA of incidents of employee exposure to these regulated carcinogens.

Occupational Safety and Health Administration
Ethyleneimine, 29 CFR 1910. 1012(F)—Reports on Regulated Areas and Exposure Incidents
OSHA–159
On occasion
Businesses or other institutions
Bus. estab. where this substance is manuf., processed
SIC: 281, 282, 285, 286, 289
Small businesses or organizations
Consumer and occupational health and safety, 50 responses; 200 hours; $0 Federal cost, 1 form
Arnold Strasser, 202–395–6880
These reports are used to alert OSHA compliance safety and health officers to the presence of regulated carcinogenic substances in the workplace and to inform OSHA of incidents of employee exposure to these regulated carcinogens.

Occupational Safety and Health Administration
Temporary Labor Camps, 29 CFR 1910. 142(1)—Reporting of Communicable and Epidemic Diseases
OSHA–165

Nonrecurring
Farms
Superintendents of migratory agricultural labor camps
SIC: 761, 174, 175, 161, 131, 133, 134, 171
Small businesses or organizations
Consumer and occupational health and safety, 25 responses; 25 hours; $0 Federal cost, 1 form
Arnold Strasser, 202-395-6880
This reporting requirement is needed to assure that workers housed in temporary labor camps are protected from communicable and epidemic disease outbreaks to the extent possible and that persons having or suspected of having communicable disease are identified to local public health authorities for appropriate treatment/action. This standard requires the labor camp superintendent to report immediately to the local health officer the name and address of anyone with comm. disease.

WATER RESOURCES COUNCIL

Agency Clearance Officer—Louis D. Walker—202-254-6442

Extensions (No Change)

Title III Request for Assistance and Annual Report
Annually
State or local governments
State government
Water resources, 55 responses; 1,760 hours; 1 form
Edward H. Clarke, 202-395-7340
The water resources council provides funding to the States for conduct of comprehensive water and related resources planning. The major components of the planning process are general studies, special studies, and plan formulation. Federal and non-federal matching shares are for expenses which are reasonable and allowable to the State planning effort, including, but not limited to personal services, training of personnel, fringe benefits, consultant * * *

Dated: December 31, 1980.

C. Louis Kincannon,

Deputy Assistant Director for Reports Management.

[FR Doc. 81-360 Filed 1-2-81; 10:51 am]

BILLING CODE 3110-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 11526; (811-1344)]

Exeter Fund, Inc.; Filing of Application for an Order Declaring Applicant Has Ceased To Be an Investment Company

Notice is hereby given that Exeter Fund Inc. ("Applicant"), 1250 Drummers Lane, (P.O. Box 1100), Valley Forge, Pennsylvania 19482, a Maryland cororation registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, investment company, filed an application on October 23, 1980, for an order of the Commission pursuant to Section 8(f) of the Act, declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that on November 23, 1965, it registered under the Act, and that on the same date it filed a registration statement on Form S-5 pursuant to the Securities Act of 1933 for the public offer and sale of 1,000,000 shares of its capital stock. Applicant further states that it commenced a public offering of its shares immediately after such registration statement was declared effective by the Commission on January 19, 1966.

Applicant states that on October 19, 1977, Applicant's Board of Directors approved an Agreement and Plan of Reorganization ("Agreement") between Applicant and First Index Investment Trust (now known as "Vanguard Index Trust"), a trust registered under the Act as an open-end, diversified, management investment company, which provided for (i) the acquisition by Vanguard Index Trust of substantially all the assets of Applicant in exchange for shares of beneficial interest of Vanguard Index Trust, (ii) the pro rata distribution of such shares of Vanguard Index Trust to shareholders of the Applicant according to their respective interests; and (iii) the dissolution and deregistration of the Applicant as an investment company.

The application states that Applicant and Vanguard Index Trust filed an application with the Commission on October 27, 1977 and amendments thereto on December 23, 1977, March 3, 1978 and March 21, 1978, pursuant to Section 17(b) of the Act, for an order exempting from the provisions of Section 17(a) of the Act, the transaction contemplated by the Agreement, and that such order was granted on April 18, 1978 (Investment Company Act Release No. 10210). Applicant states that the Agreement was approved by its shareholders on April 19, 1978 and the transaction consummated on April 30, 1978. Expenses incurred in implementing the Agreement were borne by Vanguard Index Trust and Applicant. Applicant represents that it currently has no assets and no outstanding debts or other liabilities. It further represents that it is not a party to any litigation but is still technically a party to an application filed jointly by the investment companies in The Vanguard Group pursuant to Sections 6(c), 17(b) and 17(d) and Rule 17d-1 thereunder (File. No. 812-4094; Admin. Proc. No. 3-5261) seeking a permanent order of the Commission permitting the funds in the Group to "internalize" their distribution expenses. Applicant also represents that it is not now engaged and does not propose to engage in any business activity other than that necessary to wind up its affairs.

Section 8(f) of the Act provides, in part, that when the Commission upon application finds that a registered investment company has ceased to be an investment company, it shall so declare by order 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 interested person may, not later than January 26, 1980, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his or her interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he or she may request that he or she 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 Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 81-661 Filed 1-7-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11528; (812-4352)]

Fidelity Money Market Trust; Filing of Application

December 31, 1980.

Notice is hereby given that Fidelity Money Market Trust ("Applicant"), 82 Devonshire Street, Boston, Massachusetts 02109, an open-end, diversified, management investment company registered under the Investment Company Act of 1940 ("the Act"), filed an application on December 8, 1980, requesting an order of the Commission amending in the manner described below an earlier order of the Commission dated February 20, 1980 (Investment Company Act Release No. 11054). This earlier order, pursuant to Section 6(c) of the Act, exempted Applicant from the provisions of Section 2(a) (41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant to compute its net asset value per share according to the amortized cost method of valuing portfolio securities. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant is organized and existing under the laws of the Commonwealth of Massachusetts, and its securities are registered under the Securities Act of 1933 (File No. 2-62417). Applicant states that it is a "money market" fund offering to institutional, corporate and substantial individual investors a convenient and economical means of investment in professionally managed portfolios of money market instruments with the objective of obtaining as high a level of current income as is consistent with the preservation of capital and liquidity. Applicant further states that its shares are sold without a sales charge.

According to the application, Applicant currently consists of three portfolios, differentiated in their permitted investments; namely a U.S. Government Portfolio, a Domestic Money Market Portfolio and an International U.S. Dollar-Denominated Money Market Portfolio. Applicant further states that it invests exclusively in various high-grade money market instruments, including U.S. Government and Federal agency obligations; U.S. dollar-denominated obligations of the largest banks, including United States banks and their branches located outside of the United States and United States branches of foreign banks; prime commercial paper; high-grade corporate obligations which are rated AAA or AA by Standard & Poor's Corporation or Aaa or Aa by Moody's Investor Services, Inc., and certain repurchase agreements with respect to obligations which, without regard to maturity, it is authorized to invest.

According to the application, all of Applicant's assets are invested in money market instruments maturing in less than one year, and the dollar-weighted average portfolio maturity of its portfolio may not exceed 120 days. The minimum initial investment in shares of the Applicant is $250,000 with additional investments accepted in any amount. Applicant further represents that at the close of business on October 31, 1980, Applicant's aggregate net assets were approximately $428,541,000. Fidelity Management and Research Company serves as investment adviser to Applicant.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c-1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Rule 2a-4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, repurchase and redemption shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company. Prior to the filing of the application, the Commission expressed its view that, among other things: (1) Rule 2a-4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a-4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Section 6(c) of the Act provides, in part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or of the rules 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 purposes fairly intended by the policy and provisions of the Act.

On February 20, 1980, the Commission issued an order (Investment Company Act Release No. 11054) exempting Applicant from the provisions of 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit it to utilize the amortized cost valuation method for purposes of valuing the portfolio securities held in its existing portfolios in pricing its shares for sale, redemption and repurchase. On the basis of use of the amortized cost valuation method, Applicant maintains a $1.00 net asset value per share. Applicant proposes to create and offer to the public a new portfolio which will invest exclusively in U.S. Treasury obligations (the "U.S. Treasury Portfolio")—i.e., instruments which are issued or guaranteed as to principal and interest by the U.S. Treasury and thus constitute direct obligations of the United States of America. Applicant states that the same overall investment policies applicable to Applicant's existing portfolios would apply to the U.S. Treasury Portfolio.

Applicant requests an amended order of the Commission further exempting it from Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to permit it to use the amortized cost method of valuing portfolio securities held in the U.S. Treasury Portfolio. In support of the relief requested Applicant represents that use of the amortized cost method of valuing the instruments held in the U.S. Treasury Portfolio will benefit shareholders by enabling Applicant to maintain a $1.00 per share purchase and redemption price with respect to the U.S. Treasury Portfolio in a manner which is consistent with that permitted with respect to Applicant's existing portfolios. Thus, Applicant states that the granting of the requested exemption by the Commission is appropriate in the public interest and consistent with the protection of investors and the purposes fairly

intended by the policy and provisions of the Act.

Applicant has further agreed that the following conditions (the same conditions contained in the above order) may be imposed in the requested amended order of the Commission:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's board of trustees undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of trustees shall be the following duties and responsibilities:

(a) Review by the board of trustees, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's $1.00 amortized cost price per share, and the maintenance of records of such review.[1]

(b) In the event such deviation from Applicant's $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of trustees will promptly consider what action, if any, should be initiated by it.

(c) Where the board of trustees believes that the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten Applicant's average portfolio maturity; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will neither (a) purchase any instrument with a remaining maturity of greater than one year, nor (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of trustees considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of trustees' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which the board of trustees determines present minimal credit risks, and which are of high quality as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the board.

6. Applicant will include in each of its quarterly reports, as an attachment to Form N–1Q, a statement as to whether any action pursuant to condition 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than January 26, 1981, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an Attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 81-662 Filed 1-7-81; 8:45 am]

BILLING CODE 8010-01-M

[1] To fulfill this obligation, Applicant states that it intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its board of trustees in the excercise of its discretion to be appropriate indicators of value, which may include among others, (i) quotations or estimates of market value for individual portfolio instruments, or (ii) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably praticable.

[Release No. 11522 (811-119)]

Fundamental Trust Shares, Series A; Proposal To Terminate Registration

December 31, 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 Fundamental Trust Shares, Series A ("Fund"), 206–7 Bank of America Building, 111 South El Camino Real, San Clemente, California 92672, registered under the Act as a unit investment trust, has ceased to be an investment company as defined in the Act.

Information contained in the files of the Commission indicates that the Fund registered under the Act on November 1, 1940. The Commission's files further indicate that the Fund's depositor, Fundamental Group Corporation, was organized under the laws of the State of New York on September 17, 1930. The Fund filed a registration statement pursuant to the Securities Act of 1933 ("1933 Act") on July 15, 1933, in order to make a public offering of its shares. Such registration statement was declared effective on July 27, 1933, and a public offering commenced shortly thereafter. The last Form N–30A–1 filed by the Fund with the Commission on

September 22, 1947, indicates that on December 31, 1946, the Fund had 218,000 shares outstanding. The files of the Commission further indicate that the last communication the staff had with the Fund was in September, 1949. Furthermore, the Secretary of State of the State of New York has advised the staff of the Commission that Fundamental Group Corporation, the Fund's depositor, was dissolved by proclamation on December 15, 1955, for failing to pay the necessary New York state franchise taxes. 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 and upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than January 23, 1981, 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 this 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.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 81-603 Filed 1-7-81; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 11527; (812-4753)]

Hellenic American Development Corp.; Filing of Application for an Exemption

December 31, 1980.

Notice is heregy given that Hellenic American Development Corporation ("Applicant"), 235 Montgomery Street, Suite 1020, San Francisco, California 94104, a Delaware coporation, filed an application on October 22, 1980, and an amendment thereto on December 22, 1980, for an order pursuant to Section 6(C) of the Investment Company Act of 1940 ("Act") exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it was organized under the laws of Delaware on October 17, 1980, primarily for the purpose of acquiring a 60% ownership interest in a Greek-chartered commercial bank ("Bank") with headquarters in Athens, Greece. The Applicant states that it will register shares of common stock under the Securities Act of 1933 and distribute them in a public offering. Applicant estimates that it will receive net proceeds of between $7,309,400 and $23,250,000 from the offering. All but $626,000 of these proceeds will be used to supply 60% of the capital of the Bank. The remaining 40% will be subscribed by Greek citizens resident in Greece. The Bank's original capitalization will be not less the $12 million and is not expected to exceed $35 million. Applicant represents that it does not have any present plans to establish any business operations in the United States other than in connection with the oversight and management of the Bank and other business interests in Greece.

Applicant states that the Bank is the second Greek-chartered bank to receive authority to be majority-owned by private individuals or entities not resident in and citizens of Greece. As a majority-owner of the outstanding shares of the Bank, Applicant will be in position to elect 100% of the directors if it wishes to do so. Applicant asserts that it is its intent to introduce new operational technology and customer services typically offered by or through many domestic commercial banks in the United States and to operate the Bank in a manner more akin to the present United States model of commercial banks than the present Greek model of commercial banks. According to the application the Bank will be a full service banking institution offering individuals and domestic and international businesses a complete range of retail banking services including, among others, checking and savings accounts, loans, cash management services, financing, foreign exchange and commercial letters of credit. Applicant states that the Bank is authorized to engage in investment banking and securities brokerage transactions but will engage in such activities, if at all, only on an occasional or incidental basis. Applicant also states that the Bank has authorization to immediately establish a headquarters office in Athens, Greece, and five branch locations in the Athens-Piraeus area. Applicant states that the Bank does not have, nor does it presently intend to seek, authority to establish a representative or branch office in the United States or elsewhere outside Greece.

Applicant further states that the Bank is highly regulated pursuant to Greek law, which provides for supervision by the Bank of Greece and the Currency Committee. Applicant states that these entities regulate the Bank's capital reserves, loans and liquidity. Statutory law prohibits banks from engaging in insurance activities and limits the extent of equity participation banks may hold in an individual enterprise. Applicant represents that the Bank will not take equity participation except as an occasional and incidental part of its commercial banking activities. Applicant states that banks must be audited annually by two independent "sworn" Greek auditors who have specific statutorily defined obligations. Applicant also asserts that the Bank must report regularly to the Currency Committee, which may conduct bank examinations and unannounced audits and impose both civil and penal sanctions against banks and bank officials. Applicant asserts that the Bank is also regulated by the Ministry of Commerce, which must approve all Articles of Incorporation and amendments thereto, assure appropriate capitalization and review minutes of all directors' meetings and annual financial statements.

Section 3(a)(3) of the Act defines investment company to mean any issuer which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of such issuer's total assets (exclusive of government securities and cash items) on an unconsolidated basis.

Applicant requests an order pursuant to Section 6(c) of the Act exempting it

from all provisions of the Act. Section 6(c) provides that the Commission, by order upon application, may exempt any person from the provisions of the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant states that it is applying to the Commission because of ucertainty as to whether or not foreign commercial banks would be defined as "investment companies" under the Act. If the Bank is considered and investment company, Applicant will be deemed an investment company.

Applicant states that, although the Bank may be considered an investment company under the Commission's current interpretation of the Act, the Bank, as a commercial banking institution, is significantly different from the type of institution that Congress intended the Act to regulate. Applicant states that approval of this application is both necessary and appropriate in the public interest. The imposition of the Act on parties such as those involved in the transactions described in this application would unnecessarily impede mobility of capital and management resources, to the detriment of the interest of citizens of both the United States and Greece. Applicant states that it can provide to Greece a capital investment in a Greek banking enterprise, and management and operational personnel and concepts that will be of significant benefit to Greece and its citizens.

Applicant states that to exempt domestic banks from the Act while at the same time requiring Applicant to register would contravene the policy of the International Banking Act of 1978, which was designed to establish "the principle of parity of treatment between foreign and domestic banks in like circumstances." Applicant states that the disincentive that would be imposed by the application of the Act to the circumstances described above can have no beneficial effect and indeed might reduce opportunities for U.S. investors and managers and deny the opportunity for an improved banking environment for Greece.

Applicant states that approval of the application is consistent with the protection of investors, both because a commercial bank, such as this one, is substantially different from the typical investment company that Congress intended the Act to regulate, and because the Bank's activities do not lend themselves to the abuses which the provisions of the Act were designed to prevent. Applicant asserts, in addition, that the Bank's activities are extensively regulated by the Greek banking authorities. Finally, Applicant represents that it is issuing its shares publically and, therefore, will report regularly and completely on its activities and those of its subsidiary the Bank, to its shareholders and to the Commission. Applicant further represents that any additional issue of its securities will be registered pursuant to the Securities Act of 1933.

Notice is further given that any interested person may, not later than January 26, 1980, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his or her interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he or she may request that he or she 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 Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 81–604 Filed 1–7–81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11524; (812–4759)]

Kredietbank N.V. and Kredietbank North American Finance Corp.; Filing of Application for an Exemption

December 31, 1980.

Notice is hereby given that Kredietbank N.V. ("Kredietbank") and Kredietbank North American Finance Corp. ("KB Finance", together with Kredietbank, the "Applicants") c/o James G. Johnson, Jr., Esq., Cleary, Gottlieb, Steen, & Hamilton, 1 State Street Plaza, New York, New York 10004, filed an application on October 31, 1980, and an amendment thereto on December 15, 1980, for an order of the Commission, pursuant to Section 6(c) of the Investment Company Act of 1940 (the "Act"), exempting Applicants from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants represent that Kredietbank is the third largest commercial bank in Belgium and engages in "full service" commercial banking in Belgium and abroad. They further state that at March 31, 1980, Kredietbank had total assets of approximately $13.8 billion. (All dollar amounts are computed using the exchange rate as of March 31, 1980, of 31.17 Belgian francs per United States dollar). The application states that Kredietbank's principal office is located at Arenbergstraat 7, 1000 Brussels, and that it maintains in the United States a state-licensed branch and representative office at 450 Park Avenue, New York, New York 10017, and a representative office at 2 Peachtree Street, Atlanta, Georgia 30303. In addition, Kredietbank has applied for a license to operate a representative office in St. Louis, Missouri. Applicants state that KB Finance, a newly incorporated Delaware corporation, was established as a financing vehicle for Kredietbank's activities outside Belgium, and that its principal office will be at 2 Peachtree Street, Atlanta, Georgia 30303. Applicants represent that the principal areas of activity of Kredietbank are the extension of credit and the receipt of deposits; and that at March 31, 1980, its loans and advances of approximately $8,365 million accounted for approximately 60% of its total assets, its deposits and medium-term, negotiable time deposits of approximately $12,571 million accounted for approximately 90% of its liabilities, and 30% of its total assets consisted of securities issued or guaranteed by the Belgian government. For the fiscal year ended March 31, 1980, interest and commissions in connection with commercial banking activities accounted for 67% of Kredietbank's gross revenues. Applicants state that at March 31, 1980, approximately 42.5% of the common stock of Kredietbank was owned by Almanij N.V., a publicly traded financial holding company.

The application further states that Kredietbank has applied to the Federal Reserve Board (the "Board") for

approval of its acquisition of 74% of the capital stock of KB Business Credit Inc. ("KB Business Credit"), a newly formed New York corporation which would be engaged in extending secured and unsecured credit to business enterprises and in making leases of personal property in accordance with the regulations of the Board. Such approval was granted on October 28, 1980.

According to the application, Kredietbank engages in various types of investment banking activities outside the United States, in common with all major European banks and many foreign merchant banking subsidiaries of American banks. Applicants state that these activities consist principally of underwriting governmental, quasi-governmental and corporate issues in the Belgian and Eurosecurities markets, as well as related secondary market transactions, and that Kredietbank also acts as an investment adviser to individuals, corporate pension funds and mutual funds and as a custodian of securities. They further state that these investment banking, advisory and custodianship activities only accounted for approximately 8.5% of Kredietbank's net income for the fiscal year ended March 31, 1980.

Applicants represent that the principal business of KB Finance will be to act as a financing vehicle for operations of Kredietbank and its affiliates outside of Belgium, and to sell short-term notes in the United States. Applicants further represent that the proceeds of any borrowings made by KB Finance will be relent to, or deposited with, Kredietbank and its affiliates. It is also represented that KB Finance will not deal with its rights relating to its loans to or deposits with Kredietbank and its affiliates, nor will it deal with or trade in securities. Under current Belgian law, if Kredietbank were to issue commercial paper notes directly, a Belgian withholding tax could be imposed on that portion of payment on the Notes which constitutes interest. No United States withholding taxes will be imposed, however, on payment of interest on the Notes by KB Finance, nor will Belgian withholding tax be imposed on interest payments by Kredietbank to KB Finance.

Applicants state that Kredietbank's activities are subject to a variety of regulatory measures in Belgium, principally adminstered by the Belgian Banking Commission, with which all Belgian commercial banks must be registered, and the Belgian National Bank, which supervises national monetary and credit policies and acts as a lender of last resort to the Banking System. According to the application, the Banking Commission is authorized to issue regulations concerning the solvency and liquidity of banks and has introduced capital adequacy tests which must be observed by Belgian banks in their financial operations. The Banking Commission currently requires banks to maintain an "equity ratio", *i.e.* a level of equity with respect to various categories of assets covering adequately the degree of risk involved in such categories so as to assure that Kredietbank's depositors are properly protected against loss. The application also states that banks are required to file monthly reports containing detailed financial information prepared according to accounting rules approved by the Banking Commission. Applicants state that the external audit of banks is conducted by independent auditors selected from a list of special auditors approved by the Banking Commission and that the auditors conduct weekly physical examinations of Kredietbank's records and issue a detailed, semi-annual report to the Banking Commission.

Applicants further state that Kredietbank, as a foreign bank with a branch in New York, is subject to the regulatory and reporting requirements of the Board relating to bank holding companies, pursuant to the International Banking Act of 1978. Applicants further represent that, on the basis of prior interpretations by the staffs of the Federal Reserve Bank of New York and the Board, Kredietbank does not require the Board's approval to acquire or control the shares of KB Finance and that the proposed operations of KB Finance will not violate any provisions of the Bank Holding Company Act of 1956, as amended (the "1956 Act"). The Application states that the 1956 Act provides that the Board has the power in certain circumstances to terminate certain U.S. activities of Kredietbank or terminate Kredietbank's control of KB Finance.

Applicants currently propose to have KB Finance issue and sell in the United States short-term negotiable promissory notes of the type generally referred to as commercial paper (the "Notes"). According to the application, the proceeds from the sale of the Notes (except for amounts needed to repay maturing securities issued by KB Finance) will be lent to or deposited with Kredietbank and/or lent to KB Business Credit, for use in the recipient's lending operations, and that payment of the Notes will be unconditionally guaranteed by Kredietbank. The application states that, in addition, Kredietbank may issue the Notes directly if changes in the Belgian tax laws are effected that would eliminate the tax advantages of having KB Finance issue the Notes.

According to the application, the Notes will be denominated in United States dollars; will be of prime quality and issued in minimum denominations of $100,000; will rank *pari passu* among themselves and equally with all other unsecured indebtedness, and superior to the rights of equity securities, issued by Kredietbank or KB Finance, as the case may be; will be sold through one or more major United States commercial paper dealers to traditional types of commercial paper purchasers, and will not be offered to the general public. Applicants state that while Kredietbank cannot predict with certainty the aggregate amount of the Notes which will be outstanding, it currently believes that during the first year of sale the aggregate amount of Notes outstanding will average between $150 million and $200 million. Applicants undertake to ensure that each dealer in the Notes will provide offerees, prior to any sale of Notes to such offerees, with a memorandum, updated as necessary, which describes the business of Kredietbank, KB Finance and KB Business Credit, which contains the most recent, publicly available audited fiscal year-end balance sheet and income statement of Kredietbank, accompanied by a description of any material differences between Belgian accounting principles applicable to Kredietbank and generally accepted accounting principles applicable to United States banks. Applicants represent that such memoranda will be at least as comprehensive as those customarily used in offering commercial paper in the United States. Such memoranda will be updated as promptly as practicable to reflect material changes in the business or financial condition of the Applicants. Applicants consent to any order granting the relief requested under Section 6(c) of the Act being expressly conditioned upon its compliance with its undertakings regarding disclosure documents.

Applicants represent that the presently proposed issue of commercial paper and all future issues of debt securities offered for sale in the United States by Kredietbank or KB Finance shall have received, prior to issuance, one of the three highest investment grade ratings from at least one nationally recognized statistical rating organization, and that its United States counsel shall have certified that such rating has been received. Applicants do

not intend to register their offering of commercial paper under the Securities Act of 1933 ("1933 Act") in reliance upon an opinion of their special United States legal counsel to the effect that the proposed offering of commercial paper is entitled to the exemption from the registration requirements contained in Section 3(a)(3) of the 1933 Act. Applicants will not market any Notes until they have received such an opinion letter. Applicant do not request Commission review or approval of such opinion letter, and the Commission expresses no opinion as to the availability of any such exemption. Applicants further undertake that, in respect of any future offerings of debt securities in the United States, they will obtain an opinion of legal counsel in the United States as to compliance with, or the availability of an exemption from, the 1933 Act.

The application contains undertakings that, in connection with the sale of the Notes, Applicants will appoint a United States banking institution as authorized issuing agent of the Notes and that, both as to the Notes and any other debt securities which may be issued in the future, they will authorize such banking institution, the Commission or a corporate entity which normally acts in such capacity to accept any process served in any state or federal court action by a holder as to any such security. Applicants undertake to expressly accept the jurisdiction of any state of federal court in the City and State of New York in respect of any such action and to continue such appointment of an agent for service and such consent to jurisdiction until payment in full of all amounts relating to the respective security is made. Applicants state that the authorized agent will not be a trustee for the holders of the Notes or otherwise obliged to act for them. Applicants represent that they will similarly consent to jurisdiction, and will appoint an agent for service of process in suits arising from any future offerings of debt securities that Kredietbank or KB Finance may offer for sale in the United States.

Any future debt securities issued by KB Finance will be unconditionally guaranteed by Kredietbank. Applicants undertake that in connection with any future offering of debt securities they will distribute to offerees, prior to any sale of the securities being offered, disclosure documents at least as comprehensive as the dealer's memorandum referred to above, except that such undertaking shall not apply in connection with deposit-taking or other banking activities of Kredietbank's New York branch or such other branches or agencies as it may establish in the United States under the regulation and supervision of federal or state banking authorities. In no event will such disclosure documents be less comprehensive than is customary for United States offerings of similar debt securities. In addition, any future offering of securities of the Applicants which is subject to the registration requirements of the 1933 Act will be made pursuant to offering documents which comply with the requirements of the 1933 Act.

Section 3(a)(3) of the Act defines investment company to mean "any issuer which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis". Applicants state that, while they believe they are not investment companies, they recognize that uncertainty exists concerning whether at least some foreign commercial banks may be considered to be investment companies as defined under the act.

Section 6(c) of the Act provides, in part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision of the Act, or any rule or regulation under the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants assert that approval of their application would be appropriate in the public interest for several reasons. They represent that if Kredietbank and KB Finance were deemed investment companies and if their application were denied, then they would be precluded from publicly offering securities in the United States. Applicants assert that this effect would disadvantage them vis-a-vis the major American banks with which Kredietbank competes throughout the world. Applicants assert that such inequality of treatment of domestic and foreign banks appears to be inconsistent with the United States public interest regarding equal treatment of foreign and domestic banks in like circumstances, an interest explicitly reinforced by the United States Congress in enacting the International Banking Act of 1978. Finally, Applicants assert that the public interest would be served by permitting the kind of sophisticated United States investors which purchase commercial paper the opportunity to acquire commercial paper issued by Kredietbank and KB Finance.

Applicants further assert that the requested exemption would be consistent with the protection of investors. Applicants cite, as support for this assertion, the extensive regulatory and other measures to which Kredietbank is subject in Belgium and the United States, the fact that their commercial paper will be short-term and of prime quality, and the fact that certain anti-fraud provisions of the federal securities laws will apply to the offering of the Notes.

Applicants also assert that the specific exemption of American commercial banks from the provisions of the Act indicates a Congressional recognition that the dangers to investors to which the Act was directed are not present in the case of commercial banks subject to examination and supervision by banking authorities.

Applicants assert that there are close similarities between Kredietbank and large American banks, that they are subject to substantial and varied regulation, and that the risks to investors in connection with purchases of securities of KB Finance guaranteed by Kredietbank would not be greater than those in connection with purchases of securites of large domestic banks. Applicants assert that from the point of view of protection of investors, exemption of the Applicants would appear to be as appropriate as the statutory exemption for domestic banks. In addition, Kredietbank states that neither it nor KB Finance will obtain any advantage under United States federal or state regulatory laws as a result of issuing the Notes though KB Finance, and Applicants state that the exemption they have requested will not give them any competitive advantage over U.S. banks in issuing commercial paper.

Applicants assert that the rationale for granting an exemption under Section 6(c) to Kredietbank applies equally to KB Finance since the sole business of KB Finance will be to operate as a financing vehicle for Kredietbank and its affiliates. Applicants represent that KB Finance will not deal with its rights relating to loans to Kredietbank and its affiliates, nor will it deal with or trade in securities. They state that in light of the unconditional guaranty of the Notes by Kredietbank the purchase thereof will be equivalent to the purchase of obligations of Kredietbank.

Notice is further given that any interested person may, not later than January 26, 1981, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission 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 Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 81-665 Filed 1-7-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11520; (812–4729)]

Short-Term Investments Co.; Filing of Application for Exemption

December 31, 1980.

Notice is hereby given that Short-Term Investments Co. ("Applicant"), 11 Greenway Plaza, Suite 1919, Houston, Texas 77046, an open-end, diversified management investment company, filed an application on September 5, 1980, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), requesting an order of the Commission exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder, to the extent necessary to permit Applicant's assets to be valued at amortized cost. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant represents that it is a "money market" fund designed as an investment vehicle for institutions holding short-term cash reserves. Applicant further states that its investment objective is to maximize current income to the extent consistent with the preservation of capital and the maintenance of liquidity, and that it will pursue this objective by investing in high-grade money market instruments. Applicant also states that the money market instruments in which it will invest will normally have maturities of six months or less from the date of purchase, and, with the exception of securities subject to repurchase agreements, in no case will Applicant purchase a security having a maturity in excess of one year, or maintain a dollar-weighted average maturity with respect to its portfolio securities in excess of 120 days.

Applicant states that it will invest exclusively in the following types of money market instruments in seeking to fulfill its investment objectives: (i) securities issued or guaranteed as to principal and interest by the United States Government or by its agencies or instrumentalities; (ii) certificates of deposit, time or savings deposits, and bankers' acceptances of domestic commercial banks, savings banks and savings and loan associations having total assets in excess of $1 billion as of the date of their most recently published financial statements; (iii) certificates of deposit and time deposits of London branches of domestic banks having total assets in excess of $1.5 billion as of the date of their most recently published financial statements; (iv) commercial paper, including variable amount master notes, which (a) is rated (at the time of purchase) A–1 by Standard and Poor's Corporation ("S&P") or Prime–1 by Moody's Investors Service, Inc. ("Moody's") or (b) if not rated, is issued by a company having an outstanding debt issue rated (at the time of purchase) AA or better by S&P or Aa or better by Moody's; and (v) certain repurchase agreements pertaining to the above securities, subject to certain restrictions.

Applicant states that it is primarily intended for use by banks and other institutions acting in a fiduciary, advisory, agency, custodial, or similar capacity. Applicant further states that in its experience, two factors have appeared to be particularly helpful in attracting investment in a fund such as Applicant: (1) stability of principal, and (2) a steady flow of investment income. Applicant believes that by maintaining a portfolio of high quality money market instruments it can provide investors with these features. Applicant states that while the large, sophisticated investors which will own its shares would not be concerned with differences which could occur between pricing by a market valuation method and the yield they obtain pursuant to amortized cost valuation, such investors will require that the yield not exhibit the volatility that can occur through use of "mark-to-market" valuation.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities; and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c–1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security.

Rule 2a–4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company. Prior to the filing of the application, the Commission expressed its view that, among other things: (1) Rule 2a–4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977). In view of the foregoing, Applicant requests exemptions from the provisions of Section 2(a)(41) of the Act, and Rules 2a–4 and 22c–1 thereunder, to the extent necessary to permit Applicant to value

its portfolio securities by means of the amortized cost method of valuation (i.e., valuing securities at cost, adjusted for amortization of premium or accretion of discount).

Section 6(c) of the Act provides, in pertinent part, that the Commission, upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or clasess of persons, securities, or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemptive is necessary or appropriate in the public interst and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant submits that the issunace of the requested order is consistent with the exemption standards of Section 6(c) of the Act. Applicant represents, for example, that its board of directors has determined in good faith, in light of Applicant's characteristics, that the amortized cost method of valuing portfolio securities is appropriate, and preferable for Applicant, and would reflect the fair value of its portfolio securities. Applicant further states that the experience of its investment adviser, AIM Adivsors, Inc., in managing other investment companies, has demonstrated that, given the nature of Applicant's policies and operations, there will normally be a negligible discrepancy between prices determined by use of the amortized cost method and those determined by a market valuation method. In addition, Applicant expressly consents to issuance of the requested order on the basis of the following conditions:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to the Applicant's investment aviser, Applicant's board of directors undertakes—as a perticular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed to take into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of directors shall be the following:

(a) Review by Applicant's board of directors, as it deems appropriate and at such internvals as are reasonbable in light of current market conditions, to determine the extent of deviation, if any, of Applicant's net asset value per share as detemined by using available market quotations from its $1.00 amortized cost price per share, and maintenance of records of such review.[1]

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of directors will promptly consider what action, if any, should be initiated.

(c) Where the board of directors believes the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redemption of shares in kind; the sale of portfolio securities prior to maturity to realize captial gains or losses, or to shorten Applicant's average portfolio maturity; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity at the date of acquisition of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity in excess of 120 days.[2]

4. Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of directors considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which Applicant's board of directores determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by Applicant's board of directors.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to condition 2(c) was taken during the preceding fiscal quarter, and, if any such action was taken, Applicant will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than January 26, 1981, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his or her interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he or she may request that he or she 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 Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

---

[1] To fulfill this condition, Applicant will use actual quotations or estimates of market value reflecting current market conditions selected by its board of directors in the exercise of its discretion to be appropriate indicators of value, which may include, *inter alia*, (i) quotations or estimates of market value for individual portfolio instruments, or (ii) values obtained from yield data relating to classes of money market instruments furnished by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce its dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 81-606 Filed 1-7-81; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular on Design Considerations for Minimizing Hazards Caused by Uncontained Turbine Engine and Auxiliary Power Unit Rotor and Blade Failures

AGENCY: Federal Aviation Administration.

ACTION: Notice of availability of draft Advisory Circular and request for comments.

SUMMARY: The draft Advisory Circular is intended to provide guidance for demonstrating compliance with the design requirements of the Federal Aviation Regulations to minmimize the hazards caused by uncontained turbine engine and auxiliary power unit rotor and blade failures.

DATES: Commenters must identify file number AC 25.904–X and comments must be received on or before March 9, 1981.

ADDRESS: Send all comments in duplicate on the draft Advisory Circular to Federal Aviation Administration, Office of Airworthiness, Attention: Propulsion Branch (AWS–140), 800 Independence Ave., SW., Washington, DC 20591; or delivered in duplicate to Room 331B, 800 Independence Ave., SW., Washington, DC 20591. Comments delivered must be marked file number AC 25.903–X. Comments may be inspected at Room 331B between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas G. Horeff, Chief, Propulsion Branch (AWS–140), Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591, (Telephone (202) 426–8200).

SUPPLEMENTARY INFORMATION:

Comments Invited

Comments are solicited on all aspects of the draft Advisory Circular. A copy of the draft Advisory Circular may be obtained by contacting the person identified under "For Further Information Contact." Issued in Washington, DC, on January 2, 1981.

M. C. Beard,

Director of Airworthinesss.

Subject: Design considerations for minimizing hazards caused by uncontained turbine engine and auxiliary power unit rotor and blade failures

1. *Purpose.* This circular provides guidance and acceptable means, not the sole means, by which compliance may be shown with the design requirements of Part 25 to minimize the hazards to the airplane caused by uncontained turbine engine rotor and fan blade failures and auxiliary power unit rotor failures.

2. *Applicable Regulations.* Part 25, Sections 25.901(c) and 25.903(d)(1), pertaining to auxiliary power unit and turbine engine installations.

3. *References.* a. NASA CP–2017, "An Assessment of Technology for Turbojet Engine Rotor Failures," Workshop held at Massachusetts Institute of Technology, March 29–31, 1977.

b. Report No. FAA–RD–77–44, "Study to Improve Airframe Turbine Engine Rotor Blade Containment," C. O. Gunderson, July 1977.

c. Report No. FAA–RD–77–100, "Study to Improve Turbine Engine Rotor Blade Containment," K. F. Heerman, K. R. McClure, R. H. Erikson, August 1977.

d. Society of Automotive Engineers Aerospace Information Report AIR 1537, "Report on Aircraft Engine Containment," October 1977.

4. *Background.* Although turbine engine and auxiliary power unit manufacturers are making every effort to reduce the probability of uncontained rotor and fan blade failures, service experience shows that uncontained rotor and fan blade failures continue to occur. Failures have resulted in high velocity fragment penetration of fuel tanks, adjacent structures, fuselage, and other engines of the aircraft. Since it appears unlikely that uncontained rotor and fan blade failures can be completely eliminated, FAR 25 requires that aircraft design precautions be taken to protect the aircraft from such events.

a. Uncontained engine rotor failure statistics reported in Reference d indicate that there were 275 uncontained failures of discs, spacers and blades during 417 million engine flight hours from January 1962 through December 1975. The main causes of these failures were high cycle fatigue (22.5 percent), material defects (9.1 percent), rubbing against static parts (10.2 percent), and low cycle fatigue (5.5 percent). Failures were also caused by overhaul procedures (4.0 percent), overtemperature (5.5 percent), manufacturing defects and misassembly (6.1 percent), foreign object damage (5.5 percent), overspeed (0.4 percent), and other factors.

b. These statistics indicate the existence of many different failure modes not readily apparent or predictable by failure analysis. Because of the random nature of uncontained rotor and fan blade failures, it is very difficult to analyze all possible failure modes and to provide protection to all areas. In spite of this difficulty, design considerations reflected in this circular provide guidelines for achieving the desired objective of protecting the aircraft from uncontained rotor and fan blade failures. While these guidelines are based on service experience, tests, and analyses within the current state-of-the-art, they are not necessarily the only means available to the designer.

5. *Definitions.* a. *Rotor.* Rotors include hubs, discs, rims, and spacers. Rotor failure does not include blade failures resulting from fractures within the blade, but does include blade separations resulting from failure of any of the aforementioned components.

b. *Critical Component.* Any component whose failure jeopardizes the safety of the airplane is a critical component. Each component under consideration must be evaluated on an individual basis.

c. *Probable Impact Area.* (1) *Rotor Failures.* Probable impact area is that area likely to be impacted by uncontained rotor or fan blade fragments. Observations of impact areas resulting from uncontained engine rotor failures have shown that heavy fragments tend to remain within an angular spread angle of ± 5° relative to the plane of rotation of the rotor and that smaller fragments have been deflected within spread angles greater than ± 5°. In view of the energy levels involved and actual experience, angular spread angles which should be considered to protect against uncontained engine rotor failures are ± 5° for one-third disc fragments and other large fragments (over 6 lbs. for large engines) and ± 15° for smaller fragments. If an auxiliary power unit is installed for which full rotor containment has not been demonstrated, the probable impact area and energy levels of uncontained rotor fragments specified by the manufacturer should be considered. NOTE: The specified spread angles originate at the engine centerline.

(2) *Fan Blade Failures.* Service experience has shown that fan blade fragments have been contained initially by the engine but have been expelled from the plane of rotation of the fan in

both the forward and aft directions. In forward trajectory failures, blade tip fragments have been expelled forward of the engine front flange and either lodged in or penetrated the nacelle inlet or departed without contacting the nacelle inlet. An aft trajectory failure lodged in the fan case wall, shearing a hydraulic line and impacting a main fuel line. Therefore, the probable impact area for fan blade failures is included within an angular spread angle between the nacelle inlet forward of the inlet lip and 15° aft of the plane of rotation of the fan. If the engine manufacturer has accumulated data on uncontained fan blade fragments, the probable impact area and energy levels specified by the manufacturer should be considered.

6. *Design Considerations.* The following design considerations provide information and guidelines and are not intended to exclude the use of other means or methods of compliance. The problem of uncontained rotor and fan blade failure protection is approached by suggesting the following three basic considerations in order of assumed practicality: location of engines; location of critical systems and components; and external shields and deflection barriers.

a. *Location of Engines.* During preliminary aircraft design reviews, there should be an examination of the location of each engine and auxiliary power unit from the standpoint of minimizing the effects of uncontained rotor and fan blade failures. In this regard, the following observations are listed for consideration:

(1) Engine should not be located in a position such that uncontained rotor failure fragments could disable the pilots.

(2) Wing pylon mounted engine rotating elements should be forward of the wing leading edge, if practicable.

(3) Embedded engines, located within the primary airplane envelope, because of their close proximity to adjacent structure, introduce special problems which must be studied carefully for satisfactory solutions. The goal here, however, is still the same, and that is to provide protection for vital structure, primary flight controls and essential systems from uncontained rotor failures.

(4) Wing mounted engines should be positioned in a manner such that the plane of rotating elements in one engine does not intersect critical portions of an adjacent wing engine.

(5) Aft fuselage and tail mounted engines and engines installed in the fuselage should be positioned in a manner such that the plane of rotating elements does not intersect critical tail structure, essential controls and systems, or the fuselage pressure vessel. If this is not possible, other available design precautions should be taken to minimize effect on safety.

b. *Location of Critical Systems and Components.* Flammable fluid system components should not be installed in probable fragment impact areas if damage to any of these components will jeopardize the safety of the airplane. Should necessity dictate the need to mount these components in vulnerable areas, then they should be protected by installing them behind massive airframe structure. Some airplane manufacturers currently employ this principle by mounting critical components behind wing spars and massive fuselage structural elements. These components should also be installed in a manner such that fragments from any one engine failure will not render the remaining engines inoperative.

(1) Provisions should be incorporated to assure that flammable fluids released from damaged lines or components will not impinge on ignition sources. In this regard, electrical equipment located in areas where flammable fluids may be liberated due to line or tank puncture should be of a nonsparking type or otherwise protected and isolated.

(2) Essential electrical system components should not be located in impact zone areas unless adequately protected from fragment impact damage. It should be noted that in addition to the loss of electrical power due to such damage, the sparking or excessive heating of damaged electrical elements can ignite flammable fluids released from punctured lines in the area.

(3) Fuel tanks should not be located in impact zone areas. If, however, it should become absolutely necessary to locate fuel tanks in these vulnerable areas, it should be shown that the potential for ignition will not exist, given the conditions of materials, temperature, velocity, and other significant characteristics that can be shown to exist during uncontained rotor failures.

(4) One design consideration is to incorporate some degree of redundancy for critical system components located in impact zone areas. This redundancy should provide sufficient physical separation of the critical components to ensure against simultaneous damage of the redundant components following an uncontained rotor failure. For example, one airplane manufacturer of an airplane with aft fuselage mounted engines provides two separate hydraulic rudder control systems with one set of components mounted on the forward vertical stabilizer spar and the other system components mounted on the rear spar.

(5) Large structural elements, which are depended upon to protect critical aircraft systems, components, and controls from rotor fragment impact, should be designed to deflect the fragments or otherwise attenuate their effects. Fail safe elements should provide alternate load paths in the event of fragment impact damage. The subjects of external shield and deflector effectiveness and fragment impact energies are discussed in paragraphs 6(c) and 7.

(6) Instrument system components which are critical to safe flight operation should not be located in impact zone areas unless system redundancy is provided and lines are routed in a manner such that damage to both systems cannot occur.

(7) One additional consideration concerns the probable extent of damage to the fuselage pressure vessel in the event of an uncontained rotor or fan blade failure. This involves an analytical estimate of the location and hole sizes anticipated. Airframe engineers responsible for evaluation of pressure vessel integrity should be advised of the analytical results.

(c) *External Shields and Deflectors.* A shield or deflector external to the engine is recommended for fragments where other methods of protection are impractical. Testing of protective shields consisting of single-layer metals, fiber composites, or layered multimaterial configurations has shown promising results. Structural damage to the aircraft may also be minimized by providing controlled deflection devices. When shields or deflection devices are used to provide protection from uncontained rotor and fan blade failures, the design rationale should consider the most probable failure modes, fragment trajectories, translational and rotational velocities, fragment temperature, and fragment energies. Design substantiation should be accomplished by appropriate testing if the analysis is not based on a background of testing.

7. *Fragment Energy.* The maximum fragment energy to be considered by the designer should be associated with the failure of a one-third disc segment of any rotor stage when operating at the take-off power rating. Although it is assumed that failure of a one-third disc segment would be the most severe in terms of its potential for doing damage, it should be noted that restrained rotational energy is directly transferable into translational energy. A fragment whose translational velocity has been retarded may still possess sufficient rotational energy to do considerable damage.

a. References b and c include some typical fragment weights and energies of large high by-pass ratio engines that can be used in designing external shields or deflectors. Reference a indicates that uncontained high energy heavy fragments which depart the engine within an angular spread angle of ±5° do so without measurable loss of translational energy and little loss of rotational energy while fragments deflected beyond 5° have translational energy that diminishes to zero with increasing spread angles up to 33°.

[FR Doc. 81-509 Filed 1-7-81; 8:45 am]
BILLING CODE 4910-13-M

Application for Type Certificate; Boeing Model 757 Series Airplane

AGENCY: Federal Aviation Adminisrtation (FFA), DOT.

ACTION: Announcement of certification status and statement of type certification basis.

SUMMARY: The Boeing Commerical Airplane Company (Boeing) has applied for a type certificate for its Model 757 series airplane. This announces the type certification program for this airplane and provides information on the type certification basis to be established under § 21.17 of the Federal Aviation Regulations (FARs). As appropriate, subsequent announcements will provide updates of the certification status. This is an non-rulemaking proceeding within the meaning of the administrative procedure provisions of 5 U.S.C. 551 *et.seq.* If rulemaking becomes necessary during the processing of this application, it would be initiated separately by a Notice or Notices of Proposed Rulemaking for the following:

—The issuance of Special Conditions under § 21.16 where it is found that the airworthiness regulations otherwise applicable do not contain adequate or appropriate safety standards because of a novel or unusal design feature; and

—The application of special retroactive airworthiness regulations which are required by the Administrator pursuant to the policies announced in the disposition of proposal 8-2 of Airworthiness Review Program, Amendment No. 8A, 45 FR 60154, September 11, 1980.

A certification docket has been established to receive comments on the certification basis set forth in this announcement. The FAA will address all significant comments received.

DATE: Comments on this announcement must be received on or before March 9, 1981. Subsequent announcements will contain their own closure dates.

ADDRESS: Comments must be mailed in duplicate to: Federal Aviation Administration, Office of Regional Counsel, Attention: Certification Docket, Docket No. CT 1192 NW-D, 9010 East Marginal Way South, Seattle, Washington 98108 or delivered in duplicate to Room 300S at the same address. Comments may be inspected at Room 300S between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Don C. Jacobsen, Acting Chief, Aircraft Certification Division [ANW-100], FFA Building, Boeing Field, Seattle, Washington 98108. Telephone (AC 206) 767-2582.

Comments Invited

Announcements of the certification status and the type certification basis of an aircraft are part of the FAA's continuing efforts to keep the public informed of the type certification programs conducted by the FAA. They are in addition to the rulemaking process which provides the public an opportunity to participate directly in the establishment of specific airworthiness standards. While the FAA seeks innovative ways for involving the public in the type certification process for aircraft, it is neither appropriate nor possible for the public to be involved in the detailed findings of type design conformity or regulatory compliance, responsibilities specifically charged by the Congress to the FAA. In this connection, it should be noted that the task of establishing that an aircraft meets the applicable certification standards is a large and technically complex one extending over several years and including thousands of hours of technical data review, ground testing of systems and structural components, and hundreds of hours of flight testing, in which FAA engineers, inspectors and flight test pilots participate.

Interested parties are invited to provide comments, written data, views, or arguments relevant to the type certification basis of the Boeing Model 757 series airplane as contained in this announcement. Communications should reference Certification Docket Number CT 1192 NW-D and be submitted in duplicate to the address specified above. All communications received on or before the closing date specified will be considered by the Administrator.

Availability of Additional Copies of Announcement

Any person may obtain additional copies of this announcement by submitting a request to the Federal Aviation Administration, Public Affairs Officer, Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108. Telephone: (AC 206) 767-2670. Each communication must identify the docket number.

Program Process

The statutory prerequisite for the issuance of an aircraft type certificate is a finding by the Administrator that the aircraft is of proper design, material, specification, construction and performance for safe operation and meets the standards, rules and regulations prescribed therefor. [Section 603(a) of the Federal Aviation Act of 1958 (Act), 49 U.S.C. 1423(a).] In exercising his powers and duties under the Act, the Administrator must do so consistently with any obligation assumed by the United States in any treaty or other international agreement [Section 1102 of the Act, *supra*]. For example, when components are produced by an aircraft overseas supplier and they are not readily inspectable during assembly, they are subject to reciprocal agreements, known as "bilaterals," which have been consummated between this country and the exporting country. In such cases, the FAA would notify the foreign certifying authority of the applicable design data, test, and quality control requirements to be met.

The administrative process for aircraft projects in which complete type certification is involved generally consists of the following major steps:

1. Establishment of a Type Certification Board which programs its meetings according to need but generally includes at least three significant phases (preliminary, preflight, and final).

2. Issuance of a Type Inspection Authorization (TIA) when the examination of the technical data required for type certification is completed or has reached a point where it appears that the aircraft will meet the pertinent regulations. The TIA is the authorization for FAA personnel to conduct ground inspections and begin flight testing to assure that the test aircraft meets design standards. The preflight type board is also held at this time. After these inspections and flight testing are completed, the final type board is held to resolve any outstanding matters.

3. Preparation of the Type Certificate Data Sheet (which becomes a part of the type certificate) and the Airplane Flight manual, setting forth the limitations prescribed by the applicable airworthiness regulations and any other limitations and information found necessary for type certification.

4. Issuance of a publicly available "decision document" that summarizes the basis for the decision to issue a type certificate, including an identification of all applicable regulations, issues, means of compliance (including tests and analyses), and resolution of issues. The issuance of "decision documents" was initiated by the FAA with the type certification of the McDonnell Douglas DC-9-80 and announced in the **Federal Register** on August 28, 1980 (45 FR 57638).

After (1) the Type Certificate Data Data Sheet has been prepared, (2) all outstanding items have been resolved, (3) all applicable airworthiness and aircraft noise regulations and any special conditions have been met, (4) the Administrator has found no feature or characteristic that makes the aircraft unsafe for the category in which certification is required, (5) the decision document has been approved, (6) the airplane is considered safe in its operational environment, and (7) the Airplane Flight Manual has been approved, then an aircraft type certificate will be issued. Reviews are conducted for aircraft intended for use in air carrier service, during and parallel to the type certification process, from the time the type certification board is convened to the final issuance of a type certificate, to establish the operational suitability of the aircraft. These reviews include evaluation of the aircraft for operations under such FAR's as Parts 91, 121 and 125, the ICAO Annexes, FAA Advisory Circulars, airport and air traffic control compatibility, minimum equipment lists, and training requirements.

Background

On January 10, 1977, Boeing applied to the FAA Northwest Region for the type certification of a new model airplane. Subsequently, Boeing identified the model as the 757 series, and elected to extend the application date to February 28, 1978, which became the new effective date of application by virtue of the provisions of § 21.17(c)(2). Boeing plans to complete its type certification activities by February 1983; i.e., within five years [as established under § 21.17(b)] from the extended date.

The Model B-757 series airplane is a medium-range airplane having a low, swept wing with two wing-mounted engines. The airplane is the second Boeing member of a family of new technology fuel efficient airplanes utilizing a high aspect ratio wing planform, advanced airfoil technology, high bypass ratio engines, and advanced electronics.

Program Status

The preliminary meeting of the Boeing 757 Type Certification Board was held in two phases: Phase I (review and evaluation of type design) was held on December 12, 1978; and Phase II (establishment of certification basis and further design review) was held on August 17, 1979. Between these two meetings and subsequently, several meetings of FAA and industry specialists have been convened for discussion and deliberation. Aircraft design has not been completed by Boeing and complete substantiating data is yet to be submitted to the FAA.

Type Certification Basis—General

The applicable airworthiness standards are those regulations designated in accordance with § 21.17 and are known as the "type certification basis" for the airplane design. Special Conditions may be issued, and amended, as necessary, as a part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.17(a)(1) do not contain adequate or appropriate safety standards because of novel or unusual design features of the Boeing Model 757 series airplane. Special Conditions, as appropriate, would be issued after public notice in accordance with §§ 11.28 and 11.29(b), effective October 14, 1980, and would become part of the type certification basis in accordance with § 21.17(a)(2).

Exemptions from the applicable airworthiness standards designated by § 21.17(a)(1), if granted, would also become part of the type certification basis. Petitions for exemption are published in the **Federal Register**, and the petitions are acted upon after review of comments received, in accordance with § 11.27.

Should the FAA conclude that recent or future regulatory amendments should be applied to the Model 757 series that would not otherwise be applied under § 21.17(a)(1), than an amendment to require retroactive application will be proposed and acted upon consistent with the general rulemaking procedures of Part 11 and the regulatory policies of Executive Order 12044. Such retroactive regulations would be in lieu of those issued as Special Conditions because of having satisfied the "novel and unusual design feature" criteria of § 21.16. This procedure is described in the disposition of proposal 8-2 in Amendment 8A of the Airworthiness Review Program. (45 FR 60154; September 11, 1980.)

In addition, there are special retroactive noise requirements prescribed as a matter of law. In the case of the Model 757 series, Stage 3 noise limits are required by § 36.201(b)(3).

Statement of Type Certification Basis

Based on the date of application (February 28, 1978), and pursuant to § 21.17(a)(1), the type certification basis of the Boeing Model 757 series airplane will be:

—Part 25 of the Federal Aviation Regulations (effective February 1, 1965), Amendments 25-1 through 25-41, effective September 1, 1977.

—Part 36 of the Federal Aviation Regulations (effective December 1, 1969), Amendments 36-1 through 36-9, effective April 3, 1978.

—Special Federal Aviation Regulation 27.

If type certification is not completed by February 28, 1983, the applicable amendments to Parts 25 and 36 and SFAR 27 would be adjusted to include later amendments in accordance with § 21.17(c).

Pursuant to § 21.17(a)(1)(ii), Boeing has elected to comply voluntarily with later amendments to Part 25, Amendments 25-42 through 25-45, effective December 1, 1978, except a portion of Amendment 25-42 [Section 25.109]. Compliance with § 25.109, as amended, is the subject of further discussion in this announcement. Boeing has also agreed to comply with the following additional matters proposed by the FAA which are now later effective amendments to Part 25:

—High lift devices [reference § 25.345, effective December 1, 1978 (Amendment 25-46)].

—Pressurized cabin loads [reference § 25.365(e) (1) and (2), effective October 14, 1980 (Amendment 25-54)].

—Flutter, deformation, and fail-safe criteria [reference § 25.629, effective December 1, 1978 (Amendment 25-46)].

—Lift and drag devices, control [reference § 25.697, effective December 1, 1978 (Amendment 25-46)].

—Tires [reference § 25.733, effective December 31, 1979 (Amendment 25-49)].

—Installation—Auxiliary Power Units [reference §§ 25.901(d), 25.1103(a), (b)(2), (d), (e), and (f) 25.1142, and 25.1522, effective December 1, 1978 (Amendment 25-46)].

Exemptions

As of the date of this announcement, Boeing has not petitioned the FAA for any exemptions relative to the type certification of the Model 757 series airplane.

Special Conditions

The novel or unusual design feature of the Boeing Model 757 series airplane, known to the FAA at this time, which necessitates the issuance of a Special Condition pursuant to § 21.16 is:

A Centralized caution and warning system that combines the visual and aural alerting features ordinarily required as separate systems in the rules applicable to the airplane.

This Special Condition will be proposed in a subsequent Notice of Proposed Rulemaking pursuant to §§ 11.28 and 11.49 (Amendment 11–20, effective October 14, 1980) and all public comments received on that Notice will be considered before the Special Condition is issued.

Special Rulemaking Considerations

Consideration has been given to the updated accelerate-stop performance requirements of § 25.109 as amended by Amendment 25–42, effective March 1, 1978. By virtue of the date of application for a type certificate for the 757 and the provisions of § 21.17(a)(1), this amendment would not apply but for additional rulemaking action on the part of the FAA. After careful deliberation, the FAA has concluded that the very complex problem of takeoff performance should be addressed at a public technical review, to be announced soon in the **Federal Register.** This public review would consider operational and certification rule changes, including retroactive applicability of Amendment 25–42, and other factors affecting takeoff and accelerate-stop distances, such as, decisions speeds, wet runway accountability, automatic braking systems, reduced thrust, reverse thrust, screen height, and others. The FAA will subsequently decide on the direction to proceed in this rulemaking activity. During the interim while the FAA is formulating the public technical review, the FAA encourages any submissions on this subject that the public believes are relevant to this effort; these comments may be mailed in duplicate to the following office: Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket (AGC–204), Docket No. 21246, 800 Independence Avenue SW., Washington, D.C. 20591, or delivered in duplicate to: Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

Administrative Matters Under Consideration

In addition, there may be administrative changes to agency issuances, such as Advisory Circulars, necessitated by decisions made during these proceedings. For example, the Boeing Model 757 series airplane will have an automatic landing roll-out system that contains automatic deceleration and directional roll-out control. Appendix I of Advisory Circular (AC) 120–28B entitled "Criteria for Approval of Category IIIa Landing Weather Minima," contains criteria for airworthiness approval for Category IIIa airborne systems. Appendix I of AC 120–28B will be revised to include criteria for automatic landing roll-out systems equipment and installations that may be used to show airworthiness acceptability of the automatic landing systems for Category IIIb operations.

Finally, design evaluation does not end with the issuance of the type certificate. Regulations require aircraft owners and operators to submit various reports and data on the aircraft's service experience. The FAA continues to monitor the safety performance of the design after the type design is approved and the product is introduced into service. This is accomplished through the various reports and data the FAA receives daily as well as through post-certification design reviews. The airworthiness standards such as Part 25, as well as the operational standards such as Parts 91, 121 and 125, are amended from time to time to consider new technologies and to upgrade the existing level of safety. If, during any evaluation, an unsafe condition is found as a result of service experience and that condition is likely to exist or develop in other products of the same type, the FAA issues an Airworthiness Directive (AD) under Part 39 to require a change to the type design or to define special inspection or operational limitations. In effect, these are also retroactive applications of required type design change.

Issued in Seattle, Washington, on December 31, 1980.

Charles R. Foster,

Director, Northwest Region.

[FR Doc. 81-418 Filed 1-7-81; 8:45 am]

BILLING CODE 4910-13-M

Application for Type Certificate; Boeing Model 767 Series Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Announcement of certification status and statement of type certification basis.

SUMMARY: The Boeing Commercial Airplane Company (Boeing) has applied for a type certificate for its Model 767 series airplane. This announces the type certification program for this airplane and provides information on the type certification basis to be established under Section 21.17 of the Federal Aviation Regulations (FARs). As appropriate, subsequent announcements will provide updates of the certification status. This is a non-rulemaking proceeding within the meaning of the administrative procedure provisions of 5 U.S.C. 551 *et. seq.* If rulemaking becomes necessary during the processing of this application, it would be initiated separately by a Notice or Notices of Proposed Rulemaking for the following:

—The issuance of Special Conditions under § 21.16 where it is found that the airworthiness regulations otherwise applicable do not contain adequate or appropriate safety standards because of a novel or unusual design feature; and

—The application of special retroactove airworthiness regulations which are required by the Administrator pursuant to the policies announced in the disposition of proposal 8–2 of Airworthiness Review Program, Amendment No. 8A, 45 FR 60154, September 11, 1980.

A certification docket has been established to receive comments on the certification basis set forth in this announcement. The FAA will address all significant comments received.

DATE: Comments on this announcement must be recieved on or before March 9, 1981. Subsequent announcements will contain their own closure dates.

ADDRESS: Comments must be mailed in duplicate to:

Federal Aviation Administration, Office of Regional Counsel, Attention: Certification Docket, Docket No. CT 1180 NW–D, 9010 East Marginal Way South, Seattle, Washington 98108

or delivered in duplicate to Room 300S at the same address. Comments may be inspected at Room 300S between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Don C. Jacobsen, Acting Chief, Aircraft Certification Division [ANW–100], FAA Building, Boeing Field, Seattle, Washington 98108. Telephone (AC 206) 767–2582.

Comments Invited

Announcements of the certification status and the type certification basis of an aircraft are part of the FAA's continuing efforts to keep the public informed of the type certification programs conducted by the FAA. They are in addition to the rulemaking process which provides the public an opportunity to participate directly in the

establishment of specific airworthiness standards. While the FAA seeks innovative ways for involving the public in the type certification process for aircraft, it is neither appropriate nor possible for the public to be involved in the detailed findings of type design conformity or regulatory compliance, responsibilities specifically charged by the Congress to the FAA. In this connection, it should be noted that the task of establishing that an aircraft meets the applicable certification standards is a large and technically complex one extending over several years and including thousands of hours of technical data review, ground testing of systems and structural components, and hundreds of hours of flight testing, in which FAA engineers, inspectors and flight test pilots participate.

Interested parties are invited to provide comments, written data, views, or arguments relevant to the type certification basis of the Boeing Model 767 series airplane as contained in this announcement. Communications should reference Certification Docket Number CT 1180 NW-D and be submitted in duplicate to the address specified above. All communications received on or before the closing date specified will be considered by the Administrator.

Availability of Additional Copies of Announcement

Any person may obtain additional copies of this announcement by submitting a request to the Federal Aviation Administration, Public Affairs Officer, Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108. Telephone: (AC 206) 767-2670. Each communication must identify the docket number.

Program Process

The statutory prerequisite for the issuance of an aircraft type certificate is a finding by the Administrator that the aircraft is of proper design, material, specification, construction and performance for safe operation and meets the standards, rules and regulations prescribed therefor. [Section 603(a) of the Federal Aviation Act of 1958 (Act), 49 U.S.C. 1423(a).] In exercising his powers and duties under the Act, the Administrator must do so consistently with any obligation assumed by the United States in any treaty or other international agreement [Section 1102 of the Act, *supra*]. For example, when components are produced by an aircraft overseas supplier and they are not readily inspectable during assembly, they are subject to reciprocal agreements, known as "bilaterals," which have been consummated between this country and the exporting country. In such cases, the FAA would notify the foreign certifying authority of the applicable design data, test, and quality control requirements to be met.

The administrative process for aircraft projects in which complete type certification is involved generally consists of the following major steps:

1. Establishment of a Type Certification Board which programs its meetings according to need but generally includes at least three significant phases (preliminary, preflight, and final).

2. Issuance of a Type Inspection Authorization (TIA) when the examination of the technical data required for type certification is completed or has reached a point where it appears that the aircraft will meet the pertinent regulations. The TIA is the authorization for FAA personnel to conduct ground inspections and begin flight testing to assure that the test aircraft meets design standards. The preflight type board is also held at this time. After these inspections and flight testing are completed, the final type board is held to resolve any outstanding matters.

3. Preparation of the Type Certificate Data Sheet (which becomes a part of the type certificate) and the Airplane Flight Manual, setting forth the limitations prescribed by the applicable airworthiness regulations and any other limitations and information found necessary for type certification.

4. Issuance of a publicly available "decision document" that summarizes the basis for the decision to issue a type certificate, including an identification of all applicable regulations, issues, means of compliance (including tests and analyses), and resolution of issues. The issuance of "decision documents" was initiated by the FAA with the type certification of the McDonnell-Douglas DC-9-80 and announced in the **Federal Register** on August 28, 1980 (45 FR 57638).

After (1) the Type Certificate Data Sheet has been prepared, (2) all outstanding items have been resolved, (3) all applicable airworthiness and aircraft noise regulations and any special conditions have been met, (4) the Administrator has found no feature or characteristic that makes the aircraft unsafe for the category in which certification is required, (5) the decision document has been approved, (6) the airplane is considered safe in its operational environment, and (7) the Airplane Flight Manual has been approved, then an aircraft type certificate will be issued. Reviews are conducted for aircraft intended for use in air carrier service, during and parallel to the type certification process, from the time the type certification board is convened to the final issuance of a type certificate, to establish the operational suitability of the aircraft. These reviews include evaluation of the aircraft for operations under such FAR's as Parts 91, 121 and 125, the ICAO Annexes, FAA Advisory Circulars, airport and air traffic control compatibility, minimum equipment lists, and training requirements.

Background

On October 13, 1978, Boeing applied to the FAA Northwest Region for the type certification of a new model airplane, later identified as the 767 series, and pursuant to § 21.17(b), requested an extension of the five-year effectivity period of the application to six years. The FAA approved the extension based on the complexity of the program, which will require a longer period of time for design, development and testing, particularly in light of the fact that approximately 45 percent of the aircraft will involve world-wide manufacturing facilities. Boeing plans to complete its type certification activities on or before October 13, 1982.

The Model B-767 series airplane is a medium-range airplane having a low, swept wing with two wing-mounted engines. The airplane is the first Boeing member of a family of a new technology fuel efficient airplanes utilizing a high aspect ratio wing planform, advanced airfoil technology, high bypass ratio engines, and advanced electronics.

Program Status

The preliminary meeting of the Boeing 767 Type Certification Board was held in two phases; Phase I (review and evaluation of type design) was held on September 19, 1978; and Phase II (establishment of certification basis and further design review) was held on June 17, 1979. Between these two meetings and subsequently, several meetings of FAA and industry specialists have been convened for discussion and deliberation. An interim meeting of the Board is presently scheduled for February 12, 1981. Aircraft design has not been completed by Boeing and complete substantiating data is yet to be submitted to the FAA.

Type Certification Basis—General

The applicable airworthiness standards are those regulations designated in accordance with § 21.17 and are known as the "type certification basis" for the airplane design. Special Conditions may be issued, and

amended, as necessary, as a part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.17(a)(1) do not contain adequate or appropriate safety standards because of novel or unusual design features of the Boeing Model 767 series airplane. Special Conditions, as appropriate, would be issued after public notice in accordance with §§ 11.28 and 11.29(b), effective October 14, 1980, and would become part of the type certification basis in accordance with § 21.17(a)(2).

Exemptions from the applicable airworthiness standards designated by § 21.17(a)(1), if granted, would also become part of the type certification basis. Petitions for exemption are published in the **Federal Register**, and the petitions are acted upon after review of comments received, in accordance with Section 11.27.

Should the FAA conclude that recent or future regulatory amendments should be applied to the Model 767 series that would not otherwise be applied under § 21.17(a)(1), then an amendment to require retroactive application will be proposed and acted upon consistent with the general rulemaking procedures of Part 11 and the regulatory policies of Executive Order 12044. Such retroactive regulations would be in lieu of those issued as Special Conditions because of having satisfied the "novel and unusual design feature" criteria of Section 21.16. This procedure is described in the disposition of proposal 8–2 in Amendment 8A of the Airworthiness Review Program. (45 FR 60154; September 11, 1980.)

In addition, there are special retroactive noise requirements prescribed as a matter of law. In the case of the Model 767 series, Stage 3 noise limits are required by Section 36.201(b)(3).

Statement of Type Certification Basis

Based on the date of application (October 13, 1976), and pursuant to § 21.17(a)(1), the type certification basis of the Boeing Model 767 series airplane will be:

—Part 25 of the Federal Aviation Regulations (effective February 1, 1965), Amendments 25–1 through 25–37, effective February 14, 1975.
—Part 36 of the Federal Aviation Regulations (effective December 1, 1969), Amendments 36–1 through 36–9, effective April 3, 1978.
—Special Federal Aviation Regulation 27.

If type certification is not completed by October 13, 1982, the applicable amendments to Parts 25 and 36 and SFAR 27 would be adjusted to include later amendments in accordance with Section 21.17(c).

Pursuant to § 21.17(a)(1)(ii), Boeing has elected to comply voluntarily with later amendments to Part 25, Amendments 25–38 through 25–45, effective December 1, 1978, except portions of Amendment 25–38 [§ 25.979 (d) and (e) and § 25.1143(e)]; –40 [§§ 25.901(b)(1)(i), 25.1091(e) and 25.1093(b)]; –41 [§ 25.1438]; and –42 [§ 25.109]. Compliance with § 25.109, as amended, is the subject of further discussion in this announcement. Boeing has also agreed to comply with the following additional matters proposed by the FAA which are now later effective amendments to Part 25:

—High lift devices [reference § 25.345, effective December 1, 1978 (Amendment 25–46)].
—Pressurized cabin loads [reference § 25.365(e) (1) and (2), effective October 14, 1980 (Amendment 25–54)].
—Flutter, deformation, and fail-safe criteria [reference § 25.629, effective December 1, 1978 (Amendment 25–46)].
—Lift and drag devices, control [reference § 25.697, effective December 1, 1978 (Amendment 25–46)]
—Tires [reference § 25.733, effective December 31, 1979 (Amendment 25–49)].
—Installation—Auxiliary Power Units [reference §§ 25.901(d), 25.1103(a), (b)(2), (d), (e), and (f), 25.1142, and 25.1522, effective December 1, 1978 (Amendment 25–46)].

Exemptions

As of the date of this announcement, Boeing has not petitioned the FAA for any exemptions relative to the type of certification of the Model 767 series airplane.

Special conditions

The novel or unusual design feature of the Boeing Model 767 series airplane, known to the FAA at this time, which necessitates the issuance of a Special Condition pursuant to § 21.16 is:

A centralized caution and warning system that combines the visual and aural alerting features ordinarily required as separate systems in the rules applicable to the airplane.

This Special Condition will be proposed in a subsequent Notice of Proposed Rulemaking pursuant to §§ 11.28 and 11.49 (Amendment 11–20, effective October 14, 1980) and all public comments received on that Notice will be considered before the Special Condition is issued.

Special Rulemaking Considerations

Consideration has been given to the updated accelerate-stop performance requirements of § 25.109 as amended by Amendment 25–42, effective March 1, 1978. By virtue of the date of application for a type certificate for the 767 and the provisions of § 21.17(a)(1), this amendment would not apply but for additional rulemaking action on the part of the FAA. After careful deliberation, the FAA has concluded that the very complex problem of takeoff performance should be addressed at a public technical review, to be announced soon in the **Federal Register**. This public review would consider operational and certification rule changes, including retroactive applicability of Amendment 25–42, and other factors affecting takeoff and accelerate-stop distances, such as, decisions speeds, wet runway accountability, automatic braking systems, reduced thrust, reverse thrust, screen height, and others. The FAA will subsequently decide on the direction to proceed in this rulemaking activity. During the interim while the FAA is formulating the public technical review, the FAA encourages any submissions on this subject that the public believes are relevant to this effort; these comments may be mailed in duplicate to the following office:

Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket (AGC–204) Docket No. 21247, 800 Independence Avenue, SW., Washington, D.C. 20591

or delivered in duplicate to: Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

Administrative Matters Under Consideration

In addition, there may be administrative changes to agency issuances, such as Advisory Circulars, necessitated by decisions made during these proceedings. For example, the Boeing Model 767 series airplane will have an automatic landing roll-out system that contains automatic deceleration and directional roll-out control. Appendix 1 of Advisory Circular (AC) 120–28B entitled "Criteria for Approval of Category IIIa Landing Weather Minima," contains criteria for airworthiness approval for Category IIIa airborne systems. Appendix 1 of AC 120–28B will be revised to include criteria for automatic landing roll-out systems equipment and installations that may be used to show airworthiness acceptability of the automatic landing systems for Category IIIb operations.

Finally, design evaluation does not end with the issuance of the type

certificate. Regulations require aircraft owners and operators to submit various reports and data on the aircraft's service experience. The FAA continues to monitor the safety performance of the design after the type design is approved and the product is introduced into service. This is accomplished through the various reports and data the FAA receives daily as well as through post-certification design reviews. The airworthiness standards such as part 25, as well as the operational standards such as Parts 91, 121 and 125, are amended from time to time to consider new technologies and to upgrade the existing level of safety. If, during any evaluation, an unsafe condition is found as a result of service experience and that condition is likely to exist or develop in other products of the same type, the FAA issues an Airworthiness Directive (AD) under Part 39 to require a change to the type design or to define special inspection or operational limitations. In effect, these are also retroactive applications of required type design change.

Issued in Seattle, Washington, on December 31, 1980.

Charles R. Foster,

Director, Northwest Region.

[FR Doc. 81-417 Filed 1-7-81; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; Broward County, Florida

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Broward County, Florida.

FOR FURTHER INFORMATION CONTACT: R. V. Robertson, District Engineer, Federal Highway Administration, P.O. Box 1079, Tallahassee, Florida 32302, Telephone: (904) 224-8111.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Florida Department of Transportation, will prepare an environmental impact statement (EIS) for a proposal to improve State Road 820 in Broward County, Florida. The proposed improvement would involve the reconstruction of State Road 820 (Hollywood Boulevard) from Interstate Route 75 to State Road 7, a distance of eight miles. Improvements to the corridor are considered necessary to provide for the existing and projected traffic demand.

Alternatives under consideration include (1) taking no action; (2) widening to a six- or eight-lane divided roadway; (3) widening to six lanes plus frontage roads on the portion of the project west of State Road 817; and (4) alternate corridors.

Federal, State, and local agencies have contributed early coordination comments through the A-95 process. Additionally, a project planning team developing this project has contacted State, Federal, County, and local agencies for information relative to land use planning, water quality analysis, and local planning needs. Public information meetings will be held during the development of this EIS. In addition, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The draft EIS will be made available for public and agency review and comment prior to the public hearing. A formal scoping meeting is planned at the project site during the early part of 1981.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the Federal Highway Administration at the address provided above.

Issued on: December 30, 1980.

P. E. Carpenter,

Division Administrator, Tallahassee, Florida.

[FR Doc. 81-648 Filed 1-7-81; 8:45 am]

BILLING CODE 4910-22-M

Federal Railroad Administration

Minority Business Resource Center Advisory Committee; Meeting

Pursuant to Section 19(a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given of a meeting of the Minority Business Resource Center Advisory Committee to be held January 15, 1981, at 10:00 a.m. until 12:00 p.m. in Room 4234 at the Department of Transportation, 400 7th Street SW., Washington, D.C. 20590. The agenda for the meeting is as follows:

—Advisory Committee Program Review
—MBRC Program Supporters—Acknowledgment
—Bonding—Executive Summary
—Open Discussion

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify the Minority Business Resource Center not later than the day before the meeting. Information pertaining to the meeting may be obtained from Ms. Betty Chandler, Advisory Committee Staff Assistant, Minority Business Resource Center, Office of the Secretary, 400 7th Street SW., Washington, D.C. 20590, telephone (202) 426-2852. Any member of the public may present a written statement to the Committee at any time.

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

Earl D. Proctor,

Executive Director, Minority Business Resource Center.

[FR Doc. 81-391 Filed 1-7-81; 8:45 am]

BILLING CODE 4910-06-M

VETERANS ADMINISTRATION

Station Committee on Educational Allowances; Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on February 26, 1981, at 9:00 a.m., the Veterans Administration Regional Office, Atlanta, Georgia Station Committee on Educational Allowances shall at Room 550, 730 Peachtree Street, NE., Atlanta, Georgia 30365 conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in AVIA Corporation, 1951 Airport Road, Atlanta, Georgia 30341 should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

Dated: December 30, 1980.

T. R. White,

Director, VA Regional Office, 730 Peachtree Street, NE., Atlanta, Georgia 30365.

[FR Doc. 81-572 Filed 1-7-81; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 46, No. 5
Thursday, January 8, 1981

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Civil Aeronautics Board	1
Federal Deposit Insurance Corporation	2
Federal Election Commission	3
Federal Energy Regulatory Commission	4
Federal Home Loan Bank Board	5
Federal Maritime Commission	6
International Trade Commission	7
National Commission on Libraries and Information Science	8, 9
Postal Rate Commission	10, 11

1

CIVIL AERONAUTICS BOARD.

December 31, 1980.

TIME AND DATE: 9:30 a.m., January 8, 1981.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.
2. Request by the Senate Special Committee on Aging for information on Board initiatives or programs relating to the elderly during 1980. (Memo No. 180, OGC)
3. Dockets 38511 and 38488, *Peoples Express Fitness Investigation* and *People Express Show Cause Proceeding.* (Memo No. 011A, OGC)
4. Dockets 33363, 38008 and 38009, *Former Large Irregular Air Service Investigation,* Application of GenAir International, Inc. (Memo No. 192, OGC)
5. Docket 34271, *Davis Airlines Fitness Investigation.* (OGC)
6. Dockets 33363, 37942, and 38399, *Former Large Irregular Air Service Investigation; Applications of Jet Charter Service Inc.;* Order on Discretionary Review. (Memo No. 190, OGC)
7. Docket EAS–548, Appeal of essential air service determination for Zanesville, Ohio. (Memo No. 195, OGC, OCCR, BDA)
8. Dockets 38922 and EAS–423—Frontier's notice of intent to suspend service at Liberal, Kansas. (Memo No. 186, BDA)
9. Docket 36864, Western's Notice to Suspend Service at West Yellowstone, Montana. (BDA, OCCR)
10. Docket 34591, Notice of Piedmont Aviation to Suspend Service at Hot Springs, VA. (Memo No. 189, BDA, OCCR)
11. Dockets 37501, EAS–565, and 38224, Essential Air Service at Hazleton, PA, and Notice of Perkiomen Airways to terminate service at Hazleton. (Memo No. 012C, BDA, OCCR)
12. Docket 38442, Direct Air's proposal to provide essential air service with compensation at Kokomo/Logansport/Peru, Indiana. (Memo No. 188, BDA, OCCR)
13. Docket 37554, Establishment of the Standard Foreign Fare Level. (BDA)
14. Docket 38930, Sea Airmotive Kodiak-Bush Points Subpart Q Proceeding. (Memo No. 187, BDA)
15. Docket 38814, Sedalia-Marshall-Boonville Stage Line, Inc.—certification as section 418 all-cargo air carrier. (Memo No. 181, BDA)
16. Procedures for Handling Section 419 Subsidy Rates at the End of the Current Subsidy Rate Periods. (BDA)
17. Dockets 32660 and 35634, IATA agreements proposing tax-related fare and rate increases to/from Zaire. (Memo No. 191, BIA)
18. Dockets 37702, 37779, 37780, 37781, 37784, and 37799; Applications of Societe Anonyme Belge D'Exploitation de la Navigation Aerenne, Deutsche Lufthansa Aktiengesellshaft, Japan Air Lines Company, KLM Royal Dutch Airlines, Compagnie National Air France, Scandinavian Airlines System for amendment and renewal of foreign air carrier permits for conditional Alaska stopover authority between Europe and Japan. (Memo No. 185, BIA, OGC, BALJ)
19. Docket 38606, Application of Air Florida to amend its certificate to permit it to add New York and Governors Harbour, Bahamas Islands as coterminal points on its route 197–F. (Memo No. 178, BIA, OGC, BALJ)
20. Dockets 34405, 35520, 37429—Applications of Air Tungaru for permit authority for routes negotiated under the Bermuda 2 Agreement; for Air Nauru to perform the air transportation on behalf of Air Tungaru; and a Complaint by the Tuvalu Islands Developing Company, Inc. (Memo No. 179, BIA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673–5068.

[S–16–81 Filed 1–5–81; 4:09 pm]

BILLING CODE 6320–01–M

2

FEDERAL DEPOSIT INSURANCE CORPORATION.

Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2 p.m. on Monday, January 5, 1981, the Corporation's Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), concurred in by Director John G. Heimann (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of a memorandum proposing an amendment to Part 341 of the Corporation's regulations, entitled "Registration of Transfer Agents."

The Board further determined, by the same majority vote, that no earlier notice of the change in the subject matter of the meeting was practicable.

Dated: January 5, 1981.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–20–81 Filed 1–6–81; 1:52 p.m.]

BILLING CODE 6714–01–M

3

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Tuesday, January 13, 1981 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Personnel. Compliance. Litigation. Audits.

* * * * *

DATE AND TIME: Thursday, January 15, 1981 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings
Correction and approval of minutes
Certification
Advisory opinion: Draft AO 1980–137—Don L. Richardson, Republican Candidate, U.S. Senate (Texas)
Appropriations and budget: Budget Execution Report
Pending Legislation
Classification actions
Routine administrative matters

PERSON TO CONTACT FOR INFORMATION:

Mr. Fred Eiland, Public Information Officer; telephone: 202–523–4065.

Lena L. Stafford,

Administrative Assistant to the Secretary to the Commission.

[S–23–81 Filed 1–6–81; 3:19 pm]

BILLING CODE 6715–01–M

4

FEDERAL ENERGY REGULATORY COMMISSION.

January 5, 1981.

TIME AND DATE: 1 p.m., January 12, 1981.

PLACE: Room 9306, 825 North Capitol Street NE., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Staff briefing of the Commission on hydro matters.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary; telephone (202) 357–8400.

[S-17-81 Filed 1-5-81; 4:22 p.m.]

BILLING CODE 6450-85-M

5

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 10 a.m., Wednesday, January 14, 1981.

PLACE: 1700 G Street NW., board room, sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PESON FOR MORE INFORMATION:
Mr. Marshall (202–377–6677).

MATTERS TO BE CONSIDERED:

Service Corporation Activity—First Federal Savings and Loan Association of Charlotte, Charlotte, North Carolina.
Proposed Acquisition and Merger of—Yosemite Savings and Loan Association, Modesto, California and Valley Federal Savings and Loan Association, Van Nuys, California.
Branch Office Application—First Federal Savings and Loan Association of Bemidiji, Bemidiji, Minnesota.

[S-24-81 Filed 1-6-81; 3:19 pm]

BILLING CODE 6720-01-M

6

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 9 a.m., January 14, 1981.

PLACE: Hearing Room One, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposed Rule to Exempt Agreements Covering the Collection, Compilation, and Exchange of Credit Information from the Filing and Approval Requirements of section 15 of the Shipping Act, 1916.
2. Proposed Rule Regarding the Right of Independent Action in Conference Agreements and Tariff Filing Requirements.
3. Docket No. 80–33: Exemption of Tariff Matter Covering the Movement of Cargo Between Foreign Countries Either Transshipped From One Water Carrier to Another At U.S. Ports or Transported Overland Through the United States—Proposed Final Rule.
4. Docket No. 79–59: Independent Ocean Freight Forwarder Application—Stute International Inc.—Consideration of Request for Oral Argument and Possible Consideration of the Record.
5. Special Docket No. 752: Application of Coordinated Caribbean Transport, Inc. for the Benefit of Universal Transcontinental Corp. as Agent for Morisaenz, S.A.C.—Review of Initial Decision.
6. Special Docket No. 744: Application of Sea-Land Service, Inc. for the Benefit of Stone and Downer Co.—Consideration of the Record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

[S-25-81 Filed 1-6-81; 3:21 p.m.]

BILLING CODE 6730-01-M

7

[USITC SE-80-61A]

INTERNATIONAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 86609, December 31, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, January 14, 1981.

CHANGES IN THE MEETING: Additional item added to the agenda as follows:

4. Petitions and complaints, if necessary:
d. Multicellular plastic film (Docket No. 706).

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[S-20-81 Filed 1-6-81; 3:39 pm]

BILLING CODE 7020-02-M

8

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE.

Public/Private Sector Task Force.

DATE AND TIME:

8 p.m.–10:30 p.m., Monday, January 12, 1981.
9 a.m.–5 p.m., Tuesday, January 13, 1981.
8:30 a.m–3:30 p.m., Wednesday, January 14, 1981.

PLACE:

Heroy Room/Cosmos Club, January 12, 1981.
Room 121, Cannon House Office Building, January 13, 14, 1981.

STATUS: Open.

MATTERS TO BE DISCUSSED:

Draft Progress Report.
Future Plans for the Task Force.

Toni Carbo Bearman,
Executive Director, NCLIS.

January 5, 1980.

[S-21-81 Filed 1-6-81; 2:05 p.m.]

BILLING CODE 7527-01-M

9

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE.

NCLIS/SLA TASK FORCE MEETING.

DATE AND TIME:

9 a.m.–5 p.m., Wednesday, January 14, 1981.
9 a.m.–5 p.m., Thursday, January 15, 1981.

PLACE: Delaware Room, Mayflower Hotel.

STATUS: Open.

MATTERS TO BE DISCUSSED: Committee Task Force Charges and Plans.

Douglas S. Price,
Deputy Director, NCLIS.

January 5, 1981.

[FR Doc. S-22-81 Filed 1-6-81; 2:07 pm]

BILLING CODE 7527-01-M

10

POSTAL RATE COMMISSION.

TIME AND DATE: 2 p.m., Tuesday, January 6, 1981.

PLACE: Conference room, room 500, 2000 L Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Issues in Docket No. R80–1.
[Closed pursuant to 5 U.S.C. § 552b(c)(10)]

CONTACT PERSON FOR MORE INFORMATION:
Dennis Watson, Information Officer, Postal Rate Commission, Room 500, 2000 L Street NW., Washington, D.C. 20268; telephone (202) 254–5614.

[S-18-81 Filed 1-5-81; 5:16 pm]

BILLING CODE 7715-01-M

11

POSTAL RATE COMMISSION.

January 5, 1981.

Notice is hereby given that the General Counsel, Officer-of-the-Commission, and the Director, Office of Technical Analysis and Planning, of the Postal Rate Commission will meet on Wednesday afternoon, January 7, 1981, with Mr. John Mulligan, a regional official of the U.S. Postal Service, to discuss, in general terms, rate making procedures. No particular matter at issue in Docket R80–1 nor substantive merits of a matter that is likely to become a particular matter at issue in contested proceedings before the Commission will be discussed.

David F. Harris,
Secretary.

[S-19-8 Filed 1-5-81; 5:17 pm]

BILLING CODE 7715-01-M

federal register

Thursday
January 8, 1981

Part II

Environmental Protection Agency

Clean Water Act, Toxic Pollutant List; Removal of Dichlorodifluoromethane and Trichlorofluoromethane; Petition to Remove Ethylbenzene, Phenol, 2,4-Dichlorophenol, 2,4,5-Trichlorophenol, and Pentachlorophenol; Proposed Denial of Petition to Remove Monochlorophenyl Phenyl Ether; and Petition to Remove Chlorodifluoromethane

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 401

[WH-FRL 1701-5]

Removal of Dichlorodifluoromethane and Trichlorofluoromethane From the Toxic Pollutant List Under Section 307(a)(1) of the Clean Water Act

AGENCY: United States Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is deleting dichlorodifluoromethane (F-12) and trichlorofluoromethane (F-11) from the toxic pollutant list. As a result of its review of available data and the public comments, the Agency concludes that no significant potential exists for exposure to the two chemicals via water. This conclusion coupled with the compounds' low mammalian toxicity does not suggest any environmental or human health hazard resulting from the delisting of these compounds. EPA has determined that deleting these compounds will not compromise adequate control over their discharge into the aquatic environment and EPA anticipates no adverse effects on the aquatic environment as a result of this action.

EFFECTIVE DATE: December 24, 1980.

FOR FURTHER INFORMATION CONTACT: Jacqueline V. Carr, Criteria and Standards Division (WH-585), Office of Water Regulations and Standards, U.S. Environmental Protection Agency, 401 M Street SW, Washington, D.C. 20460 (202-245-3036).

SUPPLEMENTARY INFORMATION:

Background

On November 2, 1979, E. I. du Pont de Nemours and Company petitioned EPA to remove the fluorocarbons, dichlorodifluoromethane (F-12) and trichlorofluoromethane (F-11) from the toxic pollutant list established under section 307(a)(1) of the Clean Water Act. After reviewing data supplied by Du Pont to support the petition and additional data, EPA published a proposal to delist F-11 and F-12 and requested comment on the proposal in 45 FR 46103 July 9, 1980.

Four respondents submitted comments. All respondents supported the action to remove the chemicals from the toxic pollutant list.

As a result of its review, EPA concludes that available data support the deletion of dichlorodifluoromethane (F-12) and trichlorofluoromethane (F-11) for the following reasons:

(1) No significant potential exists for contamination of water supplies by F-11 or F-12 due to the methods of transportation, use, and disposal of these compounds. During manufacture of these compounds, total losses to the environment are small. Almost all of the total losses during manufacturing are to the air from fugitive emissions with only a miniscule amount of loss accounted for by direct discharge into water from point source effluents.

(2) Experimental data and field measurements all confirm the water/air partition for F-11 and F-12 is so low that no significant hazard exists for contamination of water supplies.

(3) The low solubility and high volatility of F-11 and F-12, combined with low mammalian toxicity do not suggest any environmental or human health hazard.

Dated: December 24, 1980.

Douglas M. Costle,

Administrator.

40 CFR Subchapter N, Part 401 is amended by the deletion of two compounds.

§ 401.15 [Amended]

At § 401.15 under number 38, halomethanes, in the list of toxic pollutants designated pursuant to section 307(a)(1) of the Act, delete both trichlorofluoromethane (F-11) and dichlorodifluoromethane (F-12).

[FR Doc. 81-175 Filed 1-7-81; 8:45 am]

BILLING CODE 6560-29-M

ENVIRONMENTAL PROTECTION AGENCY

[WH-FRL 1701-6]

Petition To Remove Ethylbenzene, Phenol, 2,4-Dichlorophenol, 2,4,5-Trichlorophenol, and Pentachlorophenol From the § 307(a)(1) List of Toxic Pollutants Final Action

AGENCY: United States Environmental Protection Agency.

ACTION: Denial of a petition from the Dow Chemical Company to remove ethylbenzene, phenol, 2,4-dichlorophenol, 2,4,5-trichlorophenol, and pentachlorophenol from the list of toxic pollutants under section 307(a)(1) of the Clean Water Act, as amended, 33 U.S.C. 1317(a).

SUMMARY: On November 7, 1979, in 44 FR 64555, the EPA published and requested public comment on a petition and supporting data from Dow Chemical Company, USA to remove five chemicals from the section 307(a)(1) toxic pollutant list. Ten respondents submitted comments to the Agency.

EPA reviewed all supporting data supplied by Dow, the public comments, and additional available data and concludes that the present data base supports the continued listing of phenol, 2,4-dichlorophenol, 2,4,5-trichlorophenol,and pentachlorophenol based on their mammalian and aquatic toxicity, widespread occurrence in the aquatic ecosystem and potential to persist under certain aquatic conditions. Available data also support the continued listing of ethylbenzene because it occurs in the aquatic environment, bioacumulates in man, and has the potential to persist in the aquatic ecosystem.

Discharge of chemicals listed under section 307(a) of the Clean Air Act are subject to the most stringent technological controls representing Best Available Technologies Economically Achievable (BAT). BAT is anticipated to be more costly than technologies resulting from waivers from BAT (granted to industrial dischargers of nonconventional pollutants) or technology for conventional pollutants. The denial of this petition precludes reclassification of the chemicals thereby eliminating the possibility for industrial use of alternative technologies and resultant lessening of economic impact.

FOR FURTHER INFORMATION CONTACT: Jacqueline V. Carr, Criteria and Standards Division (WH-585), Office of Water Planning and Standards, U.S. Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460 (202-245-3036).

SUPPLEMENTARY INFORMATION:

Background

Pursuant to section 307(a) of the Clean Water Act of 1977 (the Act), EPA published a list of toxic pollutants on January 31, 1978 in 43 FR 4109. Section 307 also authorizes the Administrator to add or remove any pollutant from the list. In revising the toxic pollutant list, the Administrator is directed to take into account the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of affected organisms in any waters, the importance of the affected organisms, and the nature and extent of the effect of the pollutant on such organisms.

Listing determinations under Section 337(a) are discretionary. The Act lists a number of factors the Administrator "shall take into account", but allows a weighing of these factors, leaving ample leeway for discretionary action.

On August 11, 1978, Dow Chemical Company, U.S.A. (Dow) requested that ethylbenzene, phenol, 2,4-dichlorophenol, 2,4,5-trichlorophenol, and pentachlorophenol be removed from the toxic pollutant list. Dow claimed that the five chemicals fail to meet the statutory criteria for toxic pollutants under section 307(a)(1). Dow asserts specifically that:

(1) Ethylbenzene, phenol, 2,4,5-trichlorophenol and pentachlorophenol are not persistent in the environment. Removal mechanisms include biodegradation and/or volatilization.

(2) No evidence has been cited for the carcinogenicity, teratogenicity, or mutagenicity of ethylbenzene, 2,4-dichlorophenol, 2,4,5-trichlorophenol and pentachlorophenol, and phenol.

(3) Toxicological findings indicate that ethylbenzene is only moderately toxic to fish and that 2,4-dichlorophenol, and 2,4,5-trichlorophenol have low mammalian toxicities via oral exposure.

Dow also asserted that retention of these five chemicals on the list dilutes the Agency's efforts and diverts attention from more serious environmental issues; introduces unwarranted barriers to the introduction of new products containing the compounds, often resulting in the use of less efficacious or more expensive materials; and results in the needless expenditure of funds by industry and government for expensive monitoring, analysis and reporting.

On November 7, 1979, in 44 FR 6455, the EPA requested public comment on Dow's petition. Ten respondents submitted comments. Three respondents supported the continued listing of ethylbenzene, phenol, 2,4-dichlorophenol, 2,4,5-trichlorophenol and pentachlorophenol as toxic pollutants. One respondent supplied information without any recommendation. The remaining respondents supported specific delistings: three supported the delisting of phenol; two supported the delisting of pentachlorophenol; and one supported the delisting of phenol and ethylbenzene.

Action on the Petition

The EPA concludes that the petition from Dow to delist phenol, 2,4-dichlorophenol, 2,4,5-trichlorophenol, pentachlorophenol and ethylbenzene must be denied because available data indicate that:

(1) Phenol warrants listing because of the combined effects of its high toxicity to aquatic life, its ability to promote the carcinogenicity of weak carcinogens, its widespread occurrence in industrial effluents and the aquatic ecosystem, and its potential to persist under certain environmental conditions.

(2) Pentachlorophenol warrants listing because it is highly toxic to aquatic organisms, bioaccumulates, and is widespread in industrial effluents and in the aquatic ecosystems.

(3) 2,4-Dichlorophenol and 2,4,5-trichlorophenol warrant listing because they are highly toxic to aquatic organisms, they promote the carcinogenicity of other chemicals and they are discharged in point source effluents.

(4) Ethylbenzene warrants listing because it occurs in industrial effluents and the aquatic environment and it bioaccumulates in man any may bind to sediment offering a potential for exposure to benthic organisms. The current toxicity data base for ethylbenzene is insufficient to warrant delisting since there is no assurance that adequate control of this chemical will not be compromised (Cong. Reg. daily ad. S. 19649).

Summary of Aquatic Fate

Persistence/Degradability/Occurrence

The biochemical oxygen demand (BOD) data which Dow supplied as evidence that the chemicals do not persist due to rapid biodegradation were theoretical calculations based on laboratory tests performed under experimental conditions in which oxygen, nutrients and acclimated organisms were in abundance. This situation rarely exists in nature. Furthermore, there is evidence which suggests that the theoretical degradation

rates reported by Dow are significantly higher than those actually observed in nature. Data relevant to each particular compound are summarized below.

Phenol

Dow asserted that phenol is more than 99 percent biodegraded in seven days. However, a report of a 1974 derailment in southern Wisconsin which resulted in significant groundwater contamination by phenol indicated that nineteen months after the spill, phenol still persisted (Delfino and Dube, 1976; Baker, et. al., 1978). The first tests revealed phenol concentrations of 0.21 to 3.2 mg/l in nearby wells. Concentrations in the well water eventually reached a maximum of 1,130 mg/l. These data indicate that the rates of dilution and degradation were very slow, and depends, in part, on the amount of the chemical in the environment and other physico-chemical conditions.

Phenol is highly soluble in water, indicating that exposure to affected organisms is quite likely. The water solubility of phenol ranges from 67,000 mg/l at 16°C to essentially complete miscibility at 66°C (Kirk and Othmer, 1963), suggesting a potential for exposure in excess of acutely toxic levels. It has been detected (but not quantified) in the wastewaters of various industries, in finished drinking water, sediment, and fish (Shackelford and Keith, 1976; U.S. EPA, 1980).

Large amount of the chemical are produced annually. Phenol ranked 38th in production among U.S. chemicals in 1978 (*Chemical & Engineering News*, 1979) with annual production of 2.38 billion pounds (United States International Trade Commission, 1978), so that the likelihood of discharge to the aquatic environment is high. Disposal methods include deepweel injection, incineration, degradation in water and municipal sanitation (NSF, 1975). Deepweel injection is another potential source of contamination of groundwater, and (eventually) of surface water.

2,4-Dichlorophenol and 2,4,5-Trichlorophenol

Few data exist regarding the persistence of chlorinated phenols in the environment. Although microbial biodegradation has been extensively studied, data on other environmental processes are limited. Dow concluded that 2,4-dichlorophenol and 2,4,5-trichlorophenol were rapidly degraded and therefore nonpersistent in the aquatic environment. Dow based its conclusion on theoretical oxygen demand data which showed 2,4-dichlorophenol to be 90 percent degraded at five days with no further degradation by 20 days and 2,4,5-trichlorophenol to be 44 percent degraded at 5 days and only 75 percent degraded at 20 days. Dow's conclusion that 2,4,5-trichlorophenol is rapidly biograded is inconsistent with their definition of rapidly biodegradable chemicals, i.e. those chemicals which are at least 50 percent biodegraded in 5 days. In fact, at 20 days, 25 percent of the 2,4,5-trichlorophenol persisted in Dow sample. Alexander and Aleem (1961) reported that 2,4,5-trichlorophenol was resistant to microbial decomposition. Additional data indicate that 2,4-dichlorophenol is biodegraded but that the rates of microbial degradation are dependent on numerous variables, so that the compound can be expected to persist under certain conditions. The low vapor pressure (1 mm Hg at 53.0°C) and non-volatility of 2,4-dichlorophenol from alkaline solutions (Sax, 1975) would cause it to be only slowly removed from surface water via volatilization. Studies have indicated low sorption of 2,4-dichlorophenol from natural surface waters by various clays (Aly and Faust, 1964). Aly and Faust (1964) examined the dissipation of 2,4-DCP from natural lake waters at a buffered pH of 7. In aerated lake waters, with initial 2,4-DCP concentrations of 100, 500, and 1,000 ug/l, the percentages of 2,4-DCP remaining at 9 days were 0, 0.34, and 46 respectively. By contrast, initial concentrations of 100, 500, and 1,000 ug/l in unaerated and unbuffered waters resulted in percentages of 40, 51.6, and 56, respectively, remaining at 17 days. Aly and Faust concluded that the persistence of chlorophenol would tend to increase at lower pH and under anaerobic conditions that might result from the decomposition of excessive organic matter.

Ingols, et al. (1966) studies the degradation of various chlorophenols by activated sewage sludge and concluded that 2,4-DCP was degraded more rapidly by activated systems with previous exposure to chlorophenols than by by those with no previous exposure to chlorophenols. When activated sludge was exposed to 2,4-DCP at levels of 100 mg/l of sludge, 75 percent of the chemical disappeared in two days, and essentially 100 percent was gone in five days. However, acclimated organisms are not expected to be found in nature.

2,4-dichlorophenol has been detected in municipal and industrial effluents, finished drinking water, and surface waters (Shackelford and Keith, 1976).

Sidewell (1971) verified the presence of 2,4-dichlorophenol in 2,4-dichlorophenoxyacetic acid manufacturing wastes. Over a 3-month period, total chlorophenol content ranged from 68 mg/l of waste to 125 mg/l, with 2,4-dichlorophenol content ranging as high as 86 percent of total.

Trichlorophenol (unspecified isomers) has been found in river water, finished drinking water, chemical plant effluent water and sewage treatment plant effluents in the U.S. (Shackelford & Keith, 1976) indicating environmental persistence. 2,4,5-Trichlorophenol was detected at unspecified concentrations in drinking water (Deinzer et. al., 1975). 2,4,5-Trichlorophenol was found at levels of 16–45 mg/kg in body fat of rainbow trout after experimental exposure to sulphate pulp bleachery effluents diluted 40 times with brackish water (Landner et. al., 1977). No measured bioconcentration factor is available for 2,4,5-trichlorophenol, but data on octanol/water partition coefficients indicate that 2,4,5-trichlorophenol should bioaccumulate to a greater extent than 2,4,5-trichlorophenol, thereby increasing the potential for exposure to consumers of aquatic life. Partition coefficients of 6,000 and 4,900 were reported for 2,4,5- and 2,4,5-trichlorophenol, respectively (U.S. EPA, 1979c).

Pentachlorophenol

Dow asserts that a number of studies indicate that pentachlorophenol does not persist in the environment. Dow reported that Arsenault (1976) summarizes naturally occurring detoxification mechanisms, i.e., biodegradation, degradation by light, methylation, and conjugation with sulfate (detoxified bound form). Dow also stated that Chue and Kirsch (1972) and Etzel and Kirsch (1975) demonstrated the biodegradability of pentachlorophenol in continuous-flow enrichment cultures. Pentachlorophenol concentrations as high as 200 ppm were metabolized as the sole source of organic carbon and energy, the product of metabolism being carbon dioxide (CO_2).

Data available to EPA indicate that pentachlorophenol is persistent in water and in aquatic organisms. Pentachlorophenol has been detected in the effluent waters from various manufacturing and processing plants (Shackelford & Keith, 1976), in rain-, snow- and lake-water, and in creek-water containing industrial discharges (Fountaine et al., 1976). Pentachlorophenol also has been detected in fish, white shark liver, bird eggs anf fish food (Zitko et al., 1974), birds, snails, frogs and fish (Vermeer et

al., 1974; Renberg, 1974), and fish extracts (Tokunaga, 1971).

The log octanol/water partition coefficient of 5.01 (Leo et al., 1971) indicates that pentachlorophenol should be bioaccumulated significantly in the aquatic environment. Several investigations have documented the distribution of pentachlorophenol in the aquatic environment, confirming its potential to bioaccumulate. Rudling (1970) observed a 1,000-fold concentration of the compound in the eel, *Anguilla anguilla*, living in lake water that had been contaminated with a 3 μg/l concentation of pentachlorophenol from pulp mill discharges. Pierce and Victor (1978) studied the fate of pentachlorophenol in a freshwater lake near Hattiesburg, Mississippi, after accidental spills of wood-treating pentachlorophenol-containing wastes in fuel oil. Pentachlorophenol was found to persist in the water and in fish over six months following the spills. Fish were also observed to accumulate several of the degradation products of pentachlorophenol, namely pentachloroanisole and the 2,3,5,6- and 2,3,4,5-tetrachlorophenol isomers. The bioaccumulation of pentachloroanisole is to be expected, based upon its log octanol/water partition coefficient of 5.66 (Tute 1971).

Akitake and Kobayashi (1971) demonstrated that a 72-hour exposure to a sublethal level of pentachlorophenol of 100 μg/l resulted in a 900-fold concentration of the compound in the goldfish, *Carassius auratus*. In another study (Kobayashi and Akitake, 1975) these authors reported a concentration factor of 1,000 after exposure of goldfish for 120 hr. in 0.1 mg/l pentachlorophenol and observed a maximum concentration of 166 μg pentachlorophenol/g body weight in fish exposed to 0.2 mg/l in the water. Lee and Metcalf (1975) studied the fate of radiolabeled pentachlorophenol in a model aquatic ecosystem with a six element food chain and reported it to be ecologically magnified (bioconcentrated) in the mosquito fish, *Gambusia affinis*.

Ethylbenzene

Its vapor pressure and water solubility suggest that volatilization is one mechanism for removal of ethylbenzene from the aquatic environment (U.S. EPA, 1979b; Dow, unpublished). The relative importance of biodegradation in the determination of the fate of ethylbenzene in the aquatic environment is not clear (U.S. EPA, 1979b). Dow's data suggest that only forty-five percent of their ethylbenzene sample was biodegraded after 20 days (Dow, unpublished). Although no specific environmental sorption studies were found in the reviewed literature, the log octanol/water partition coefficient of 3.15 (Tute 1971) suggests that sorption processes may be significant for ethylbenzene. The extent to which this adsorption will interfere with volatilization has not been determined.

Ethylbenzene has been detected at several geographical locations in finished drinking water, industrial effluents, surface waters and well waters (Burnham, et al., 1972; Shackelford and Keith 1976). In a survey of water contamination present in the drinking water of ten cities in the United States, ethylbenzene was detected but not quantified in six of ten samples (U.S. EPA, 1975). Recent studies of the coastal waters of the Gulf of Mexico have shown that aromatic hydrocarbons comprise 80–90% of the total dissolved hydrocarbons at most sampling sites. Total concentrations of volatile aromatic such as ethylbenzene range from 0.6 to 4.5 ng/liter (Sauer, 1978).

Ethylbenzene has been shown to persist in man for days after exposure (Wolff, et al. 1977). It is present in the respiratory tract (Conkle, et al. 1975), umbilical cord and maternal blood (Dowty, et al. 1976) and subcutaneous fat (Wolff, et al. 1977) of exposed humans.

Summary of Toxicological Effects

Phenol

Aquatic Life Toxicology

Toxicity data for phenol indicate clearly that the compound is sufficiently toxic to justify continued listing under section 307(a). An EPA report cites acute toxicity data for phenol in 13 species of freshwater fish and 15 species of freshwater invertebrates (U.S. EPA, 1979a). All of these organisms are important to the aquatic food chain and most reside in U.S. waters. Rainbow trout, the fish species most sensitive to phenol, had LC 50 concentrations as low as 5 mg/l (McLeary, 1976). These results are confirmed by data submitted by Dow from a study in its laboratories which listed an LC 50 for phenol in rainbow trout of 4.97 mg/l (Brosier, 1974). Phenol was fatal to rainbow trout at 7.3 mg/l in 2 hours and at 6.5 mg/l in 12 hours; at these concentrations there was rapid damage to gills and severe pathology of other tissues (Mitrovic, et al. 1968). Pathologic changes in gills and in fish tissues were found at phenol concentrations in the range of 20 to 70 μg/l (Reichenbach-Klinke, 1965).

The one available acute LC 50 value for phenol in marine fish was 6.0 mg/l in the mountain bass, *Kuhlia sandvicensis*. (Nunogowa et al., 1970). Acute LC 50 values for phenol in marine invertebrates were 58 mg/l in the eastern oyster, *Crassostrea virginica* and 52 mg/l in the hard clam, *Mercenaria mercenaria*. Decreased egg development in the oyster, *Crassostrea virginica*, has been found to occur at phenol levels of 2 mg/l (Davis and Hidu, 1969). Various environmental conditions will increase the toxicity of phenol. Lower dissolved oxygen concentrations, increased salinity, and increased temperature all enhance the toxicity of phenol (EIFAC, 1973).

Mammalian and Human Toxicology

Regardless of the route of administration of phenol, the signs and/or symptoms of acute toxicity in man and experimental animals are similar. The predominant acute action of a toxic dose of phenol in man appears to be on the central nervous system, leading to sudden collapse and unconsciousness. In some mammalian species, these effects are preceded by muscular twitchings and severe convulsions. The approximate lethal doses (LD_{50}) for phenol in various species exposed by oral and dermal routes include oral doses of 0.1 g/kg, 0.5 g/kg, 0.4 to 0.6 g/kg and 0.34 to 0.53 g/kg in the cat, dog, rabbit and rat, respectively. The LD_{50} of phenol in rats via the dermal route of exposure was 0.67 to 2.5 g/kg (U.S. EPA, 1980). It is difficult to estimate the LD_{50} for oral exposure to phenol for man, even though phenol has a long history of use in suicidal attempts. Oral doses of phenol estimated to be lethal to man range from 0.14 g/kg to 0.43 g/kg (U.S. EPA, 1980b).

The symptoms reported by humans who had consumed phenol-contaminated groundwater for approximately one month (Baker, et. al. 1978) included diarrhea, mouth sores and burning mouth. The daily dose of phenol consumed was estimated to be 10 to 240 mg.

Heller and Pursell (1938) fed phenol to rats in their drinking water concentrations ranging from 100 to 12,000 mg/l over several generations. Impairment of growth was observed at concentrations between 7,000 and 12,000 mg/l.

In an unpublished study by Dow Chemical Company (1976), rats were fed by gavage 20 daily doses of 0.1 g phenol/kg body weight. These rats showed slight liver and kidney effects, while rats which received 20 daily doses of 0.05 or 0.01 g phenol/kg body weight demonstrated none of those effects. In a subsequent series of tests, rats received 135 doses of 0.1 or 0.05 g phenol/kg body

weight by gavage over a 6-month period. The growth of the rats receiving the phenol was comparable to that of the controls. Very slight liver changes and slight to moderate kidney damage were seen in the rats which had received 0.1 g phenol/kg. The feeding of 0.05 g phenol/kg resulted only in slight kidney damage.

In a 41-day feeding study, Kociba, et al. (1976) fed 125 mg phenylsalicylate/kg/day to beagle dogs. Since phenylsalicylate is metabolized to phenol, this resulted in urinary levels up to 6,144 mg/l. This high level of phenol excretion was not associated with any discernible ill effects in the dogs. Repeated exposures to phenol at high concentrations have resulted in chronic liver damage in man (Merliss, 1972).

Phenol has been reported to be mutagenic (without metabolic activation) *vitro* to *Drosphila* gonadal tissue (Hadorn and Niggli, 1946), and in *Escherichia coli* B/sd-4 at concentrations of 0.01 to 0.2 percent and bacterial survival rates were 0.5 to 1.7 percent, respectively (Demerec et. al., 1951). Phenol was not mutagenic (with or without metabolic activation) in six mutant strains of *Salmonella typhimurium* (Cotruvo et. al., 1970 and *Neurospora* (Dickey et. al., 1949).

Salaman and Glendenning (1957), Boutwell and Bosch (1959), and Van Duuren et. al. (1968) have shown that phenol in acetone or benzene promotes skin cancer in several strains of mice pretreated with dimethylbenz(a)anthracene or benzo(a)pyrene.

2,4-Dichlorophenol, 2,4,5-Trichlorophenol and Pentachlorophenol

Aquatic Life Toxicology

There are few data on the acute toxicity of 2,4-dichlorophenol, 2,4,5-trichlorophenol, and pentachlorophenol and no chronic toxicity data are available for aquatic organisms.

Two studies on the acute toxicity of 2,4-dichlorophenol to freshwater fish are available. Ninety-six hour LC 50 values of 0.38 mg/l, and 2.02 mg/l were reported for the rainbow trout, *Salmo gairdneri* and bluegill *Lepomis macrochirus*, respectively (Brosier 1974; U.S. EPA, 1979d). Two studies on *Daphnia magna* report 48-hour LC 50 values of 2.6 mg/l (Kopperman, et. al. 1974; U.S. EPA, 1978). There are no data available for the acute toxicity of 2,4-dichlorophenol to marine organisms.

Freshwater acute LC 50 values reported for 2,4,5-trichlorophenol are 0.45 mg/l for the bluegill, *Lepomis machrochirus*, 2.7 mg/l for a cladoceran, *Daphnia magna* and EC 50 values of 1.2 mg/l and 1.6 mg/l for the plants *Selenastrum capricornutum* and *Lemno minor*, respectively (U.S. EPA, 1978; Blackman, et. al., 1955). The lowest concentrations of 2,4,5-trichlorophenol reported to kill 50% or more of rainbow trout, *Salmo gairdneri* were 1 mg/l at 48 hours (Shumway and Palensky, 1973) and 0.30 mg/l at 96 hours (Brosier, 1974).

Available saltwater acute LC 50 studies of 2,4,5-trichlorophenol report values of 1.7 mg/l in the sheephead minnow, *Cyprinodon variegatus* and 3.8 mg/l in the mysid shrimp, *Mysidopsis bahia* (U.S. EPA, 1978).

Studies of the acute toxicity of pentachlorophenol to freshwater organisms report LC 50 values of 46 ug/l for rainbow trout, *Salmo gairdneri* (Brosier, 1974) and 63 ug/l for sockeye salmon, *Oncorhynchus nerka* (Webb and Brett, 1973). Sublethal effects were observed on the growth rate of sockeye salmon at a concentration of 1.74 ug/l.

Mammalian and Human Toxicology

Relatively few studies of the acute or subacute toxicity of 2,4-dichlorophenol have been reported. Acute oral LD_{50} values reported are 580–4000 mg/kg in the rat and 1600 mg/kg in the mouse (Deichman, 1943; Kobayaski, et. al. 1972).

The mechanism of toxic action for 2,4-dichlorophenol in mammilian systems *in vivo* has not been well defined. Limited *in vitro* studies indicate 2,4-dichlorophenol inhibits oxidative phosphorylation in rat liver mitochondria and rat brain homogenates (Farquharson, et al. 1958; Mitsuda, et al. 1963). A concentration of 4.2×10^{-5} M 2,4-DCP inhibited oxidative phosphorylation by 50 percent in rat liver mitochondria.

The clinical signs of acute poisoning with 2,4,5-trichlorophenol include decreased activity and motor weakness (Deichman, 1943). Oral LD_{50} values for 2,4,5-trichlorophenol in rats have been reported as 820 mg/kg (in fuel oil) and 2960 mg/kg (in corn oil) (Deichman and McCollister et al., 1961).

Rabbits given 28 daily oral doses of 2,4,5-trichlorophenol in 5 percent gum acacia solution exhibited no effects at 1 or 10 mg/kg but experienced kidney and liver lesions at 100–500 mg/kg (McCollister, et al., 1961).

Rats fed dietery levels of 2,4,5-trichlorophenol of 100, 300, 1000, 3000, or 10,000 mg/kg in feed for 98 days exhibited no effects from ingesting up to 1000 mg/kg. Dietary levels of 3000 and 10,000 mg/kg produced degenerative changes in the kidney and liver, which were considered to be reversible (McCollister et al., 1961). The mechanism of action involves the uncoupling of oxidative phosphorylation (Mitsuda, et al., 1963).

McCollister, et al. (1961) reported on skin irritation and sensitization studies in 200 humans. A 5 percent solution of 2,4,5-trichlorophenol in sesame oil was mildly irritating in a few individuals upon prolonged contact, but there was no evidence of sensitization.

The oral lethal dose of pentachlorophenol in several species of animals ranges from 70 to 300 mg/kg (Bevenue and Beckman, 1967; Diechmann, et al., 1942). The mechanism of action involves the uncoupling of oxidative phosphorylation (Weinbach and Garbus, 1965). Fuel oil-type solvents reduce the lethal dose, while aqueous solutions of the sodium salt are less toxic.

Pentachlorophenol exposure has resulted in death in man through occupational accidental exposures and suicide attempts (Gordon, 1956; Bergner, et al. 1965; Armstrong, et al. 1969). Lesions following fatal exposures include inflamed gastric mucosa, pulmonary congestion, pulmonary edema, fatty metamorphosis of the lever, and degeneration of renal tubules and myocardium.

Symptoms in chronic toxicity, in general, are similar to those seen in acute intoxications. Chronic intoxications result from relatively high levels of continuous exposure. Symptoms in nonfatal chronic exposures include muscle weakness, headache, anorexia, abdominal pain, and weight loss in addition to skin, eye, and respiratory tract irritation.

Pentachlorophenol solutions can cause skin irritation. Immersion of hands for 10 minutes in a 0.4 percent solution of pentachlorophenol cause pain and inflammation (Bevenue, et al. 1967a).

One unique poisoning episode involved babies wearing diapers rinsed in an antimicrobial laundry neutralizer containing sodium pentachlorophenate. Babies wearing the diapers an average of eight days became ill and some died. Some were less severely affected and recovered spontaneously (Armstrong, et al. 1969; Robson, et al. 1969). Six of the nine severely affected had hepatomegaly and two of the nine had splenomegaly in addition to profuse sweating hyperpyrexia.

Goldstein, et al. (1977) fed rats 20, 100, or 500 ppm technical and pure pentachlorophenol (equivalent to 1.2, 6, and 30 mg/kg, respectively) for eight months. At 20 ppm, liver aryl hydrocarbon hydroxylase and glucuronyl transferase were increased in female rats fed technical pentachlorophenol as compared to

controls fed pure pentachlorophenol. At 100 ppm technical pentachlorophenol increased excretion of uroporphyrin and delta-aminolevulinic acid. Feeding 20 or 100 ppm of pure pentachlorophenol had no effect. Body weight gain was reduced at 500 ppm with both types of pentachlorophenol. The no-observable-adverse-effect-level (NOAEL) for pure pentachlorophenol from this study was 6 mg/kg (i.e., the 100 ppm diet group).

Available data do not permit an evaluation of the carcinogenicity of 2,4-dichlorophenol, 2,4,5-trichlorophenol, and pentachlorophenol. The primary carcinogenicity of 2,4-dichlorophenols and 2,4,5-trichlorophenol could not be evaluated from a single study by Boutwell and Bosch (1959) which indicated that 2,4-dichlorophenol and 2,4,5-trichlorophenol promote the tumorigenicity of dimethylbenzanthracene in mice. The report of Boutwell and Bosch (1959) is the only one found that deals with the tumorigenicity of 2,4-dichlorophenol and 2,4,5-trichlorophenol. However, since the study was designed primarily to detect promoting activity, the effects of the compounds as primary carcinogens could not be evaluated (there were no animals treated with 2,4-dichlorophenol or 2,4,5-trichlorophenol alone and length of exposure was 16 weeks rather than full life). The National Cancer Institute (NCI) is scheduling a study of the carcinogenicity of 2,4-dichlorophenol for February 1981. No decision has been made to test 2,4,5-trichlorophenol (NCI, personal communication).

Several studies were found which addressed the mutagenicity of 2,4-dichlorophenol 2,4,5-trichlorophenol and pentachlorophenol. Amer and Ali (1968, 1969) reported some effects of 2,4-dichlorophenol, 2,4,5-trichlorophenol and pentachlorophenol on chromosomes which affected mitosis of *Vicia faba*. Rasanen, et al. (1977) tested 2,4,5-trichlorophenol for mutagenicity using the *Salmonella*-mammalian microsome Ames test with both the nonactivated and activated systems and reported it as nonmutagenic under both conditions. Pentachlorophenol was not mutagenic in *Drosophila melangaster* (Vogel & Chandler, 1974), the mouse host-medicated assay or *in vitro* spot tests (Buselmaier, et al., 1973) and *in vitro* tests with *Salmonella typhimurium* Anderson 35 al., 1972).

No studies are available on the teratogenicity of 2,4-dichlorophenol and 2,4,5-trichlorophenol. Pentachlorophenol has been reported to be nonteratogenic but embryotoxic in rats (Schwetz et al., 1974) and hamsters (Hinkle, 1973). Hinkle (1973) found fetal deaths and/or resorptions in three of six test groups using Golden Syrian hamsters. Dose-response data and statistical analysis were not provided. The dose range was from 1.25 to 20 mg/kg.

Schwetz, et al. (1974) provided more complete data from a rat study using purified and commercial grade pentachlorophenol. Dosages ranged from 5 to 50 mg/kg daily and exposure was during days 6 to 15 of gestation. The NOAEL based on incidence of fetal resorption was 5.8 mg/kg (adjusted dose to provide 5 mg pentachlorophenol/kg) for commercial and 15 mg/kg for purified grade pentachlorophenol. At 50 mg purified pentachlorophenol/kg fetal resorption was 100 percent. The NOAEL level for reducing fetal body weight was 15 mg/kg for both grades. Fetal anomalies consisting of subcutaneous edema and dilated ureters were observed in soft tissues at doses of 15 mg/kg or above for both grades of pentachlorophenol. The NOAEL for soft tissue anomalies was 5 mg commercial grade pentachlorophenol/kg/day. Delayed ossification of the skull was noted at 5 mg/kg with purified pentachlorophenol. The NOAEL for skeletal anomalies with commercial PCP was 5.8 mg/kg. At higher dosages, skeletal anomalies consisted of lumbar spurs, supernumerary or fused ribs, or supernumerary, abnormally shaped, missing, or unfused centers of ossification of vertebrae or sternebrae. These effects were mor readily produced when dosing occurred on days 8–11 rather than days 12–15 of gestation. The authors considered the effects by PCP to be evidence of embryo-toxicity and fetotoxicity, not teratogenicity (U.S. EPA, 1980 b).

Ethylbenzene

Aquatic Life Toxicology

Reported acute LC–50 values for ethylbenzene in freshwater vertebrates and invertebrates were generally between 30 and 200 mg/l (Pickering and Henderson, 1966; U.S. EPA, 1978). One chronic test indicated that effects on the embryo and larval stages of the fathead minnow would occur at concentrations greater than 440 µg/l. No chronic tests have been conducted with saltwater organisms and ethylbenzene and no definite effect level has been determined for freshwater organisms.

Mammalian and Human Health Effects

There have been no investigations of the mutagenicity, carcinogenicity or teratogenicity of ethylbenzene. There are also no recent reports of the chronic toxicity of ethylbenzene from full-time studies in mammals. Wolf et al (1956) reported that ethylbenzene had low acute oral toxicity in rats exposed for 6 months to the chemical. Ethylbenzene caused slight histopathological changes including cloudy swelling of the parenchymal cells of the liver and cloudy swelling of the tubular epithelium of the kidney. The significance of these effects was not explained.

In man and in animals, ethylbenzene is an irritant of mucous membranes. It is this response which forms the basis for the current Threshold Limit Value (TLV). The U.S. EPA recommended carcinogenicity testing for ethylbenzene in 1976, but test results are not yet available. Similarly, no data exist for mutagenicity and teratogenicity of ethylbenzene. The potential adverse human health effects following exposure to ethylbenzene were stated (40 FR 1910.1034) to be:

1) kidney disease,

Ethylbenzene is not nephrotoxic. Concern is expressed because the kidney is the primary route of excretion of ethylbenzene and its metabolites.

2) liver disease,

Ethylbenzene is not hepatotoxic. Since ethylbenzene is metabolized by the liver, concern is expressed for this tissue.

3) chronic respiratory disease.

Exacerbation of pulmonary pathology might occur following exposure to ethylbenzene. Individuals with impaired pulmonary function might be at risk.

4) skin disease,

Ethylbenzene is a defatting agent and may cause dermatitis following prolonged exposure. Individuals with pre-existing skin problems may be more sensitive to ethylbenzene (U.S. EPA, 1980 c)

Rationale for Denial of Dow Petition

As a result of its review the EPA concludes that available data support the listing of phenol, 2,4-dicholorophenol, 2,4,5-trichlorophenol, pentachlorophenol, and ethylbenzene.

1. Phenol warrants listing because of the combined effects of high toxicity to aquatic life, its ability to promote the carcinogenicity of weak carcinogens, its widespread occurrence in industrial effluents and the aquatic ecosystem, and its potential to persist under certain environmental conditions.

2. Pentachlorophenol warrants listing because it is highly toxic to aquatic organisms, bioaccumulates, and is

widespread in industrial effluents and in the aquatic ecosystem.

3. 2,4-Dichlorophenol and 2,4,5-trichlorophenol warrant listing because they are highly toxic to aquatic organisms, they promote the carcinogenicity of other chemicals and they are discharged in point source effluents.

4. Ethylbenzene warrants listing because it occurs in industrial effluents and the aquatic environment and it bioaccumulates in man and may bind to sediment. The current toxicity data base for ethylbenzene is sufficient to warrant delisting since there is no assurance that adequate control of this chemical will not be compromised (Cong. Reg. daily ad. S. 19649).

Dated: December 24, 1980.

Douglas M. Costle,

Administrator.

References

1. Aly, O.M. and S.D. Faust. 1964. Studies on the fate of 2,4-D and ester derivatives in natural surface waters. Jour. Agric. Food Chem. 12: 541.

2. Anderson, K.J., et al. 1972. Evaluation of herbicides for possible mutagenic properties. Jour. Agric. Food Chem. 20: 649.

3. Akitake, H. and K. Kobayashi. 1975. Metabolism of chlorophenols in fish. III. Isolation and identification of a conjugated PCP (pentachlorophenolate) screted by goldfish. Bull. Jap. Soc. Sci. Fish 41(3): 321–327.

4. Alexander, M., and M.I.H. Aleem. 1961. Effect of chemical structure on microbial decomposition of aromatic herbicides. Jour. Agric. Food Chem. 9: 44.

5. Aly, O.M., and S.D. Faust. 1964. Studies on the fate of 2,4-D and ester derivatives in natural surface waters. Jour. Agric. Food Chem. 12: 541.

6. Amer, S.M., and E.M. Ali. 1968. Cytological effects of pesticides II. Meiotic effects of some phenols. Cytologia 33: 21.

7. Armstrong, R.W., et al. 1969. Pentachlorophenol poisoning in a nursery for newborn infants. II. Epidemiologic and toxicologic studies. Jour. Pediatr. 75: 317.

8. Arsenault, R.D. 1976. Pentachlorophenol and Contained Chlorinated Dibenzodioxins in the Environment. Proc. Am. Wood-Preservers' Assoc. 75: 122–148.

9. Amer, S.M., and E.M. Ali. 1969. Cytological effects of pesticides IV. Mitotic effects of some phenols. Cytologia 34: 533.

10. Baker, E.L., et al. 1978. Phenol poisoning due to contaminated drinking water. Arch. Environ. Health 33: 89.

11. Bergner, H., et al. 1965. Industrial pentachlorophenol poisoning in Winnipeg. Can. Med. Assoc. Jour. 92: 448.

12. Bevenue, A. and H. Beckman. 1967. Pentachlorophenol: A discussion of its properties and its occurence as a residue in human and animal tissues. Residue Rev. 19: 83.

13. Benvenue, A., et al. 1967a. A note on the effects of a temporary exposure of an individual to pentachloropenol. Bull. Environ. Contam. Toxicol. 2: 293.

14. Blackman, G.E. et al. 1955. The physiological activity of substituted pehnols. I. Relationships between chemical structure and physiological activity. Assoc. Biochem. Biophys. 54: 45.

15. Boutwell, R.K. and D.K. Bosch. 1959. The tumor-promoting action of phenol and related compounds for mouse skin. Cancer Res. 19: 413–424. 1959.

16. Brosier, J.S. 1974. Dynamic acute toxicity of selected phenol and benzene compounds to rainbow trout, *Salmo gairdneri*, Richardson. Unpublished Dow Report WC 74016. CRI No. 74682.

17. Burnham, A.K., et al. 1972. Identification and estimation of neutral organic contaminants in potable water. Anal. Chem. 44: 139.

18. Buselmaier, et al. 1973. Comparative investigations of the mutagenicity of pesticides in mammalian test systems. Mutat. Res. 21: 25.

19. Chu, J.P., and E.J. Kirsch. 1972. Metabolism of Pentachlorophenol by an Axenic Bacterial Culture. Appl. Microbiol. 23, 5: 1033–1035.

20. Conkle, J.P., et al. 1975. Trace composition of human respiratory gas. Arch. Environ. Health 30: 290.

21. Cotruvo, J.A., et al. 1970. Investigation of mutagenic effects of products of ozonation reactions in water. Ann N.Y. Acad. Sci. 298: 124–140.

22. Davis, H.C. and H. Hidu. 1969. Effects of pesticides on embryonic development of clams and oysters and on survival and growth of the larvae. Fish. Bull. 67: 293.

23. Deichmann, W., et al. 1942. Acute and chronic effects of pentachlorophenol and sodium pentacholorphenate upon experimentanl animals. Jour. Pharmacol. Exp. Therap. 76: 104.

24. Deichmann, W.B., 1943. The toxicity of chlorophenols for rats. Fed. Proc. 2: 76.

25. Deichmann, W.B. and E. G. Mergard. 1948. Comparative evaluation of methods employed to express the degree of toxicity of a compound. Jour. Ind. Hyg. Toxicol. 30: 373.

26. Deinzer, M., et al. 1975. Trace organic contaminants in drinking water; their concentration by reverse osmosis. Water Res., 9: 799–805.

27. Delfino, J.J., and D.J. Dube. 1976. Persistent contamination of ground water by phenol. Jour. Eviron. Sci. Health A11 345.

28. Demerec, M., et al. 1951. A survey of chemicals for mutagenic action of *E. coli*. Amer. Natur. 85: 119.d. Sci. 35: 581.

29. Dickey, F.H., et al. 1949. The role of organic peroxides in the induction of mutations. Proc. Natl. Acad. Sci. 35: 581.

30. Dow (unpublished). Data to support petition.

31. Dow Chemical Co. 1976. References and literature review pertaining to toxicological properties of phenol. Toxicol. Res. Lab. (Unpubl. Manuscript)

32. Dowty, B.J., et al. 1976. The transplacental migration and accumulation in blood of volatile organic constituents. Pediatrics Res. 10: 696.

33. Etzel, J.E., and E.J. Kirsch. 1975. Biological Treatment of Contrived and Industrial Wastewater Containing Pentachlorophenol. Dev.e Ind. Microbiol. 16: 287–295.

34. European Inalnd Fisheries Advisory Commission (EIFAC). 1973. Water Quality Criteria for European fishwater fish. Report on monohydric phenols and inland fisheries. Water Res. 7: 929.

35. Farquharson, M.E., et al. 1958. The biological action of chlorophenols. Br. Jour. Pharmacol. 13: 20.

36. Fountaine, J.E., et al. 1976. Some observations regarding pentachlorophenol levels in Haverford Township, Pennsylvania. Water Res. 10: 185–188.

37. Goldstein, J.A., et al. 1977. Effects of pentachlorophenol on hepatic drug-metabolizing enzymes and porphyria related to contamination with chlorinated dibenzo-p-dioxins and dibenzofurans. Biochem. Pharmacol. 26: 1549.

38. Gordon, D. 1966. How dangerous is pentachlorophenol. Med. Jour. Aust. 2: 485.

39. Hadorn, E., and H. Niggli. 1946. Mutations in Drosophila after chemical treatment of gonads *in vitro*. Nature 157: 162.

40. Hansch, C. and Leo, A.J. Substituent Constant for Correlation Analysis in Chemistry and Biology, 1979. Wiley, N.Y. 339 pages.

41. Heller, V.G. and L. Pursell. 1938. Phenol-contaminated waters and their physiological action. Jour. Pharmacol. Exp. Ther. 63: 99.

42. Hinkle, D.K. 1973. Fetotoxic effects of pentachlorophenol in the Golden Syrian Hamster. Toxicol. Appl. Pharmacol. 25: 455 (Abst).

43. Ingols, R.S., et al. 1966. Biological activity of halophenols. Jour. Water Pollut. Control Fed. 38: 629.

44. Kirk, R.E. and D.F. Othmer. 1963. Kirk-Othmer encyclopedia of chemical technology. 2nd ed. John Wiley and Sons, Inc., New York.

45. Kobayashi, S., et al. 1972. Chronic toxicity of 2,4-dichlorophenol in mice. Jour. Med. Soc. Toho Univ., Japan. 19: 356.

46. Kobayashi K., and H. Akitake. 1975. Studies on the metabolism of chlorophenols in fish. I. Absorption and excretion of PCPC by goldfish. Bull. Jap. Soc. Sci. Fish. 41: 87.

47. Kociba, R.J., et al. 1976. Elevated urinary phenol levels in beagle dogs treated with salol. A. Ind. Hyg. Jour. 37: 163.

48. Kopperman, H.L., et al. 1974. Aqueous chlorination and ozonation studies. I. Structure-toxicity correlations of phenolic compounds to *Daphnia magna*. Chem. Biol. Interact. 9: 245.

49. Landner, L., et al. 1977. Bioaccumulation in fish of chlorinated phenols from kraft pulp mill bleachery effluents. Bull. Environ. Contam. Toxicol. 18: 663–673.

50. Leo et al., 1971. Partition coefficients and their uses. Chem. Rev. 7: 525–616.

51. Lu, P.Y. and R.L. Metcalf. 1975. Environmental fate and biodegradability of benzene derivatives as studied in a model aquatic system. Environ. Health Perspect. 10: 269–284.

52. McCollister, D.D., et al. 1961. Toxicologic information on 2,4,5-trichlorophenol. Toxicol. Appl. Pharmacol. 3: 63.

53. McLeary, D.J. 1976. Rapid method for measuring acute toxicity of pulpmill effluents and other toxicants to salmonid fish at ambient room temperature. Jour. Fish. Res. Board Can. 33: 1303.

54. Merliss, R.R. 1972. Phenol moras. Mus. Jour. Occup. Med. 14: 55.

55. Mitsuda, H., et al. 1963. Effect of chlorophenol analogues on the oxidative phosphorylation in rat liver mitochondria. Agric. Biol. Chem. 27: 366.

56. Mitrovic, V.A., et al. 1968. Some pathological effects of subacute and acute poisoning of rainbow trout by phenol in hard water. Water Res. 2: 249.

57. National Cancer Institute (NCI), personal communication with NCI Technical Information Service.

58. National Science Foundation (NSF) 1975. Final Report of NSF Workshop Panel to Select Organic Compounds Hazardous to the Environment.

59. Nunogawa, J.N., et al. 1970. The relative toxicities of selected chemicals to several species of tropical fish. Adv. Water Pollut. Res., Proc. 5th Int. Conf.

60. Pickering, Q.H., and C. Henderson. 1966. Acute toxicity of some important petrochemicals to fish. Jour. Water Pollut. Control Fed. 38: 1419.

61. Pierce, R. and D. Victor, 1978. The fate of pentachlorophenol in an aquatic ecosystem. pp. 41–52. In K.R. Rao (ed.) Pentachlorophenol: Chemistry, Pharmacology and Environmental Toxicology. Plenum Press, N.Y. 402 p.

62. Rasanen, L., et al. 1977. The mutagenicity of MCPA and its soil metabolites, chlorinated phenols, catechols and some widely used slimicides in Finland. Bull. Environ. Contam. Toxicol. 18: 565.

63. Reichenbach-Klinke, H. 1965. Der phenolgeholt des wasser in seiner aus werkung auf den fischorgalsmus. Arch. Fischwiss 16: 1.

64. Renberg, L. 1974. Ion exchange technique for the determination of chlorinated phenols and phenoxyacids in organic tissue, soil and water. *Anal. Chem.*, 46: 459.

65. Robson, A.M., et al. 1969. Pentachlorophenol poisoning in a nursery for newborn infants. I. Clinical features and treatment. Jour. Pediatr. 75: 309.

66. Rudling, L. 1970. Determination of pentachlorophenol in organic tissues and water. Water Res. 4: 533–537.

67. Salaman, M. and O. Glendenning. 1957. Tumor promotion in mouse skin by sclerosing agents. Br. Jour. Cancer 11: 434.

68. Sauer, T. et al. 1978. Volatile liquid hydrocarbons in the surface waters of the Gulf of Mexico. Marine Chemistry. 7: 1–16.

69. Sax, N.I. 1975. Dangerous properties of industrial materials. 4th ed. Van Nostrand Reinhold Co., New York.

70. Schwetz, B.A. et al. 1974. The effect of purified and commercial grade pentachlorophenol on rat embroyal and fetal development. Toxicol. Appl. Pharmacol. 28: 151.

71. Schwetz, B.A., et al. 1978. Results of Two-year Toxicity and Reproduction Studies on Pentachlorophenol in Rats. *In:* K. Ranga Rao (ed) Pentachlorophenol: Chemistry, Pharmacology, and Environmental Toxicology. Plenum Press, New York.

72. Shakelford, W.M., and L.H. Keith. 1976. Frequency of organic compounds identified in water. EPA 600/4–76–062. U.S. Environ. Prot. Agency.

73. Shumway, D. and J. Palensky, 1973. Impairment of flavor of fish by water pollutants. EPA–R3–73–010 U.S. Environ. Prot. Agency.

74. Sidewell, A.E. 1971. Biological treatment of chlorophenolic wastes. Water Pollut. Control Res. Ser. 12130 EGK U.S. Environ. Prot. Agency.

75. Sidewell, V.D., et al. 1974. Composition of the edible portion of raw (fresh or frozen) crustaceans, finfish, and moluska. Protein, fat, moisture, ash, carbohydrate, energy value, and cholesterol. Mar. Fish. Rev. 36: 21.

76. Tokunga, S. (1971) Identification of poisonous substances in dead fish. II. Detection and determination of pentachlorophenol from fish extract (Japan) *Kogaku Keisotsu Kenkyusho Hokoku 24* 138–146 (chem. Abst., 77, 18157f).

77. United States International Trade Commission, *Scientific Organic Chemicals*—United States Production and Sales, 1976, USITC Publication 833, U.S. Government Printing Office, Washington, D.C., 1977.

78. U.S. EPA. 1975. Preliminary assessment of suspected carcinogens in drinking water. U.S. Off. Tox. Subst. GPO 757–140/6639. Environ. Prot. Agency.

79. U.S. EPA. 1978. In-depth studies on health and environmental impacts of selected water pollutants. U.S. Environ. Prot. Agency. Contract No. 68–01–4646.

80. U.S. EPA. 1979a. Water Quality Criteria Document—Phenol (44 FR 43688).

81. U.S. EPA. 1979b. Water-related Environmental Fate of 129 Priority Pollutants. EPA–440/4–79–029.

82. U.S. EPA. 1979c. Water Quality Criteria Document—Chlorinated Phenols (44 FR 43663).

83. U.S. EPA. 1979d. Water Quality Criteria Document—2,4-Dichlorophenol (44 FR 15950).

84. U.S. EPA. 1980a. Personal communication. Monitoring and Data Support Division. Storet monitoring data.

85. U.S. EPA. 1980b. Ambient Water Quality Criteria for Phenol.

86. U.S. EPA. 1980c. Ambient Water Quality Criteria for Ethylbenzene.

87. Van Duuren, B.L., et. al. 1968. Initiators and promotors in tobacco carcinogenesis. National Cancer Institute Monograph 28. Toward a Less Harmful Cigarette. U.S. Department of Health, Education, and Welfare, Public Health Service, National Cancer Institute, Bethesda Md. pp. 173–180.

88. Vermeer, K., et. al. (1974) Pesticide effects on fishes and birds in rice fields of Surinam, South America. *Environ. Pollut., 7,* 217–236.

89. Vogel, E. and J. Chandler. 1974 Mutagenicity testing of cyclomate and some pesticides in *Drosphila melanogaster.* Experientia 30: 621.

90. Webb, P. and J. Brett 1973. Effects of sublethal concentrations of sodium pentachlorophenate on growth rate, food conversion efficiency and swimming performance in underyearling sockeye salmon (*Oncorhynchus nerka*). Jour. Fish Res. Board Con. 30: 409.

91. Wolf, M.A., et al. 1956. Toxicological studies of certain alkylated benzenes and benzene. Arch. Ind. Health 14: 387.

92. Wolff, M.S., et al. 1977. Styrene and related hydrocarbons subcutaneous fat from polymerization workers. Jour. Toxicol. Environ Health 2: 997.

93. Zitko, V., et al. 1974. Determination of pentachlorophenol and chlorobiphenyl in biological samples Bull. Environ. Contam. Toxicol. 12: 649–653.

[FR Doc. 81–176 Filed 1–7–81; 8:45 am]

BILLING CODE 6560–29–M

[WH-FRL 1701-7]

Proposed Denial of a Dow Chemical Company Petition To Remove Monochlorophenyl Phenyl Ether From the Clean Water Act Section 307(a)(1) Toxic Pollutant List

AGENCY: Environmental Protection Agency.

ACTION: Proposed denial of a petition to remove monochlorophenyl phenyl ether (ClDPO) from the class of compounds, haloethers, on the toxic pollutant list under section 307(a)(1) of the Clean Water Act, as amended, 33 U.S.C. 1317(a).

SUMMARY: This action notices receipt of a petition from Dow Chemical, USA, to remove monochlorophenyl phenyl ether, hereafter referred to as ClDPO, from the toxic pollutant list. It addresses the petition's contentions, discusses data submitted by Dow in support of the petition, reviews additional information available to the Agency regarding this chemical, and affirms that ClDPO be retained on the toxic pollutant list. Dischargers of chemicals listed under section 307(a) of the Clean Air Act are subject to the most stringent technological controls representing Best Available Technology Economically Achievable (BAT). BAT is anticipated to be more costly than technologies resulting from waivers from BAT (granted to industrial dischargers of nonconventional pollutants) or technologies representing BCT (control technology for conventional pollutants. The denial of this petition precludes reclassification of the chemcial thereby eliminating the possibility for industrial use of alternative technologies and resultant lessening of economic impact.

DATES: Public comments on this proposed denial must be submitted on or before March 9, 1981, 1981, to Mr. Joseph A. Krivak at the address listed below.

ADDRESS: Criteria and Standards Division (WH–585), Office of Water Regulations & Standards, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph A. Krivak, Director (202–755–0100).

SUPPLEMENTARY INFORMATION: Section 307(a)(1) of the Clean Water Act requires EPA to publish a list of toxic

pollutants and also authorizes the Administrator to add or remove substances from this list. These determinations are to be based upon the following statutory standard:

> The Administrator, in publishing any revised list, including the addition or removal of any pollutant from such list, shall take into account the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of the affected organisms in any waters, the importance of the affected organisms, and the nature and extent of the effect of the toxic pollutant on such organisms.

As the Agency interprets this standards, the authority granted is essentially discretionary. That is, the Administrator is to consider each of the enumerated statutory factors, but has leeway to weigh the importance of each factor, and of data submitted pursuant to each factor. In making this balancing determination, special attention will be paid to potential impact on public health and the aquatic food chain.

On March 27, 1979 (44 FR 18279), EPA published a notice identifying data deemed relevant in procesing section 307 petitions. The purpose of the notice was to provide guidance to persons petitioning EPA for a change in the toxic pollutant list.

The purpose of the section 307(a) list of toxic pollutants is to focus attention on the potential significant environmental harm which might result if such pollutants are discharged to the aquatic environment and to control such harmful discharges through the development and implementation of appropriate effluent limitations. Toxic pollutants are subject to BAT (as are non-conventional pollutants) and (unlike non-conventional pollutants) are not eligible for waivers on water quality or economic grounds.

Background

On June 7, 1978, the Agency received a petition from the Dow Chemical Company requesting the removal of aromatic haloethers, found in section 307(a) under the general class "haloethers", from the toxic pollutant list. The subject compound, ClDPO, is an aromatic haloether. The Agency reviewed data supplied by Dow to support their petition and reviewed other available data as well. Some of the data pertained to ClDPO. From this review, the Agency concluded that the entire group of aromatic haloethers, including ClDPO, should be retained on the list. Accordingly, we published a proposed denial of the Dow petition in 44 FR 18279, March 27, 1979. After consideration of public comments, the Agency published a final denial of the petition in 44 FR 59948, October 17, 1979.

On February 22, 1980, the Agency received another petition from Dow requesting that ClDPO alone be removed from the toxic pollutant list. The Agency has tentatively determined to deny the petition. ClDPO should be retained on the toxic pollutant list because data indicate it is toxic to aquatic organisms and mammals, may pose a human health threat, is present in effluent discharges and fish tissue, and bioconcentrates to a significant degree in aquatic organisms. EPA's detailed responses to Dow's specific contentions in their petition are set forth below.

(1) Dow contends that according to the EPA document, *The Process of Selection and Prioritization of Toxic Pollutants in Point Source Water Effluent Discharges*, ClDPO has not been found in municipal or industrial wastewater effluent discharges.

EPA Response

EPA, in fact, has identified ClDPO in both aquatic organisms and in industrial effluents. Thus, EPA has identified ClDPO in aquatic biota of the Pacific Northwest. Some observations are: 0.05 mg/kg of ClDPO was found in lake trout tissue from Galbraith Lake near the Antigun River in Alaska; 0.10 mg/kg of ClDPO was found in fish tissue taken from the Kenai River near Soldotna in Alaska (*1*).

ClDPO likewise has been identified in the untreated effluent of a paint manufacturer in New Jersey at a level of 266 μg/1 (*8*).

ClDPO has also been identified in eight different samples of the effluent of a company in Kansas at levels of about 20μg/1. The discharge area drains into Cowskin Creek and then into the Arkansas River (*8*). Exposure of affected organisms to ClDPO, therefore, is not only possible but in fact is occurring.

(2) Dow states: "ClDPO has only one known commercial use i.e., in a mixture for a dielectric fluid. In this use, the fluid is hermetically sealed within capacitors. Human exposure is minimal during production and processing for use, and when disposed of by simple incineration or in an approved landfill, contamination of the environment is completely avoided."

EPA Response

We disagree with Dow's conclusion. It may be true that at the present time ClDPO is only used as a component of dielectric fluid; however, this does not preclude it from being used otherwise in the future as new applications develop. Moreover, the fact that ClDPO is hermetically sealed within capacitors may not preclude evironmental hazard. PCB's in their applications are also hermetically sealed and yet are now found in many waters throughout the world. In any case, other exposure pathways for ClDPO are available. ClDPO is initially prepared as a separate chemical (*2*). It can be potentially stored or shipped as a separate chemical and therefore, there is always the possibility of an accidental spill or discharge. The fact that ClDPO has been found in aquatic biota and in industrial effluents demonstrates that the chemical has found its way into the aquatic environment.

Dow's claim that this chemical may safely be disposed of through simple incineration or in approved landfills may or may not be true. The claim is unsubstantiated and is entirely irrelevant to a listing determination under section 307(a). Waste disposal practices are, of course subject, to Federal and State regulations under the Resource Conservation and Recovery Act of 1976 (RCRA).

(3) Dow states: "ClDPO is a relatively low-volume production chemical. In 1977 and 1978, production was well under 300 thousand pounds. Also, the market for ClDPO is not expected to exceed one million pounds annually. Production quantities like these are not in the same category as most materials on the toxic pollutant list."

EPA Response

We believe that currently there is a sufficient volume of ClDPO being produced and a potential exposure to affected organisms that exists to warrant concern for environmental hazard. Dow did not furnish production and/or use figures for 1979, but did indicate that production by Dow would not exceed one million pounds in the near future.

While this is Dow's best estimate for future production, this does not include potential for imports and other manufacturers producing ClDPO. Since ClDPO has not been widely used until now, it is possible that limited monitoring and sampling programs have simply not yet detected its presence in more than two or three regions of the United States. Since Dow states that future production will be increased at least threefold for ClDPO, the potential for increased future discharges exists.

(4) Dow states: "Environmental and mammalian toxicity data and the expected use-exposure pattern for ClDPO indicate a very low level of environmental and human hazard."

EPA Response

Dow has failed to substantiate this assertion. Dow's own data submitted in the previous petition for the removal of all aromatic haloethers demonstrated significant toxicity for ClDPO.

With respect to aquatic toxicity, acute data on freshwater organisms commonly used in toxicity testing show significant toxicity for ClDPO. The static 96-hour LC_{50} value for ClDPO on fathead minnows was 1.75 mg/1 (*3*). In a flow-through test on the same species, the threshold LC_{50} value for fathead minnows was 0.090 mg/1 (*3*). The static 48-hour LC_{50} value for *Daphnia magna* was 0.39 mg/1 (*3*). Chronic toxicity test data for aquatic organisms are not available.

Dow attempts to counter these data by postulating an antagonistic effect on fish toxicity between ClDPO and the butylated derivatives of ClDPO. Dow claims that the presence of these butylated materials as a mixture in the commercial capacitor fluid reduces the acute aquatic life toxicity of ClDPO by 1½ orders of magnitude. While this may be true, EPA under section 307(a) does not evaluate mixtures of compounds. The properties of ClDPO must stand or fall on their own merits. Furthermore, since the compound is prepared alone before being formulated into the capacitor fluid mixture, ClDPO has the potential to be stored and shipped alone and, therefore, be introduced into the aquatic environment as an individual compound.

With regard to mammalian toxicity, Dow introduced data from a sub-chronic study of rats conducted at its toxicology laboratory (*4, 10*). The rats were fed doses of 0, 5, 15, 45 and 90 mg/kg body weight/day of a mixture of 20% ClDPO and other mono-, di-, and tri-butyl derivatives of ClDPO (the dielectric fluid) for as long as 156 days (*4*). The major portion of the toxicological observations were made during the first 91 days (*10*). Dow stated that a number of parameters were unaffected including demeanor, clinical chemistry determinations, urinalyses, hematology, urinary excretion of coproporphyrin, uroporphyrin, creatinine and delta-aminolevulinic acid, and the weights of the brain, heart and testes at the time of sacrifice (*4*).

The dielectric fluid affected body weight, food consumption, and pathology (*10*). Body weight and food consumption of the treated rats were lower than those parameters of the controls. The pathology and organ weight data suggested that the liver and kidney were adversely affected and were toxicologically the most sensitive organs responding to the dielectric fluid. Even though Dow stated that these effects were "mild in degree, reversible in nature and none progressed in severity or nature throughout the rest of the study" (*4*), definite mammalian toxicity of this dielectric fluid was demonstrated by this study. It must also be remembered that this test was conducted with a mixture containing only 20% ClDPO along with other butylated derivatives of ClDPO. Therefore the results of these tests are probably not indicative of the effects of ClDPO alone.

In a further toxicity study conducted by Dow on rats' and rabbits' embryonal and fetal development, the 20% mixture was also used. Dow cited data that indicated a decrease in maternal weight gain and an increase in liver weights in the rat (*4*). EPA is not considering this positive toxic response to be relevant to our analysis because it also pertains to the mixture.

A single-dose oral feeding study conducted on guinea pigs demonstrated the acute toxicity of ClDPO alone toward non-human mammals (*11*). Four-day and thirty-day lethal doses were 700 mg/kg body weight and 600 mg/kg body weight, respectively. Since EPA's policy is that toxic responses to a chemical in non-human mammals can indicate a potential hazard for that chemical to human health (44 FR 15976, March 15, 1979), we regard this positive response as indicative of a possible adverse effect on humans.

Another such indication is the Occupational Safety and Health Administration's (OSHA) occupational air standard for a number of aromatic haloethers, including ClDPO (*9*) (see 29 CFR 1910.1000 Table Z1). Although this standard reflects dangers posed by airborne exposure, we think it nevertheless reflects a regulatory recognition of potential toxicity of ClDPO to humans.

(5) Dow states: "Although no long-term carcinogenicity tests have been performed, the Ames mutagenicity test on microbes was *negative* for the 20% ClDPO mixture, *using* both *activated* and *non-activated* test systems." (emphasis original)

EPA Response

A compound need not be genetically active to be listed under section 307(a), other toxic effects alone being sufficient under the statutory standard. As indicated above, the Agency regards the aquatic life and mammalian toxicity of ClDPO as sufficient to justify its inclusion on the list.

Further, Dow's data by no means show conclusively that ClDPO is not genetically active. First, very limited data were forwarded with the petition and the testing protocol itself was not submitted. Second, Dow did not submit any Ames test data for pure ClDPO or any data on mammalian cell mutagencity testing for pure ClDPO or the 20% mixture. In any case, EPA has found that the Ames test is not the ultimate test of the mutagenicity or potential carcinogenicity of a chemical. Approximately ten percent of carcinogens tested (18/175) were non-mutagenic in the Ames test. Several chlorinated hydrocarbons among the 65 toxic pollutants tested negative in the Ames test and positive in full carcinogenicity testing. Examples include carbon tetrachloride, 1,1-dichloro-2,2-bis(p-chlorophenyl)ethene (DDE), and dieldrin (*7*). While these three compounds tested negative in the Ames test, they exhibited potentials for mutagenic activity as shown by other mutagenicity screening tests. For instance, they have been shown to interact with the DNA of mammalian cells.

(6) Dow states: "Our data on environmental transport and fate show that ClDPO is rapidly degraded in the activated sludge test, in the simple BOD test, and the river die-away test. Any ClDPO accidentally entering the aquatic environment will dissipate rapidly by biodegradation and evaporation. Absorption and bioconcentration in fish are reversible in nature, and therefore do not play an important role in determining ClDPO's fate in the aquatic environment."

EPA Response

It is important to note that biodegradation is a function of the presence of organisms capable of metabolizing the pollutant, of temperature, of the presence of nutrients, and of the chemical characteristics of the pollutant. Furthermore, biodegradation does not necessarily mean that the environmental pollutional load is lessened. Some degradation products are persistent and may be more harmful than the original pollutant. Dow fails to address many of these variables in its environmental fate discussion. Thus in the test submitted by the petitioner, no degradation intermediates were identified or biological properties assessed. Therefore, the extent of molecular degradation and potential toxicity of intermediate chemical species are not known for ClDPO.

Dow also indicates that the rate of formation of $14CO_2$ from ring-labeled ClDPO was mesured in activated sludge and compared with the rate of $14CO_2$

formation from a ring-labeled PCB isomer. ClDPO was found to degrade 1400 times faster than the PCB isomer (*3*). However, this comparison is not meaningful and is not a definitive method for determining relief of environmental pollution load. PCBs are extremely stable compounds in the aquatic environment and so the practice of comparing ClDPO's biodegradation rate to that of a PCB isomer is questionable for showing pollution load relief.

EPA disputes Dow's assertion that bioconcentration does not play an important role in determining the fate of ClDPO in the aquatic environment. Although the bioconcentration factor (BCF) of 736 for ClDPO in trout muscle cited in the petition (*5*) is lower than the BCF of 9,550 for a PCB isomer (*6*) the BCF of 736 for ClDPO is still significant. Moreover, data on a single tissue type from one aquatic vertebrates species is inadequate to demonstrate low bioconcentration potential. Bioconcentration data must be obtained in various tissues from several freshwater and marine species before a determination of insignificant bioconcentration potential can be made.

(7) Dow states: "The sediment-binding data shown in table 2 of the petition (bound to suspended solids—sediment/water ratio—4:1) represent the ratio of chemical bound to sludge to the concentration of chemical in the supernatant water from centrifuged sludge. Activated sludge simulates some aquatic sediments. Sediment binding ratios, like the 4:1 ratio for C1DOP, indicate such compounds will be bound to sediments reducing the concentrations that will remain in water."

EPA Response

EPA agrees that the ability of ClDPO to bind to sediments should reduce the concentration of ClDPO that would remain in the water column. However, ClDPO's association with sediments suggests a potential exposure problem for benthic organisms and bottom feeders. ClDPO, therefore, would not necessarily be removed from the aquatic food chain.

(8) Dow states: "Clearly ClDPO does not fit the definition of a toxic pollutant as defined by section 502(13) of the Clean Water Act. There has been no known discharge and, on the basis of the information available to the Agency, there has been no interference with water quality.

Finally, other sections of the Clean Water Act Amendments provide the Agency with authority to regulate chemicals like ClDPO when and if they become a health or environmental hazard. We do not believe that ClDPO poses such a hazard."

EPA Response

ClDPO has been detected in industrial effluents (*8*) and fish tissues (*1*). Therefore, actual exposure of ClDPO to the aquatic community has been demonstrated and potential exposure of ClDPO to humans has been suggested. In addition, acute fish toxicity (*3*) and moderate mammalian toxicity (*11*) have been demonstrated. These are some of the criteria used for placing or keeping a compound as a toxic pollutant under section 307(a).

Summary

For the reasons stated above, EPA has concluded that Dow has not presented sufficient evidence in its petition for the removal of ClDPO from the toxic pollutant list. EPA, therefore, proposes to deny the petition for removal of ClDPO from the toxic pollutant list based on the evidence presented herein.

Dated: December 24, 1980.

Douglas M. Costle,

Administrator.

References

1. U.S. Environmental Protection Agency. 1980. STORET printout for Chem. Abst. Ser. No. 7005-72-3.

2. Branson, D.R. 1980. Personal communication. Dow Chemical Co.

3. Branson, D.R. 1977. A new capacitor fluid—A case study in product stewardship. Aquatic Toxicology and Hazard Evaluation. ASTM STP 634. F. L. Mayer and J.L. Hamelink, Eds. Amer. Soc. Test. Mater. 44.

4. Dow Chem. Co. 1980. Petition to remove monochlorophenyl phenyl ether from the toxic pollutant list.

5. Blanchard, F.A., et al. 1976. Uptake, clearance, and bioconcentration of 14 C-p-chlorodiphenyl oxide in rainbow trout. Unpublished Report. Dow Chemical Co.

6. Branson, D.R., et. al, 1975. Bioconcentration of 2,2',4,4'-tetrachlorobiphenyl in rainbow trout as measured by an accelerated test. Trans. Amer. Fish. Soc. 104: 785.

7. McCann, J. and B.N. Ames. 1976. Medical science. Detection of carcinogens as mutagens in the salmonella/microsome test: Assay of 300 chemcials: Discussion. Proc. Natl. Acad. Science.

8. U.S. Environmental Protection Agency. Effluent Guidelines Division sampling records for the paint and ink industry and organic chemicals industry.

9. American Conference of Governmental and Industrial Hygienists. 1974. Documentation of the threshold limit values. 3rd Edition. 2nd. Printing.

10. Branson, D.R., et. al. 1978. Butylated monochlorodiphenyl oxide: Toxicity and tissue concentrations in rats from a subchronic study. Paper no. 60 presented to the Society of Toxicology, March 12-16. San Franciso, California.

11. Hake, C.L., and V.K. Rowe. 1963 Chlorinated Phenyl eithers. In *Industrial Hygiene and Toxicology*. 2nd Edition, Patty, F. A. (ed). Interscience Publishers, New York. 2: 1655-1718.

[FR Doc. 81-177 Filed 1-7-81; 8:45 am]

BILLING CODE 6560-29-M

[WH-FRL 1701-8]

Petition To Remove Chlorodifluoromethane From the List of Toxic Pollutants Under Section 307(a)(1) of the Clean Water Act

AGENCY: United States Environmental Protection Agency (EPA).

ACTION: Request for public comment on a petition from Vulcan Materials Company to delete chlorodifluoromethane (R-22) from the list of toxic pollutants under Section 307(a)(1) of the Clean Water Act.

SUMMARY: This action notices receipt of and requests comments on a petition (and supporting data) from Vulcan Materials Company (Vulcan) to remove the refrigerant, chlorodifluoromethane (R-22) from the Section 307(a)(1) toxic pollutant list. The EPA is also requesting additional information on chlorodifluoromethane relating to its toxicity, persistence (including its mobility and degradability in water), bioconcentration, bioaccumulation, or biomagnification and octanol/water partition coefficent. Information is also requested on the extent of point source discharges, qualitative or quantitative determinations in industrial and municipal wastewater effluents, ambient water, benthic sediments, fish and other aquatic life and any other data relating to the potential for human, aquatic or wildlife exposure. EPA will evaluate all data and public comments before deciding on the listing status of R-22. The decision will be published in the **Federal Register** if the petition is denied or as a Final Rule if the petition is accepted.

DATES: Public comments on the petition and additional information will be received until March 9, 1981.

ADDRESS: Send comments to: Jacqueline V. Carr, Criteria and Standards Division (WH-585), Office of Water Regulations and Standards, U.S. Environmental Protection Agency, 401 M Street, SW. Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Jacqueline V. Carr, Telephone (202) 245-3036.

SUPPLEMENTARY INFORMATION: On September 9, 1980, Vulcan Materials Company petitioned the EPA to remove chlorodifluoromethane (R-22) from the toxic pollutant list. Vulcan proposed the

removal of this chemical from the list of toxic pollutants under Section 307(a)(1) of the Clean Water Act based on an assertion that R-22 is similar in its physical and toxicological properties to the chlorofluorocarbons, dichlorodifluoromethane (F-12; R-12) and trichlorofluoromethane (F-11; R-11) which the EPA proposed to delist in 45 FR 46103 on July 9, 1980. Vulcan concluded that R-22 does not present a hazard to drinking water supplies or to the aquatic environment.

Vulcan Materials Company supplied the following information to support the petition.

Chlorodifluoromethane (R-22)

(1) This refrigerant gas has very similar physical and toxicological properties when compared to trichlorofluoromethane (R-11) and dichlorofluoromethane (R-12). R-22 boils at −41.4° F (−42.5° C). The solubility of water in R-22 is 1.2×10^6 ug/l and the heat of vaporization is 5,213 cal/g mole[1] as compared to 3,996 cal/g mole and 8,363 cal/g mole for R-11 and R-12 respectively. Additional physical constants may be found in the attachment[2] (Table 1).

(2) NIOSH has listed similar aquatic toxicity values for R-22 and R-12, i.e., TLm96>1,000.[3] Inhalation exposure to rats suggests that R-22 may be less toxic than R-11 with the LCLo for R-22 being 25 pph/4 hours as compared to 10 pph/20 minutes for R-11.

[1] *Handbook of Chemistry and Physics*, 53rd Ed., CRC Publishers.

[2] *Fluorocarbons and the Environment*, National Science Foundation, NSF 75-403.

[3] *The Registry of Toxic Effect of Chemical Substances*, NIOSH, 1978.

Table VI-1.—*Physical Properties of Selected Fluorocarbons: Methane Series (After Shepherd, 1961)*

Property	F-11	F-12	F-21	F-22	F-30
Chemical formula	CCl_3F	CCl_2F_2	$CHCl_2F$	$CHClF_2$	CH_2Cl_2
Molecular weight	137.4	120.9	102.9	86.5	84.9
Boiling point, °F	74.8	−21.6	48.1	−41.4	105.2
Freezing point, °F	−168	−252	−211	−256	−142
Vapor pressure, psig:					
At 70°F	[1] 13.4	70.2	8.4	122.5	[1]7.1
At 130°F	24.3	181.0	50.5	300	9.0
Liquid density, g/cm³:					
At 70°F	1.485	1.325	1.323	1.209	1.325
At 130°F	1.403	1.191	1.193	1.064	
Vapor density at boiling point, g/l	5.86	6.26	4.57	4.83	3.30
Heat of vaporization at boiling point, Btu/lb	78.31	71.94	104.2	100.7	141.7
Liquid viscosity, centipoise:					
At 70°F	0.439	0.262	0.351	0.238	[2]0.441
At 130°F	0.336	0.227	0.286	0.211	
Liquid thermal conductivity at 70°F, (Btu)(ft)/(ft²)(hr)(°F)	0.063	0.051	0.072	0.063	[2]0.059
Surface tension at 77°F, dynes/cm	19	9	19	9	[3]28
Solubility of water at 70°F, wt pct	0.009	0.008	0.13	0.12	[3]0.17
Flammable limits, vol pct in air	None	None	None	None	None
Toxicity: Underwriters' Laboratories, Inc. rating system	5A	6	[4](5)	5A	4-5

[1] In pounds per square inch absolute.
[2] At 68°F.
[3] At 77°F.
[4] Much less than 4, slightly more than 5.

Summary of Additional Available Data

1. Production and use

Five manufacturers in the U.S. operate 14 plants which produce chlorodifluoromethane. Production of R-22 in 1979 exceeded 200 million pounds. R-22 is used primarily as a refrigerant and has minor uses as a polymer intermediate, propellant and solvent (CEQ, 1975; personal communication, Vulcan Materials Company).

2. Persistence and Degradability

The hydrolysis rate of R-22 is reported to be less than 0.01 grams per liter of water per year (CEQ, 1975). The rate of hydrolysis is proportional to the concentration in solution and the hydroxyl ion concentration (Dupont, 1974). This rate is considered too low to be a significant aquatic fate process.

There are no data for other fate processes, although volatilization of R-22 is considered the dominant fate process based on the vapor pressure (10 atm at 24°C) and water solubility (3.0×10^6 μg/l @ 25°C and 1 atm.) of the compound (Dupont, 1974; Handbook of Chemistry and Physics, 1976).

There are no data which indicate that monitoring for R-22 has been done in industrial effluents, wastewater treatment streams, surface waters, fish or sediments.

Toxicity

A threshold limit value of 1000 ppm (35000mg/m³) has been established by the American Conference of Governmental Industrial Hygienists (ACGIH) to protest workers from adverse effects of inhaling R-22 (Dupont, 1974). Human deaths associated with fluorocarbon propellant inhalation are attributed to cardiac arrhythmia (U.S. EPA, 1974). Belej et.al. (1974) exposed monkeys to inhalatory concentrations of R-22 of 10 and 20 percent. No arrythmia or tachychardia were observed but monkeys showed decreased myocardial contractability with a fall in aortic blood pressure. R-22 was also shown to sensitize the hearts of mice to epinephrine (Aviado and Belej, 1974).

R-22 is weakly mutagenic in *Salmonella typhmurium* strains TA 1535 and TA 100. Bacteria exposed for 24 hours to R-22 concentrations of 1, 33, and 50 percent mutated from a dependence on histidine to histidine independence in greater numbers than untreated bacteria. The presence of a rat liver microsomal activating system was not required for mutagenic activity (Longstaff and McGregor, 1978). The authors cautioned against the use of these data to assess risks to man until conventional animal studies are completed.

Haskell Laboratory (Dupont), 1977 conducted embryotoxicity and teratogenicity studies in rates exposed to chlorodifluoromethane by inhalation. Two studies were conducted, the first using female rats exposed to 0.1 and 1.0 percent (vol/vol in air) R-22, the second using females exposed to 0.05, 0.10 and 2.00 percent (vol/vol in air) R-22.

Gross external examination of all fetuses showed a few fetuses with minute hematomas and petechial hemorrhages in several litters in all control and test groups. One fetus in a litter of 3 in the high level group of the second study experienced anophthalmia (absent eye) in both eyes, lack or organization of the central nervous system and ossification. No major skeletal abnormalities were detected in either study. Several soft tissue malformations were observed in fetuses in both groups. Abnormalities observed were microphthalmia (small eye) and anophthalmia. Cleft palate was observed in one fetus exposed to 0.1 percent R-22. Subcutaneous edema (anasarca) was detected in two fetuses (0.05 percent and 2.00 percent R-22).

Under the conditions of the two studies, chlorodifluoromethane is a

weak teratogen. The incidence of abnormalities was not dose related but statistically significant when compared to historical control litters at Haskell Laboratories and Charles River Laboratories.

Studies of chronic inhalatory toxicity in rats and mice indicate that R–22 exposures of 0.198 percent given 6 hours/day for 300 days produce no toxic effects (U.S. EPA, 1974).

A study of the acute inhalatory toxicity of R–22 in laboratory animals indicates that as a concentration of 10% R–22 produced tremors in guinea pigs at 2 hours; 40% R–22 produced anesthesia in dogs in less then 90 minutes and concentration of 70% and 40% were approximate lethal concentrations (ALC—minimum concentration causing death over a given exposure period) to dogs (less than 90 min) and mice (2 hr), respectively (U.S. EPA, 1974).

There are practically no data on the acute and chronic toxicity of R–22 in aquatic organisms. NIOSH(1977) lists an aquatic toxicity rating (TLm 96) over 1000 ppm for an unspecified species.

Request for Additional Information

In revising the toxic pollutant list, the Clean Water Act directs the Administrator to take into account the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of the affected organisms, the importance of the organisms and the nature and extent of the effect of the pollutant on such organisms.

EPA requests additional information on the fate and toxicity of F–22 in the Aquatic environment for the assessment of these statutory factors. EPA requests information on chlorodifluoromethane relating to its toxicity to aquatic life, persistence (including its mobility and degradability in water), bioconcentration, bioaccumulation, or biomagnification and octanol/water partition coefficient. Information is also requested on the extent of point source discharges, quanitative or quantitiative determinations in effluents, ambient water, benthic sediments, fish and other aquatic life and other data relating to the potential for human, aquatic or wildlife exposure.

Date: December 24, 1980.

Douglas M. Costle,

Administrator.

Reference

1. Aviado, D. and Belej, M. 1974. Toxicity of aerosol propellants on the respiratory and circulatory systems: I. Cardiac arrhythmia in the mouse, Toxicology 2:31–42.

2. Belej, M. et al., 1974. Toxicity of aerosol propellants in the respiratory and circulatory system: IV. Cardiotoxicity in the monkey. Toxicology 2:381–395.

3. Council on Environmental Quality (CEQ). 1975. Fluorocarbons and the Environment. Report of Federal Task Force on Inadvertent Modification of the Stratosphere. U.S. Government Printing Office, Washington, D.C.

4. Dupont, 1974. FREON PRODUCT INFORMATION "FREON" FLUORACARBONS PROPERTIES AND APPLICATIONS.

5. Handbook of Chemistry and Physics 1976 57th ed. Chemical Rubber Co., Cleveland, Ohio.

6. Haskell Laboratory, 1977. Embryotoxic and Teratogenic Studies in Rats with Inhaled Chlorodifluoromethane (FC–22). Medical Research Project Nos. 223 and 2579–001.

7. Longstaff, E. and D. B. McGregor, 1978. Mutagenicity of a Halocarbon Refrigerant Monochlorodifluoromethane (R–22) in *Salmonella Typhmurium*. Toxicology Records 2:1–4.

8. National Institute for Occupational Safety and Health (NIOSH), 1977 Edition Registry of Toxic Effects of Chemical Substances Vol. II.

9. Personal communication with Thomas A. Robinson, Ph. D., Vulcan Materials Company.

10. U.S. EPA, 1974. Environmental Hazard Assessment of one and two carbon fluorocarbons. U.S. Dept. of Commerce NTIS PB 246–419.

11. U.S. EPA, 1979. Water-Related Environmental Fate of 129 Priority Pollutants Vol. II. U.S. EPA, Office of Water Planning and Standards, Washington, D.C. 20460.

[FR Doc. 81–178 Filed 1–7–81; 8:45 am]

BILLING CODE 6560–29–M

federal register

Thursday
January 8, 1981

Part III

Department of Transportation

Federal Aviation Administration

Takeoff and Landing Minimums

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 1, 91, and 121

[Docket No. 20060; Amdt. Nos. 1-30, 91-173, 121-166]

Takeoff and Landing Minimums

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments clarify the conditions under which a pilot may approach and land at an airport when the weather conditions do not allow the pilot to see the runway until shortly before landing. They also add certain requirements that must be met before a pilot may take off an air carrier aircraft in weather conditions that limit the pilot's visiblilty. These amendments are necessary to clarify the regulations and to provide the additional requirements needed for operating an aircraft safely under these weather conditions.

EFFECTIVE DATE: May 8, 1981.

FOR FURTHER INFORMATION CONTACT: Harold E. Smith, Regulatory Projects Branch (AVS-24), Safety Regulations Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 755-8716.

SUPPLEMENTARY INFORMATION:

Notice of Proposed Rule Making

These amendments are based on Notice of Proposed Rule Making (NPRM), Notice No. 80-4, published in the **Federal Register** on March 6, 1980 (45 FR 14802). All interested persons have been given an opportunity to participate in the making of this rule and due consideration has been given to all information submitted. Except for the changes discussed below these amendments and the reasons for their adoption are the same as those stated in Notice 80-4.

Effective Date of Amended Rule

This rule is effective May 8, 1981 to provide a period for public dissemination of its provisions and to conduct the necessary pilot education regarding compliance.

Background

Part 97 of the Federal Aviation Regulations prescribes standard instrument approach procedures for instrument letdown to many airports in the United States and prescribes the weather minimums applicable to takeoffs and landings under instrument flight rules (IFR) at those airports for which procedures are prescribed. Rules applicable to the use of these instrument approach procedures previously were set out in §§ 91.6, 91.116, and 91.117 and for air carriers in §§ 121.651, 121.653, and 135.225. A recent addition of a new Part 125 of the Federal Aviation Regulations adds a § 125.381 for operation of certain large airplanes other than under Parts 121 or 135. Section 91.116(b) prohibited a person from landing an aircraft using a Part 97 instrument approach procedure unless the visibility is at or above the landing minimum prescribed for the particular procedure. Section 91.117(b) prohibited a person from operating an aircraft below the prescribed minimum descent altitude (MDA) or from continuing an approach below the decision height (DH) unless certain conditions are met. The conditions specified that to continue descent the aircraft must be in a position from which a normal approach to the runway of intended landing can be made, and the approach threshold of that runway, or approach lights or other markings identifiable with the approach end of that runway, must be clearly visible to the pilot. It also required that the pilot execute the appropriate missed approach procedure if the requirements of that paragraph were not met when the pilot reached the missed approach point or DH or at any time after that. Sections 121.651 and 121.653 formerly specified, and § 135.225 currently specifies, the conditions in which air carrier and commercial operator aircraft may initiate an approach if weather conditions are above published minimums, and they provide exceptions when weather conditions deteriorate below minimums while an approach is in progress.

A regulatory project was initiated in 1968 to clarify certain requirements applicable to instrument approach procedures and some of the landing rules discussed above. Notice 72-17 was issued on July 12, 1972, and a withdrawal notice was issued on December 7, 1975, due to adverse comments regarding the proposed elimination of the "look-see" privileges for Part 91 operators. An effort was initiated to resolve other changes needed to update the rules to be consistent with present standards. Comments received on Notice 72-17 were considered and changes made where appropriate for those sections of the rule being revised. Notice 80-4 was issued on March 6, 1980. Comments were received, reviewed, and necessary changes were made in the preparation of this final rule.

Need for Amendments

The revised rules, including §§ 1.1, 91.6, 91.116, and 121.651, are necessary based on operating experience to ensure an appropriate level of safety in instrument approaches and landings, and are necessary to clarify certain rules which, in some cases, have been misinterpreted. Other changes are necessary to make administrative corrections to the rules, to update them, or to make them consistent with current FAA and aviation system policies and practices. Any additional changes that may be needed to update § 135.225 or the recently issued § 125.381 to be consistent with the revised §§ 91.116 and 121.651 may be taken in a subsequent rulemaking proceeding.

Approach and landing accidents are the largest single cause of air carrier passenger fatalities and also represent a significant percentage of general aviation fatalities. Between 1964 and 1975, the National Transportation Safety Board recorded 259 air carrier approach and landing accidents which constituted 41% of the total number of air carrier accidents and 46% of the fatalities. Excluding the area of very low visibility approaches conducted under Category II and III where special equipment, training, and approval procedures are used resulting in a good safety record, 62 of these accidents occurred when the reported weather conditions were less than a ceiling of 1,200 feet and 3 miles visibility. Forty-six of these involved ceilings of less than 600 feet and visibility of less than 1½ miles. The following factors were cited as causing, or possible factors contributing to, the 62 accidents: continuation of the descent below the MDA or the DH with inadequate visual cues; unrecognized altitude loss or descent rate; disorientation; collision with obstacles well below the normal descent path; visual illusions; failure to monitor or cross check altitude; inadvertent descent below the glide slope; loss of sight of the runway while below the MDA or the DH; failure to initiate a missed approach; and other factors related to lack of adequate visual reference. Since 1975 investigations of numerous incidents and accidents, such as the 1979 commuter air carrier accidents at Hyannis, Massachusetts and Rockland, Maine, indicate the inappropriate use of limited visual references during approach and landing. Pilot use of inappropriate visual references also occurs in general aviation operations. For example, data from the FAA's General Aviation Accident Data System for 1979 indicate that use of inadequate visual references

during the landing phase may have been a contributing factor in at least 35 accidents. Accordingly, the FAA is revising, clarifying, and combining the provisions regarding takeoff and landing under IFR now in § 91.116 and the limitations on the use of instrument approach procedures now in § 91.117 into a revised § 91.116 entitled "Takeoff and landing under IFR." New § 91.116 generally redesignates former paragraphs (c) through (f) as paragraphs (f) through (i) and makes necessary revisions throughout all paragraphs. Similar provisions in the former § 91.6(c) regarding Category II operations are clarified and in some cases revised to be consistent with current practice and the revised § 91.116.

Specific Changes to the Rule and Discussion of Comments

Fifty-five comments were submitted to the docket in response to Notice 80–4, representing the views of individuals, companies, associations of U.S. airlines, pilots, and manufacturers, various government organizations, and a consumer interest group. The comments largely favor the general intent of the rule but since the vast majority of comments include recommendations for revision of one or more sections, it is difficult to categorize the comments as a concurrence or nonconcurrence with the proposals in the notice. The problem of resolving the comments is compounded by the fact that any attempt to favorably resolve or adopt some suggestions would contradict or cause further complications with others. Although many commenters identify areas in which revisions should be made in the rule, very few offer specific suggestions that would resolve the alleged problem without making the rule so general that it would have little or no effect or contradict some other viewpoint. These issues are discussed in subsequent paragraphs referring to specific comments on the proposed rule.

It should be noted, however, that most comments submitted reflect a good appreciation for both the technical aspects of these rules and the difficulty of regulating in this area, as well as the need for amendment of these regulations. A number of commenters indirectly reinforce the need for rule making in this area because their comments show a misunderstanding of the application of the previous rules, and two commenters appear to misunderstand the rule to the point where they might be conducting operations in violation of the current rules.

Category II and Category III Operations

To appropriately address current FAA and industry practices and achieve uniformity of applications, the FAA is amending the former § 91.6, Category II operation: general operating rules, to extend its requirements to Category III operations. In general, Category III operations are conducted in accordance with an approved instrument approach procedure in visibility conditions less than 1,200 feet runway visual range (RVR) as described in FAA advisory circulars and International Civil Aviation Organization standards and recommended practices. A conforming change is made in Part 1 to include a definition of Category III operations. Previous changes to § 91.6, involving Category II operations, were made when the FAA did not have sufficient operating experience available to include Category III provisions. This is no longer the case since U.S. Category III operations have been conducted for over 8 years and regulatory safeguards similar to those for Category II operations are appropriate because administratively both types of operations are implemented in a similar way. For Parts 121, 125, and 135 operators, Category II and Category III authorizations are made under operations specifications provisions in those parts. Part 91 operators obtain letters of authorization from FAA district offices. For § 91.6(b) to apply to both Category II and Category III operations, references to ground equipment, inoperative components, and specific RVR locations and RVR readings are deleted. However, a minor change from the revisions proposed in the notice in paragraph (b) is made to delete additional references to ground components. Based on commenters' suggestions and further FAA review, the specific list in the former § 91.6(b), second sentence, is unnecessary because it is redundant to either the procedure itself, the specific authorization to conduct the operation, or because any adjustments to minimums are published in the Notices to Airmen. Including these references in § 91.6 is unnecessary because RVR inoperative components and ground equipment requirements are specifically provided for in the revised § 91.116(k), approved instrument approach procedures under Part 97, and Category II and Category III authorizations, when appropriate.

Section 91.6(d) is revised to provide definitive guidance for the pilot conducting the approach by explicitly stating those visual references the sighting of which permits the continuation of an approach below the authorized DH, when the approach procedure provides for a DH. The visual references are the same as those required in the revised § 91.116, with the exception of the runway end identifier lights and the visual approach slope indicator (VASI) which are not appropriate visual references for a Category II or Category III operation. VASI's and runway end identifier lights generally are installed on runways which do not have electronic glide slope guidance.

Under § 91.6(d)(2)(i) the approach lights may be used as a visual reference to 100 feet above the touchdown zone elevation. Thereafter, the approach lights may be used as a visual reference for continued descent only if either the red terminating bars or the red side row bars also are distinctly visible and identifiable. This provision is appropriate because of the characteristics of approach light systems with sequenced flashing lights in an Instrument Landing System Category I configuration (ALSF I) or Category II configuration (ALSF II) which are designed so that the pilot should see these visual references during a Category II approach if at least landing minimum weather conditions are present. Either the ALSF I or ALSF II approach light system may be used at present for Category II operations.

The pilot should see one of the visual references specified in § 91.6(d)(2): (1) at, or before reaching, 100 feet above the touchdown zone during a Category II approach, or (2) at, or before, DH during a Category III approach which requires use of a DH. Therefore, if the pilot does not see one of these visual references, Category II and Category III approach procedures that use a DH require the pilot to execute a missed approach.

One commenter states that sighting of the red terminating bars of an ALSF I approach light system may not be certain in cases of wide-body aircraft conducting a Category II approach when weather is at minimums. While this may be valid in certain unusual instances, the requirement to see the red terminating bars as a condition for continuation below 100' is necessary to ensure that appropriate visual reference is present. Further, this situation is rare because only a few aircraft types are involved, and weather conditions would have to be uniform, and exactly at minimums for this situation to occur. Further, only some runways used for Category II have the ALSF I lighing system, and the FAA is in the process of upgrading the ALSF I approach light systems to the ALSF II configuration for

which the situation described by the commenter does not occur.

For Category III approaches which do not specify a DH, any necessary provision for application of landing minimums will be listed in the operations specifications or letter of authorization covering the operation. A number of commenters express concern relative to the fact that proposed § 91.6 does not clearly distinguish between fail-passive Category III operations which apply a DH and fail-operational Category III operations without a DH. A new § 91.6(f) is added to clearly distinguish and acknowledge the requirements for operations without a DH. An additional qualification is also added to § 91.6(c) to clarify that the decision height provision of § 91.6(c) does not apply to those Category III operations which do not use a decision height.

Commenters suggest, and the FAA agrees, that a further clarification is necessary for terminology previously used in § 91.117(b)(1) and proposed under §§ 91.6(d)(1), 91.116(b)(1), and 121.651(c)(1) regarding a normal descent to the runway. In addition to the former provision that for continuation of a descent the aircraft must be "continuously in a position from which a descent to a landing on the intended runway can be made at a normal rate of descent using normal maneuvers," another provision is added. The phrase "and where (such a) descent rate will allow touchdown to occur within the touchdown zone of the runway of intended landing" is added to clarify the intent of the former wording requiring a "normal approach to the runway of intended landing". The provision is applied for all landings in Category II or Category III and for Part 121 and 135 operations. For Part 91 and 125 operations, in other than Category II or Category III landings, this provision is not mandatory because there are aircraft types, runways, and circumstances where the additional requirement may not always be necessary for safety. Thus, the provision of § 91.116(c)(1) for touchdown in the touchdown zone is limited to Part 121 and 135 operators and for all approaches in Category II and Category III. However, it should be noted that compliance with the provision to "touchdown in the touchdown zone" is a good operating practice for all operations. The fact that it is not mandatory for Part 91 operations should not be taken as an encouragement to complete an approach by a steep descent and touchdown beyond the touchdown zone because visual references on an approach such as a nonprecision approach are not acquired until well after passing the visual descent point (VDP), or near the missed approach point.

Use of the word "touchdown" in the context of § 91.6(d)(1), § 91.116(c)(1), or § 121.651(d)(1) regarding the requirement for a normal descent to a landing is appropriate to denote the particular event (touchdown) which must take place within the touchdown zone. Use of the word "landing" in this instance could be incorrectly taken to include other situations such as flare or rollout to a full stop, a touch and go, or landing to the point of turnoff from the runway which may or may not completely take place within the touchdown zone. Thus the word "touchdown" is used in § 91.6(d)(1) and §§ 91.116(c)(1) and 121.651(d)(1) even though the word "landing" is retained in other provisions of §§ 91.6, 91.116, and 121.651.

Other comments on the proposed changes to §§ 1.1 and 91.6 are generally supportive. A number of minor revisions were suggested such as including in the definition of "Category III operations" in § 1.1 the term "landing on" the runway in addition to an "ILS approach" to the runway. This suggestion is adopted since Category III operations specifically provide for safe rollout in reduced visibilities as well as a safe approach to touchdown. However, it should be noted that the case of a Category III approach which terminates in a missed approach rather than a landing is still considered to be a Category III operation even though a landing may not be completed.

Based on other comments, the words"straight-in" in proposed § 1.1 in conjunction with an ILS approach are unnecessary for the definition of a CAT III operation since the other type of approach is a circling approach and there are no CAT III circling approaches. Thus the term "straight-in" is deleted.

References to Part 125 are added to §§ 91.6 and 91.116 to be consistent with issuance of the new part on October 2, 1980. Part 125 is effective February 1, 1981.

The changes to §§ 1.1 and 91.6 are adopted as proposed and discussed above to uniformly apply the criteria used under current operations specifications and letters of authorization and appropriately update the rules to be consistent with current FAA and industry practice.

Landing

Section 91.116(b) prohibited a person operating an aircraft (except a military aircraft of the United States) from landing that aircraft using a standard instrument approach procedure prescribed in Part 97 unless the visibility is at or above the landing minimum prescribed in that part for the procedure used. The revised rule clarifies this point to specify that no pilot may operate an aircraft below MDA or DH unless the "flight visibility is not less than the visibility prescribed in the standard instrument approach procedure being used." This revised requirement is necessary to make it clear that the visibility referred to is the visibility from the aircraft. Section 91.116(c)(2) and (c)(3) also make it clear that the pilot must have this flight visibility from descent below MDA or DH until touchdown.

In particular need of clarification is the phrase "other markings identifiable with the approach end of the runway" found in the former §§ 91.117(b)(2) and 91.6(c)(2). In some instances, pilots interpret this phrase to include towers, smoke stacks, buildings, and other landmarks which may be located far from the end of the runway, and pilots may be descending below the MDA using these landmarks. This language also has been interpreted erroneously by some pilots to allow the use of a series of landmarks as progress points for instrument approaches. Use of such landmarks can result in mistaken identification of position or aircraft flight path.

To correct these practices, the revised rule specifies the visual references which are intended to allow descent below MDA or DH. The rule now precludes use of references not listed, which under the previous rule may sometimes have been used as the basis for continued descent even though they were not appropriate. Accordingly, revised § 91.116(c) prohibits descent below MDA and the continuation of an approach below DH unless at least one of the following is distinctly visible to and identifiable by the pilot for the intended runway: approach light system; threshold; threshold markings; threshold lights; runway end identifier lights; visual approach slope indicator; touchdown zone or touchdown zone markings; touchdown zone lights; runway or runway markings; or runway lights.

In Notice 80-4 the words "clearly visible" are used. However, commenters note, and the FAA agrees, that in low visibility operations visual references could rarely be considered clearly visible in the strict sense of the word due to factors such as the distortion of rain on the windshield, backscattered light of landing lights, and other reasons.

The words "distinctly visible and identifiable" were suggested by commenters and are adopted because they appropriately denote the intention that the visual references be discrete and unmistakably identifiable. The change from "clearly visible" to "distinctly visible and identifiable" should not be taken to mean that descent below MDA or DH can be based on a general glow of approach lights through a layer of fog or other obscurations where the visual references themselves are not discretely identifiable.

In accordance with concerns expressed by several commenters, an exclusion is added to § 91.116(c)(3) which limits applicability of this provision to approaches other than Category II or III. This is necessary to address possible misinterpretations of the applicability of § 91.116(c)(3) regarding Category II and Category III visual reference requirements. The commenters note, and the FAA agrees, that visual aids such as runway end identifier lights or VASI are not appropriate aids on which to base continuation of a Category II or Category III approach and that operations specifications, letters of authorization, or § 91.6(d)(2) provide the means to address any necessary limitations or conditions that may be appropriate in lieu of § 91.116(c)(3).

To preclude premature descents and unnecessary maneuvering at low altitudes, an additional requirement is added to § 91.116(b) for straight-in, nonprecision instrument approach procedures. For approaches which incorporate a VDP, the rule provides that the pilot may not descend below MDA until the VDP is reached if the pilot has the means to establish that point and if a normal descent to the runway can be made from that point. However, since the Department of Defense, Air Transport Association, and other commenters express concern over certain aspects of the VDP provisions of § 91.116(b)(2) as proposed, an additional exception is added. The comments suggest that the inflexible provisions of the proposed rule limit initiation of descent prior to reaching the VDP, which may adversely affect safety in cases where descent prior to the VDP is necessary to maintain a normal descent profile to the runway. A review of these comments results in the identification of cases where certain combinations of aircraft types, approach speeds, flap settings, and descent rate capability taken with possible VDP placement could possibly lead to abnormal descents from MDA to the runway if strict compliance with the rule as proposed in the notice is necessary. The commenters note, and the FAA agrees, that literal compliance with the proposal to "never descend until reaching the VDP" could adversely affect safety in unusual cases where the normal descent gradient and use of normal procedures requires the initiation of a descent shortly before reaching the VDP for some aircraft types or circumstances. Examples of situations in which it may be necessary for a pilot to descend shortly before reaching the VDP would be the case of an aircraft making a no flap approach, or an aircraft that must maintain a more shallow descent angle to provide for power settings compatible with engine anti-ice requirements. Therefore, the rule allows an exclusion in cases where literal compliance with the requirement to delay descent until passing the VDP is not appropriate for certain aircraft or situations because it would lead to an abnormal descent path to the runway, high rates of descent, or other unusual piloting procedures if descent is delayed until reaching the VDP.

One commenter questions the applicability of the VDP provisions of proposed § 91.116(b)(2) to Part 121 operations because the VDP provisions were not repeated in proposed § 121.651. Since no exclusion of particular operations was proposed, the VDP provisions of § 91.116(c)(4) as adopted apply to Part 91, 121, 125, 135 and other operators conducting a Part 97 approach procedure. However, to clarify this issue and prevent further misunderstanding in the special case of continuation of an approach in deteriorated weather, VDP provisions are repeated in § 121.651(c)(4).

In § 91.116(c) the qualification "where an MDA or DH is applicable" is added to clearly relate the use of the MDA or DH to the specific procedure used. In cases where both an MDA or DH are provided in a single procedure, such as an ILS or localizer approach, or where either a DH or MDA is not provided, this qualification clarifies the use of either the MDA or DH as appropriate to the specific type of approach used.

The terminology used in § 91.6(d)(2)(i) regarding the limitations on use of approach lights as an exclusive condition for descent below 100' is added for consistency in §§ 91.116(c)(3)(i), 121.651(c)(3)(i), and 121.651(d)(3)(i) because of the design of lighting systems and instrument approach procedures. When an aircraft is at or below 100' above the touchdown zone, the red side row bars on an ALSF II approach light system, red terminating bars of the ALSF I approach light system, or the threshold or other references listed in § 91.116(c)(3) should be in sight. If the approach is flown to a runway which does not have one of the two approach light systems mentioned above, then at or below 100' one of the other references in § 91.116(c)(3) must also be in sight to continue descent to a landing. For other than Category II or III, regardless of the type of straight-in or nonprecision approach flown, when at or below 100' above the touchdown zone, one of the visual references specified in § 91.116(c)(3)(ii) through § 91.116(c)(3)(x) should be visible if flight visibility is at or above the specified minimums. Conversely, if the approach lights are visible, but red terminating bars or red side row bars are not visible either due to poor visibility or because they are not installed, and the other visual references specified in § 91.116(c)(3) are not visible either, then regardless of the type of approach (other than Category II or III) the flight visibility is substantially less than minimums and continued descent below 100' may not be safe and is not appropriate. Further, to apply the provision to see the red side row bars or red terminating bars only to § 91.6(d)(2)(i) and not § 91.116(c)(3) or § 121.651 would lead to the anomalous situation in which if the pilot misjudged the flight visibility required in § 91.116(c)(2), continued descent would be permitted on a basic ILS or nonprecision approach with less flight visibility and visual reference than required for a Category II or Category III approach. Thus the proposed limitations § 91.6(d)(2)(i) to see the red side row bars or red terminating bars below 100' when using the approach lights as a sole reference for descent, is repeated in §§ 91.116(c)(3)(i), 121.651(c)(3)(i), and 121.651(d)(3)(i).

New § 91.116(d) continues to provide that no person operating an aircraft (except military aircraft of the United States) may land that aircraft when the flight visibility is less than the visibility prescribed in the standard instrument approach procedure being used. The word "touchdown" was used in the notice in lieu of "landing" because of problems with the definition of what constitutes a landing. Commenters stated that, in most instances use of the word "touchdown" instead of "land" did not improve the clarity of the rule. These comments caused the FAA to reconsider the necessity for use of the word "touchdown" in this section. Therefore, based on commenters' suggestions and subsequent review, the term "land" is retained with the exception of a special

case where the word "touchdown" is retained in § 91.116(c)(3) as discussed earlier with respect to § 91.6(d)(1).

Any deliberate touchdown of an aircraft when the flight visibility is less than the visibility prescribed is clearly contrary to the intent of the rule, regardless of whether a full stop landing is completed or not. However, the FAA recognizes that inadvertent and momentary contact of the wheels with the runway may occur during rare instances in which a missed approach must be conducted from a very low altitude. This inadvertent contact may result even though proper procedures are used. This contact is not considered to be landing the aircraft within the meaning of § 91.116(d), and special piloting techniques or procedures are not required to avoid contact by the wheels with the runway under these circumstances. Therefore, most of the detailed references to touchdown are deleted in favor of the word "land" in §§ 91.6, 91.116, and 121.651. Retention of the word "touchdown" in §§ 91.116(c)(1) and 121.651(d)(1) is discussed in the section under § 91.6(d)(1).

One commenter indicates that retaining the provision for pilot determination of visibility does not improve safety because of the possibility of distraction of the pilot. However, there is no evidence that this responsibility alone has caused an unsafe condition. In fact, accident statistics and reports indicate the opposite is true. Causal factors of some accidents appear to be related to continued pilot descent below MDA or DH with only limited visual contact and inadequate visual reference to safely continue the approach to a landing. Thus, §§ 91.116(c)(2) and 91.116(d) retain the concept of pilot determination of the specified visibility and clarify the frequently misunderstood point that the visibility referred to is flight visibility.

Missed Approach Procedures

Additional missed approach requirements are added in § 91.116(e) to preclude unsafe situations resulting from misidentification of ground references. For the same reasons stated for retaining of the provisions of flight visibility in §§ 91.116(c)(2) and 91.116(d), a missed approach is required whenever the flight visibility required by paragraph (c)(2) is lacking, even though the pilot may have one of the visual cues required by paragraph (c)(3) distinctly in sight. A pilot is also required to follow an appropriate missed approach procedure whenever an identifiable part of the airport is not distinctly in sight during a circling maneuver.

Some commenters express concern that the FAA's use of the general term "identifiable part of the airport" in the circling maneuver provision of § 91.116(e) is inconsistent with the FAA's statement that the former § 91.117(b)(2) regarding "markings identifiable with the approach end of the runway" was inadequate and needed revision. However, these two cases are not contradictory. Formerly there were no regulatory provisions during a circling approach restricting a pilot to maintain visual contact with the airport. The revised rule adds the "identifiable part of the airport" requirement to preclude situations where the circling maneuver could be conducted far from the airport with the possibility of misidentification of landmarks not associated with the airport. Since the circling approach provisions of § 91.116(e) specifically refer to a "part of the airport," the misinterpretation associated with the former § 91.117(b)(2) should not occur.

Some commenters express concern that the wording of proposed § 91.116(e) requiring visual contact with the airport during a circling approach might be interpreted to unnecessarily restrict pilots in the selection of a circling maneuver after establishing visual contact and while maneuvering to the point of descent from MDA for final alignment with the landing runway. However, revised § 91.116(e)(2) does not impose additional restrictions on pilots regarding selecting the direction of turn or the type of turn, such as a teardrop, 80°–260° turn, or standard traffic pattern. Such choices of a circling approach maneuver should be selected by the pilot based on good operating practice and are restricted only by limitations that may be specified in the standard approach procedure itself. There is no implication that the rule requires any particular type or direction of turn to maintain visual contact based on angle of sight or windshield view for the pilot or co-pilot depending on which pilot may be flying the approach or other such factors. Good operating practices described in the Airman's Information Manual or other instrument flight training references may continue to be used and are encouraged.

Another subject on which comments were received relates to the § 91.116(e) requirement to immediately initiate an "appropriate" missed approach if visual reference is lost. The commenters correctly note that it is unsafe in some cases to initiate an immediate missed approach which strictly follows the published procedure. This, however, is the reason why the word "appropriate" missed approach is used. Under § 91.116(e) pilots must continue to be aware that the published missed approach procedure provides obstacle clearance only when the missed approach is conducted on the missed approach segment from or above the missed approach point. If the aircraft initiates a missed approach at a point prior to the missed approach point, from below MDA or DH, or on a circling approach, obstacle clearance is not necessarily provided by following the published missed approach procedure. In this situation obstacle clearance is the pilot's responsibility. When a missed approach is initiated in this situation, the pilot must consider other factors such as the aircraft's geographical location with respect to the prescribed missed approach point, direction of flight and/or minimum turning altitudes in the prescribed missed approach procedure, aircraft performance, visual climb restrictions, charted obstacles, IFR departure procedures, takeoff visual climb requirements as expressed by nonstandard takeoff minima, or other factors not specifically expressed by the approach procedures. During a missed approach, the aircraft must be on, or must reintercept, a published segment of the procedure at or above the altitude specified in the procedure, and must maintain a climb gradient equal to or greater than the standard (1:40 or 2.5%) unless otherwise published, for obstacle clearance to be ensured by the published missed approach procedure alone. For these reasons the wording of former § 91.117(b)(2) with respect to an "appropriate" missed approach is retained in § 91.116(e).

Due to the need for exclusions approved by the Administrator, and to consolidate provisions for alternate approvals, the authority of the Administrator in sections of § 91.116, for approval of a circling maneuver where a part of the airport may not be in sight is removed from this section. Such approval is now included under § 91.116(a) in the general provisions for alternate approvals by the Administrator for § 91.116(a) through (k).

Procedure Turns

As described in the notice, due to the possibility of misinterpretation, the current limitation on procedure turns is revised in § 91.116(j) to more clearly require the pilot to obtain an Air Traffic Control (ATC) clearance before making a procedure turn under specified conditions. The former § 91.116(h) required the pilot simply to advise ATC of his intention to make a procedure turn when final approach clearance is received. The revised rule specifies that

such a clearance must be issued by ATC. This precludes situations in which the pilot advises ATC but due to communication difficulties ATC does not receive the request or cannot comply with the pilot's request. In addition, the reference to the designation "FINAL" in the former § 91.116(h), which is no longer used in the context of limitations on procedure turns, is deleted from this provision.

The words "final approach course" have been adopted in § 91.116(j) to be consistent with terminology used in instrument approach and air traffic control procedures rather than the term "final approach segment" used in the notice.

A question was raised regarding applicability of revised § 91.116(j) for a case where the segment of an instrument approach being flown does not specify a "No procedure turn (No PT)" limitation, but other transition segments for the procedure not used by the aircraft do have the limitation. A procedure turn may be made following segments not limited by the "No PT" restriction, but a procedure turn is prohibited unless ATC clearance is received for those segments to which the "No PT" limitation applies. No major comments suggest changing this proposed provision and it is as adopted as proposed.

Inoperative or Unusable Components and Visual Aids

The revised rule incorporates the substance of § 91.117(c), Inoperative or unusable components and visual aids, into § 91.116(k), except the inoperative component tables are deleted. Making the increased minimums mandatory by those tables is unnecessary because the essential limitations are uniformly being incorporated into the instrument approach procedures under Part 97 where necessary.

A number of commenters question the philosophy and method of dealing with the middle marker as an inoperative component of an ILS as proposed. A major supplier of instrument approach procedure charts points out that it is unnecessary to uniquely consider middle marker outages in landing rules. Instead the regulatory means for accommodating middle marker beacon outages should be the same as that used for other components such as approach lights. Further consideration of this point indicates that the comment is valid and that middle marker inoperative situations are not unique in terms of the need for adjustments to minima. Safety can be maintained and such outages can be more appropriately handled by the same administrative means as other inoperative components, such as through the U.S. standard for Terminal Instrument Procedures, in combination with inclusion on FAA 8260 series forms which define Part 97 instrument approach procedures and establish minimums. This provides an equivalent regulatory basis for any adjustments necessary to minimums due to the middle marker being inoperative, but allows the adjustments to be processed and implemented with the same procedures as for approach lights or other items. It also standardizes, simplifies, and increases the likelihood of correct application of these provisions by pilots. Other commenters also point out that provisions for inoperative components, including unusable middle markers, may be adequately addressed through Part 97 instrument approach procedures as defined by FAA Form 8260. Therefore, inoperative component tables may continue to be published as a description of the adjustments made to approach procedures, but they would be based on United States Standard for Terminal Instrument Approach (TERPS) or used for training or informational purposes since the procedure itself specifies any necessary limitations. Accordingly, the middle marker inoperative adjustments are removed from § 91.116 and any necessary adjustments are accommodated in the same way as lighting or other inoperative components as part of the Part 97 instrument approach procedure or Notices to Airmen.

Since § 91.116(f) is deleted, the Department of Defense suggestion to add a military exclusion for the middle marker inoperative situation in the revised § 91.116 is unnecessary. Any special provisions for military use of civil approach procedures which specify minimums adjustments may continue to be appropriately addressed or waived by the military as necessary, and development of military standard approach procedures may be done in accordance with applicable military directives. Other than for explanation of civil approach procedure applicability and use when military aircraft land at civil airports, no provision of § 91.116 regarding elimination of the inoperative components table from § 91.116(f) requires a charge to military procedures.

ILS Components

New § 91.116(k) describes the basic components of an ILS and specifies what airborne and ground equipment may be substituted for those components. As proposed, these components include the localizer, glideslope, outer marker, and middle marker. For consistency, provisions are also added to the rule to address the applicability of the inner marker for Category II and Category III operations since commenters appropriately note that the former § 91.117(c) and the notice did not specifically provide for these cases. Applicability and substitution provisions are added to § 91.116(k) for the inner marker for Category II and Category III to ensure that the provisions of § 91.116(k) are complete and consistent with current practice.

Other Comments on Section 91.116

In several provisions of § 91.116, the phrase "except a military aircraft of the United States" is added to accommodate Department of Defense comments and requirements.

Some comments indicate that the rule is too specific and should be kept only as a good operating practice, or that certain provisions of the rules should not apply to particular operators such as helicopter operations. However, comments such as these do not have supporting evidence and are vague or general and request further relaxation of the rule. It is not clear how the FAA can delete flight visibility and visual reference requirements from § 91.116 and still provide the necessary safety provisions in view of the poor accident and incident record discussed in Notice 80–4. The purpose of this rule making is to clarify and make necessary changes to the rules to increase safety. Therefore the provisions of § 91.116 described in the notice are retained with the revisions noted in the previous paragraphs. The revisions include clarification of flight visibility, specific listing of visual references, incorporation of provisions limiting descent prior to reaching a VDP, and deletion of the inoperative components table in § 91.117 as redundant with Part 97, and provisions of TERPS.

Revision of Part 121

For consistency, § 121.651 combines the former takeoff and landing weather minimums for domestic and flag air carriers (§ 121.651) and those for supplemental air carriers and commercial operators (§ 121.653). For the purposes of this section, the operations of domestic, flag, and supplemental carriers are sufficiently similar that the distinction in takeoff and landing minimums is no longer necessary. This is consistent with the reduced emphasis on distinctions among these carriers which results from the Airline Deregulation Act of 1978 (Pub. L. 95–504) and is responsive to the President's goal of regulatory simplification. Comments on the

simplification of these rules are generally supportive. One commenter suggests even further reorganization of these rules to provide separate sections for takeoff and landing minima and to simplify the redundancy between Parts 91, 121, and 135 for takeoff and landing under IFR. Although the FAA recognizes that such reorganization may have merit, it does not appear practical at this time to make such changes without further public comment. Additional action on such proposals may be a subject for future rulemaking.

Section 121.651(a) prohibits a pilot from beginning takeoff when the weather conditions reported by the U.S. National Weather Service, a source approved by that Service, or a source approved by the Administrator, are less than those specified for the takeoff airport in the certificate holder's operations specifications or, if the operations specifications do not contain minimums for the airport, the minimums specified under the Part 97 procedure. This allows weather reports by sources other than the U.S. National Weather Service or sources approved by it, but which are approved by the Administrator, to apply for takeoff minimums at foreign airports. Thus this change uniformly applies takeoff minimums where weather is reported by sources approved by the Administrator, as well as at locations having U.S. National Weather Service-operated or approved weather facilities. There were no specific comments identifying problems with this section and the section is adopted essentially as proposed.

Proposed § 121.651(b) clarifies that a pilot at an airport within the United States or at a U.S. military installation which has one of the three specified acceptable weather report sources may not continue an approach past a final approach fix or, if a fix is not established in the standard instrument approach procedure, begin the final approach segment of an instrument approach procedure unless a weather report is issued for that airport. At foreign airports, weather services for Part 121 operators are approved by the Administrator rather than the U.S. National Weather Service. Thus § 121.651(b) allows initiation of the final approach segment of instrument approaches at foreign airports not having weather reporting facilities under the jurisdiction of the U.S. National Weather Service.

U.S. National Weather Service expresses concern regarding the language used in § 121.651(b) which states that no person may continue an approach past a final approach fix unless a weather report is issued by the U.S. National Weather Service, a source approved by that service, or a source approved by the Administrator. The concern relates to the fact that it approves weather observations within the United States, whereas the proposed rule also provides for use of sources approved by the Administrator rather than the National Weather Service. However, the provision for approval of the Administrator is necessary in this case, and must be considered in context with current § 121.101(b)(1), and (b)(2), and § 121.119. Sections 121.101 and 121.119 state the conditions under which the Administrator may approve sources of weather reports. Section 121.651(b)(1) and (b)(2) must address operations at airports other than those at which the National Weather Service approves weather observations as provided in § 121.101 and § 121.119. It is therefore necessary to provide for approval of a report by the Administrator in § 121.651 for clarity, to be consistent with established practice, and to be compatible with §§ 121.101 and 121.119.

In § 121.651(b), the provision that "no pilot may * * * *continue an approach past the final approach fix, or where a final approach fix is not used,* begin the final segment of an instrument approach procedure * * *" (emphasis added) is added to provide for the situation where a final approach segment may begin prior to a final approach fix depicted on the procedure. As proposed in such situations an aircraft waiting for a weather improvement above minimums before commencing an approach may have incorrectly held at a point further from the airport than intended because of a misinterpretation of the rule. The adopted rule clarifies the intent that the aircraft in such instances may proceed at least to the depicted final approach fix while waiting for a weather improvement even though some final approach segment in the procedure may begin earlier.

A typographical error regarding the incorrect use of the word "or" versus the correct word "and" is corrected between § 121.651(b)(1) and § 121.651(b)(2) in accordance with the original intent of the provisions of these sections discussed in Notice 80-4.

Sections 121.651(c) and (d), which govern the receipt of a later weather report indicating below minimum conditions and initiation of an approach when weather is below minimums if ILS and precision approach radar (PAR) are used simultaneously is revised. Section 121.651(c) provides that a pilot who has begun the final approach segment of an instrument approach procedure to an airport in accordance with § 121.651(b) and then receives a below minimum report or a pilot who initiates the approach under § 121.651(d) may continue the approach and touchdown if the same safeguards prescribed in § 91.116(c) are met.

The applicable provisions of § 91.116(c) are repeated in §§ 121.651(c) and 121.651(d) to clarify and simplify use of this section without the need to cross reference § 91.116(c). Sections 121.651(c) and (d) are also revised from the wording used in Notice 80-4 to retain the word "landing" in lieu of the word "touchdown" for the same reasons explained in the discussion of § 91.116(d).

Section 121.651(c) provides additional safety in the case of deteriorating weather by revising the conditions for continuation of an approach when variable weather may go below minimums after the aircraft has passed the final approach fix. The former § 121.651(d)(2) required that aircraft on a nonprecision approach must have reached MDA as a condition for continuation of an approach. This is believed in some instances to have led to aircraft descending to MDA at higher than normal descent rates after passing the final approach fix when weather was variable and deteriorating, to be able to continue the approach if weather was subsequently reported below minima. This practice could encourage high sink rates near the ground and unstabilized approaches due to the pilot's effort to reach MDA soon after passing the final approach fix. Accordingly, § 121.651(c) only applies the condition that the aircraft be past the final approach fix to continue an approach in the situation of deteriorating weather, for both precision and nonprecision approaches, this encouraging stabilized descents and use of normal descent gradients.

As proposed, the exception of § 121.651(d), allowing initiation of an approach when weather is below minimums if ILS and PAR are simultaneously used, is retained. However, commenters correctly note that air carriers apply this provision rarely and only at a very few airports due-to PAR being phased out at civil airports. Further, it is suggested that these provisions are no longer appropriate for air carrier operations. As a result, further revision or deletion of § 121.651(d) may be considered in future rule making but the provision is retained at this time.

Section 121.651(d) applies the same safeguards as in § 91.116(c) with the exception of paragraph (c)(4) which

relates to operations prior to reaching a VDP in straight-in, nonprecision instrument approach procedures and does not apply in the instance of a precision approach.

The revisions to §§ 121.651(c) and (d) are necessary to be consistent with the revised § 91.116. They upgrade and clarify the requirements for instrument approaches for air carrier operations. They are adopted substantially as proposed in the notice.

Foreign Airports

Finally, a new § 121.651(f) is added to require a pilot making an IFR takeoff, approach, or landing at a foreign airport to comply with the applicable instrument approach procedures and weather minimums prescribed by the authority having jurisdiction over the airport, unless otherwise authorized in the certificate holder's operations specifications. This ensures that U.S. operators comply with appropriate foreign governmental regulations when conducting international operations. No specific comments were received on this section and it is adopted as proposed.

Pilots Continuously Determining Flight Visibility

Based on comments, difficult issues to resolve are the various sections dealing with requirements for the pilot to continuously determine that the flight visibility is not less than the visibility specified in the procedure used (§§ 91.116(b)(3), 121.651(c)(3) and 121.651(d)(3) in the notice and §§ 91.116(c)(2), 121.651(c)(2), and 121.651(d)(2)). Comments on these issues range from strong support for the concept and wording to significant disagreement with the concept. Some commenters state that this provision could adversely affect safety. A main objection to this provision centers on the interpretation of the phrase "continuously determine" flight visibility. It is suggested that this might be interpreted by some to mean that the pilot or pilots cannot conduct a normal cross check of cockpit instruments while below MDA or DH. Use of the term "continuous" in this context is inappropriate if it is taken to mean that scanning of instruments such as airspeed, altitude, and vertical speed is not acceptable in conjunction with scanning of outside visual references. Such an interpretation is certainly not the intent, and if this interpretation is applied, it could very well be detrimental to flight safety. Accordingly, the word "continuously" is dropped from these sections as being potentially confusing and redundant to § 91.116(e) which provides for conditions in which a missed approach must be initiated.

Another point raised in the comments is the fact that pilots do not have a means to numerically assess flight visibility and compare it with the published minimums and that the list of visual references specified in § 91.116(c)(3)(i) thru (x) is adequate alone. Although these comments are to some degree valid in the sense that visual estimation of visibility by either a pilot or ground observer does require judgement and may not necessarily be numerically exact, it nevertheless remains a concept that provides for the necessary safety during landing. Such assessment of visibility has been the basis for many years for both ground weather observations and pilot use in compliance with the landing minima and visual flight rules. Although alternative concepts such as mandatory use of ground-reported visibility or RVR have been suggested, no other concept adequately replaces the provisions of §§ 91.116(c)(3) and 91.116(d) and provides equivalent safety without further restricting flight operations. The intent of §§ 91.116 and 121.651 is not to remove the requirement for assessment of visibility, but to further clarify its applicability by clearly specifying the often misunderstood point that the rule refers to "flight" visibility as opposed to ground-reported visibility. The associated changes to §§ 91.6, 91.116, and 121.651 provide an increase in safety by explicitly listing the references that must be in sight as a condition for continued descent below MDA or DH even though the pilot may have determined that the required flight visibility is present. Conversely, having one of these specific references in sight is not sufficient alone to safely continue descent if the flight visibility is below minimums. Thus the addition of a specific list of visual references in § 91.116(c)(3) further clarifies the runway environment terminology previously used in § 91.117(b)(2) rather than the long-standing concept of use of flight visibility.

Associated comments relate to the need for slant visual range measurements, and to the relationship between § 121.655, which addresses the precedence of ground-reported RVR in weather reports, and § 121.651. A commenter indicates that minima are not and cannot be measured in terms of slant visual range, and that horizontal flight visibility at altitude may be less than the authorized reported visibility observed at ground level.

Regarding the first point, this statement is partially true. The FAA acknowledges that slant visual range (SVR) is not used now, and the FAA agrees with the commenter that there are presently no ground measurement systems available which are practical for operational measurement of SVR. The FAA plans to continue to monitor technical developments in this area for any advances which may overcome the many technical problems and practical limitations which remain. Even if numerous problems with ground measurement of SVR are resolved, it is not clear that having this information in addition to RVR contributes to or is essential for safe descent below MDA or DH. In a number of accident and incident cases, pilots have continued the approach below MDA or DH in spite of the fact that little or no visual reference existed and the pilot observed that slant visibility was poor. It is not clear how providing ground reports of SVR to the pilot would have prevented the accident or incident since the pilot already had actual slant visibility information which could not have been provided by a ground sensor as accurately or in real time. Conversely, if the pilots applied the conditions specified in § 91.116(c) which clarifies the applicability of the use of flight visibility and lists acceptable visual references for continuation of descent, the continued descent below MDA or DH in marginal visibility well below that specified in the standard instrument approach procedure would clearly have been inappropriate.

The FAA also does not agree with the commenters' views that assessment of flight visibility is impossible for pilots to do. As pointed out in earlier discussions, for many years pilots have been making such judgments to safely operate aircraft, as well as to comply with former §§ 91.105, 91.116, 121.651, and 121.653, even though such judgments may not be numercially exact. For example § 91.105 requires pilots to estimate horizontal visibilities of 1 mile and 3 miles and to estimate horizontal and vertical distances from clouds of 500 feet, 1,000 feet, and 2,000 feet. Sections 91.116, 121.651, and 91.105 all require pilots to estimate flight visibility in situations where slant range and other factors such as horizontal visibility, aircraft height above ground, obscuration due to fog, rain or snow, scud, low cloud or other restrictions to visibility must be considered.

Regarding the points that horizontal visibility at altitude may be less than the authorized reported visibility at ground level, the FAA agrees. However, this is not sufficient reason to remove the requirement for assessment of flight

visibility from §§ 91.116 or 121.651. In fact, the possibility of this situation is an important reason why revised §§ 91.116 and 121.651 continue to require assessment of flight visibility. Technical literature[1] from a variety of sources suggest instances where slant visibility as seen by the pilot can be very much less than the horizontal visibility at ground level. Thus if the requirement for flight visibility assessment by the pilot is removed, it would be permissible to continue a descent below MDA or DH in the unsafe situation where visibility is reported above minimums and one or more visual references listed in § 91.116(c)(3) may be distinctly in sight but the flight visibility is much less than the visibility specified in the procedure and is inadequate to safely complete the landing.

In all these cases, the commenters' recommended resolution of the issues appears to be less restrictive than the former rules. The previous §§ 91.116(b) and 121.651(d) required that no person land unless the visibility is at or above (greater than or equal to) the published minimums, and that for continuation of an approach in deteriorating weather for Part 121 operators, the actual weather be at or above published minimums. The commenters' suggested changes to delete sections such as § 91.116(c)(2) or § 121.651(c)(2) relating to flight visibility would lead to the rules permitting the approach to be continued in unsafe conditions.

For example, in a case where weather is reported to be above minimums, if the requirements of § 91.116(c)(2) were deleted and § 91.116(c)(3) regarding visual references alone was met by having one or more of the listed visual references distinctly in sight, a pilot could have continued the approach even though the flight visibility was very poor and much less than the published minimums. This situation is unsafe because the necessary visual reference for assessment or control of the aircraft's approach path may not be present. Other alternatives suggested by commenters, such as making ground-reported weather exclusively controlling, would require unnecessary missed approaches and diversions to alternate airports when weather is better than reported and safe for an approach and landing. The suggestion to make ground-reported RVR or meteorological visibility exclusively controlling for continuation of a descent below MDA or DH could lead to restrictions on operations with little or no overall benefit to safety. An example of this would be the case where the pilot has the listed references of § 91.116(c)(3) distinctly in sight and has determined that the flight visibility is at or above the published minimums as in § 91.116(c)(2), but the visibility or RVR is reported below minimums due to commonly recognized weather measuring and reporting inaccuracies. In this case, the commenter's suggestion requires an unnecessary missed approach and a diversion to an alternate airport could result.

The comment that § 121.655 establishes precedence of RVR over ground-reported prevailing visibility is correct. However, the commenter's implication that this has any affect on the pilot's assessment of visibility for continuation of an approach below MDA or DH is not valid. Section 121.655 requires that the main body of the weather report, rather than other portions of the report, applies regarding compliance with § 121.651(b) for determining the weather conditions necessary for the initiation of an approach. If an RVR report is currently available, it supersedes other weather reports that may apply to initiation of an approach under § 121.651(b). It does not relieve or take precedence over the pilot's responsibility below MDA or DH to ensure that the required flight visibility exists. Once a pilot has passed the final approach fix, no provision of § 121.655 supersedes the pilot's responsibility to assess visual reference below the MDA or DH. Thus even though a report of RVR may indicate that weather is above minimums and the RVR reports take precedence over other weather reports under § 121.655 for initiating an approach, when below MDA or DH the pilot must, in his judgment, determine that the actual weather conditions are at least equal to the prescribed minimums to continue an approach. Conversely, once past the final approach fix, if the pilot determines that the visual requirements of §§ 121.651(c) and 91.116 (c), (d) and (e) are met, the approach may continue and a landing may be made.

It is important to note the provision to continue an approach below MDA or DH if flight visibility is considered by the pilot to be above minimums and one of the acceptable visual references is in sight is not an encouragement for pilots to deliberately misestimate visibility to land in unsafe conditions with ground reported prevailing visibility or RVR reported below minimums. The FAA intends to continue to closely review the circumstances related to any landings made when weather is reported below minimums. To assess compliance with §§ 91.116(c) and 121.651(c) and for enforcement cases, the FAA will continue to consider a variety of factors such as ground-reported weather, variability of the weather, reports of other pilots who attempted or completed landings, pilots awaiting departure located in a position to judge visual reference in the area of the touchdown zone, reports of visual reference seen by other crewmembers on the aircraft, air traffic personnel, or ground observer reports, or many other such factors. Should evidence of a poor safety record continue or there be evidence of deliberate disregard of the visual reference provisions of §§ 91.116(c) and 121.651(c), the FAA will reconsider both the applicability and precedence of ground-reported visibility and RVR and the potential applicability of additional rules. If necessary, provisions similar to §§ 121.651(b), 135.225, and 125.381 may then be developed to apply to all operations.

Because of the problems identified with alternatives suggested by commenters and the fact that the primary intent of the proposal is to explicitly state the necessary visual references and make it clear that the visibility referred to is flight visibility, §§ 91.116(c), 91.116(d), 121.651(c), and 121.651(d) are adopted as discussed above.

Special Cases Requiring Authorization of the Administrator

Numerous commenters correctly identify areas in proposed § 91.116 where the Administrator must be able to approve approach procedures which vary from the provisions of § 91.116(a) through (k). For example, in the case of an aircraft operating on a straight-in or circling approach, it is sometimes necessary for an instrument approach procedure to provide for a visual segment from the missed approach point to the airport, as at numerous Alaskan airports and airports such as Palm Springs, California, and Missoula, Montana. Thus the Administrator must retain the authority to approve instrument approach procedures where the pilot may not necessarily have one of the visual references specified in § 91.116(c)(3) in sight. There are other cases where the Administrator's authority to issue special provisions must also be available to approve visual approaches, contact approaches, helicopter procedures, or other items such as waivers for all-weather takeoff and landing research and development. Accordingly, the provisions of former §§ 91.116 and 91.117 regarding the authority of the Administrator to authorize deviations is retained in

[1] Copies of these documents are contained in the docket.

§ 91.116, but is consolidated in § 91.116(a) for applicability to § 91.116(a) through (k).

List of Visual References

One commenter suggests that the list of approved visual references proposed in § 91.116(b)(4) and adopted in § 91.116(c)(3) and § 121.651(c)(3) be expanded to include additional items such as lead-in lights and runway markings. In the case of lead-in lights, the comment is not adopted because there are numerous types of approach light systems, of which lead-in lights are just one type, and each would have to be listed and updated as frequent changes in these systems are made. Since lead-in lights and other such visual aids are specific types of approach lights, and are considered and approved by the Administrator to be credited in an instrument approach procedure, it is unnecessary to specifically list each type. In the case of runway markings, the difference in meaning of "runway markings" from the word "runway" is considered sufficient to warrant being included separately to clarify the rule. Runway markings generally consist of standard patterns painted on the runway surface which show the threshold, runway identification number, centerline, touchdown aiming point, and distance coding. In contrast, the term "runway" may refer only to the surface of the pavement. This may not be as distinctly visible as lights or markings, for example, during a night approach on a wet runway.

One comment suggests adding centerline lights to the list in § 91.6(b). This, however, is inappropriate and unnecessary because of the design of the lighting systems. Centerline lights are intended to be installed along with touchdown zone lights, and since touchdown zone lights are set at an intensity greater than centerline lights, they should, in normal circumstances, be visible at the same time or before the centerline lights. Further, if the aircraft has inadvertently passed the touchdown zone prior to touchdown, and the touchdown zone lights or other items in § 91.6(b) are not visible but the centerline lights are visible, continued descent based on the centerline lights alone is not appropriate. Not only is it unlikely that weather is above minimums, but the pilot may also have no way of knowing how far along the runway the aircraft has traveled or how much runway remains for landing. If touchdown occurs past the touchdown zone, by the time the aircraft reaches the color-coded centerline lights at the opposite end of the runway there may be insufficient runway remaining to stop. Therefore, this item is not added to the list.

To clarify and uniformly apply the provisions regarding use of approach lights as a visual reference, the wording is standardized in §§ 91.6, 91.116, and 121.651 as "approach light system." The question is raised by commenters whether the entire approach light system must be visible to the pilot. It is intended that the entire system need not necessarily be in view under either § 91.6 or § 91.116 when descending below MDA or DH. At the time Notice 80-4 was issued, the special description in proposed § 91.6 clarifying descent below 100' was considered sufficient. It was not considered necessary in § 91.116 or § 121.651 because of the relatively infrequent occurrence of this situation. However, since commenters raise the issue and are uncertain as to whether "approach lights" and "approach light systems" have different meanings and whether it was necessary to see all or just part of the approach light system, the FAA has clarified the rule by adopting the wording used in proposed § 91.6 in §§ 91.116(b)(3) and 121.651(c)(3). It should be noted, however, that even though only a part of the approach light system need be visible during descent below MDA or DH to 100' above the touchdown zone elevation, the requirements of § 91.116(c) regarding adequate flight visibility must also be met to continue an approach.

A question is raised regarding the intent of § 91.116(e)(1) as far as missed approaches are concerned. The commenter is uncertain as to the applicability of a rule in the case where visual references may be temporarily lost while below MDA or DH. The commenter asks whether the rule requires that a missed approach be conducted even though visual references reappear. The rule provides that any time the conditions of the rule are met, a missed approach is not required. During the time when the visual references are not available below MDA or DH, however, the pilot is expected to initiate a missed approach. When below MDA or DH, any deliberate delay in initiation of a missed approach in the hope that visual references will soon reappear, is not appropriate, such as in the case of deliberate descent through low cloud, scud, or fog in which the requirements of § 91.116(c) cannot be met. If the pilot uses normal procedures, however, and does not deliberately delay taking action to transit the intermittent condition, but still has not initiated the missed approach when the visual references reappear, a missed approach is not required.

Use of Person or Pilot

Some provisions of the rules are intended to refer only to a pilot because the rule can only be used by a pilot crewmember during flight, for example sighting visual references during a landing as specified in § 91.116(c). However, other provisions of the revised rules may apply to an operator or someone other than a pilot flight crewmember, for example § 91.6(g) concerning operations specifications. In an instance such as § 91.6(g), "operation of an aircraft" may apply to other persons as well as the pilot because other persons may also be responsible for correct application of a certificate holder's operations specifications. The revised rules provide for this situation by retaining the word "person" where someone other than the pilot of an aircraft may also be involved with application of the rules, and the rules use the term "pilot" where a rule clearly is intended for use by a pilot crewmember during flight.

The Amendments

Accordingly, the Federal Aviation Administration amends Parts 1, 91, and 121 of the Federal Aviation Regulations (14 CFR Parts 1, 91, and 121), as follows effective:

PART 1—DEFINITIONS AND ABBREVIATIONS

§ 1.1 [Amended]

1. By amending § 1.1 of Part 1 by adding a definition of "Category III Operations" immediately following the definition of "Category II Operations" as follows:

* * * * *

"Category III operations," with respect to the operation of aircraft, means an ILS approach to, and landing on, the runway of an airport using a Category III ILS instrument approach procedure issued by the Administrator or other appropriate authority.

* * * * *

PART 91—GENERAL OPERATING AND FLIGHT RULES

2. By revising § 91.6 to read as follows:

§ 91.6 Category II and III operations: general operating rules.

(a) No person may operate a civil aircraft in a Category II or Category III operation unless:

(1) The flightcrew of the aircraft consists of a pilot in command and a second in command who hold the appropriate authorizations and ratings prescribed in § 61.3 of this chapter;

(2) Each flight crewmember has adequate knowledge of, and familiarity with, the aircraft and the procedures to be used; and

(3) The instrument panel in front of the pilot who is controlling the aircraft has appropriate instrumentation for the type of flight control guidance system that is being used.

(b) Unless otherwise authorized by the Administrator, no person may operate a civil aircraft in a Category II or Category III operation unless each ground component required for that operation and the related airborne equipment is installed and operating.

(c) For the purpose of this section, when the approach procedure being used provides for and requires use of a DH, the authorized decision height is the DH prescribed by the approach procedure, the DH prescribed for the pilot in command, or the DH for which the aircraft is equipped, whichever is higher.

(d) Unless otherwise authorized by the Administrator, no pilot operating an aircraft in a Category II or Category III approach that provides and requires use of a DH may continue the approach below the authorized decision height unless the following conditions are met:

(1) The aircraft is in a position from which a descent to a landing on the intended runway can be made at a normal rate of descent using normal maneuvers, and where that descent rate will allow touchdown to occur within the touchdown zone of the runway of intended landing.

(2) At least one of the following visual references for the intended runway is distinctly visible and identifiable to the pilot:

(i) The approach light system, except that the pilot may not descend below 100 feet above the touchdown zone elevation using the approach lights as a reference unless the red terminating bars or the red side row bars are also distinctly visible and identifiable.

(ii) The threshold.

(iii) The threshold markings.

(iv) The threshold lights.

(v) The touchdown zone or touchdown zone markings.

(vi) The touchdown zone lights.

(e) Unless otherwise authorized by the Administrator, each pilot operating an aircraft shall immediately execute an appropriate missed approach whenever prior to touchdown the requirements of paragraph (d) of this section are not met.

(f) No person operating an aircraft using a Category III approach without decision height may land that aircraft except in accordance with the provisions of the letter of authorization issued by the Administrator.

(g) Paragraphs (a) through (f) of this section do not apply to operations conducted by the holders of certificates issued under Parts 121, 123, 125, 129, or 135 of this chapter. No person may operate a civil aircraft in a Category II or Category III operation conducted by the holder of a certificate issued under Parts 121, 123, 125, 129, or 135 of this chapter unless the operation is conducted in accordance with that certificate holder's operations specifications.

3. By revising § 91.116 to read as follows:

§ 91.116 Takeoff and landing under IFR.

(a) *Instrument approaches to civil airports.* Unless otherwise authorized by the Administrator for paragraphs (a) through (k) of this section, when an instrument letdown to a civil airport is necessary, each person operating an aircraft, except a military aircraft of the United States, shall use a standard instrument approach procedure prescribed for the airport in Part 97 of this chapter.

(b) *Authorized DH or MDA.* For the purpose of this section, when the approach procedure being used provides for and requires use of a DH or MDA, the authorized decision height or authorized minimum descent altitude is the DH or MDA prescribed by the approach procedure, the DH or MDA prescribed for the pilot in command, or the DH or MDA for which the aircraft is equipped, whichever is higher.

(c) *Operation below DH or MDA.* Where a DH or MDA is applicable, no pilot may operate an aircraft, except a military aircraft of the United States, at any airport below the authorized MDA or continue an approach below the authorized DH unless—

(1) The aircraft is continuously in a position from which a descent to a landing on the intended runway can be made at a normal rate of descent using normal maneuvers, and for operations conducted under Part 121 or Part 135 unless that descent rate will allow touchdown to occur within the touchdown zone of the runway of intended landing;

(2) The flight visibility is not less than the visibility prescribed in the standard instrument approach procedure being used;

(3) Except for a Category II or Category III approach where any necessary visual reference requirements are specified by the Administrator, at least one of the following visual references for the intended runway is distinctly visible and identifiable to the pilot:

(i) The approach light system, except that the pilot may not descend below 100 feet above the touchdown zone elevation using the approach lights as a reference unless the red terminating bars or the red side row bars are also distinctly visible and identifiable.

(ii) The threshold.

(iii) The threshold markings.

(iv) The threshold lights.

(v) The runway end identifier lights.

(vi) The visual approach slope indicator.

(vii) The touchdown zone or touchdown zone markings.

(viii) The touchdown zone lights.

(ix) The runway or runway markings.

(x) The runway lights; and

(4) When the aircraft is on a straight-in nonprecision approach procedure which incorporates a visual descent point, the aircraft has reached the visual descent point, except where the aircraft is not equipped for or capable of establishing that point or a descent to the runway cannot be made using normal procedures or rates of descent if descent is delayed until reaching that point.

(d) *Landing.* No pilot operating an aircraft, except a military aircraft of the United States, may land that aircraft when the flight visibility is less than the visibility prescribed in the standard instrument approach procedure being used.

(e) *Missed approach procedures.* Each pilot operating an aircraft, except a military aircraft of the United States, shall immediately execute an appropriate missed approach procedure when either of the following conditions exist:

(1) Whenever the requirements of paragraph (c) of this section are not met at either of the following times:

(i) When the aircraft is being operated below MDA; or

(ii) Upon arrival at the missed approach point, including a DH where a DH is specified and its use is required, and at any time after that until touchdown.

(2) Whenever an identifiable part of the airport is not distinctly visible to the pilot during a circling maneuver at or above MDA, unless the inability to see an identifiable part of the airport results only from a normal bank of the aircraft during the circling approach.

(f) *Civil airport takeoff minimums.* Unless otherwise authorized by the Administrator, no pilot operating an aircraft under Part 121, 123, 125, 129, or 135 of this chapter may take off from a civil airport under IFR unless weather conditions are at or above the weather minimums for IFR takeoff prescribed for that airport under Part 97 of this chapter. If takeoff minimums are not prescribed

under Part 97 of this chapter for a particular airport, the following minimums apply to takeoffs under IFR for aircraft operating under those parts:

(1) For aircraft having two engines or less—1 statute mile visibility.

(2) For aircraft having more than two engines—½ statute mile visibility.

(g) *Military airports.* Unless otherwise prescribed by the Administrator, each person operating a civil aircraft under IFR into or out of a military airport shall comply with the instrument approach procedures and the takeoff and landing minimums prescribed by the military authority having jurisdiction of that airport.

(h) *Comparable values of RVR and ground visibility.*

(1) Except for Category II or Category III minimums, if RVR minimums for takeoff or landing are prescribed in an instrument approach procedure, but RVR is not reported for the runway of intended operation, the RVR minimum shall be converted to ground visibility in accordance with the table in paragraph (h)(2) of this section and shall be the visibility minimum for takeoff or landing on that runway.

(2)

RVR (feet)	Visibility (statute miles)
1,600	¼
2,400	½
3,200	⅝
4,000	¾
4,500	⅞
5,000	1
6,000	1¼

(i) *Operations on unpublished routes and use of radar in instrument approach procedures.* When radar is approved at certain locations for ATC purposes, it may be used not only for surveillance and precision radar approaches, as applicable, but also may be used in conjunction with instrument approach procedures predicated on other types of radio navigational aids. Radar vectors may be authorized to provide course guidance through the segments of an approach procedure to the final approach course or fix. When operating on an unpublished route or while being radar vectored, the pilot, when an approach clearance is received, shall, in addition to complying with § 91.119, maintain the last altitude assigned to that pilot until the aircraft is established on a segment of a published route or instrument approach procedure unless a different altitude is assigned by ATC. After the aircraft is so established, published altitudes apply to descent within each succeeding route or approach segment unless a different altitude is assigned by ATC. Upon reaching the final approach course or fix, the pilot may either complete the instrument approach in accordance with a procedure approved for the facility or continue a surveillance or precision radar approach to a landing.

(j) *Limitation on procedure turns.* In the case of a radar vector to a final approach course or fix, a timed approach from a holding fix, or an approach for which the procedure specifies "No PT", no pilot may make a procedure turn unless cleared to do so by ATC.

(k) *ILS components.* The basic ground components of an ILS are the localizer, glide slope, outer marker, middle marker, and, when installed for use with Category II or Category III instrument approach procedures, an inner marker. A compass locator or precision radar may be substituted for the outer or middle marker. DME, VOR, or nondirectional beacon fixes authorized in the standard instrument approach procedure or surveillance radar may be substituted for the outer marker. Applicability of, and substitution for, the inner marker for Category II or III approaches is determined by the appropriate Part 97 approach procedure, letter of authorization, or operations specification pertinent to the operation.

4. By removing § 91.117 and marking it as follows:

§ 91.117 [Reserved]

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

5. By revising § 121.651 to read as follows:

§ 121.651 Takeoff and landing weather minimums: IFR: all certificate holders.

(a) Notwithstanding any clearance from ATC, no pilot may begin a takeoff in an airplane under IFR when the weather conditions reported by the U.S. National Weather Service, a source approved by that Service, or a source approved by the Administrator, are less than those specified in—

(1) The certificate holder's operations specifications; or

(2) Parts 91 and 97 of this chapter, if the certificate holder's operations specifications do not specify takeoff minimums for the airport.

(b) Except as provided in paragraph (d) of this section, no pilot may continue an approach past the final approach fix, or where a final approach fix is not used, begin the final approach segment of an instrument approach procedure—

(1) At any airport, unless the U.S. National Weather Service, a source approved by that Service, or a source approved by the Administrator, issues a weather report for that airport; and

(2) At airports within the United States and its territories or at U.S. military airports, unless the latest weather report for that airport issued by the U.S. National Weather Service, a source approved by that Service, or a source approved by the Administrator, reports the visibility to be equal to or more than the visibility minimums prescribed for that procedure. For the purpose of this section, the term "U.S. military airports" means airports in foreign countries where flight operations are under the control of U.S. military authority.

(c) If a pilot has begun the final approach segment of an instrument approach procedure in accordance with paragraph (b) of this section and after that receives a later weather report indicating below-minimum conditions, the pilot may continue the approach to DH or MDA. Upon reaching DH or at MDA, and at any time before the missed approach point, the pilot may continue the approach below DH or MDA and touch down if—

(1) The aircraft is continuously in a position from which a descent to a landing on the intended runway can be made at a normal rate of descent using normal maneuvers, and where that descent rate will allow touchdown to occur within the touchdown zone of the runway of intended landing;

(2) The flight visibility is not less than the visibility prescribed in the standard instrument approach procedure being used;

(3) Except for Category II or Category III approaches where any necessary visual reference requirements are specified by authorization of the Administrator, at least one of the following visual references for the intended runway is distinctly visable and identifiable to the pilot:

(i) The approach light system, except that the pilot may not descend below 100 feet above the touchdown zone elevation using the approach lights as a reference unless the red terminating bars or the red side row bars are also distinctly visible and identifiable.

(ii) The threshold.

(iii) The threshold markings.

(iv) The threshold lights.

(v) The runway end identifier lights.
(vi) The visual approach slope indicator.
(vii) The touchdown zone or touchdown zone markings.
(viii) The touchdown zone lights.
(ix) The runway or runway markings.
(x) The runway lights; and

(4) When the aircraft is on a straight-in nonprecision approach procedure which incorporates a visual descent point, the aircraft has reached the visual descent point, except where the aircraft is not equipped for or capable of establishing that point, or a descent to the runway cannot be made using normal procedures or rates of descent if descent is delayed until reaching that point.

(d) A pilot may begin the final approach segment of an instrument approach procedure other than a Category II or Category III procedure at an airport when the visibility is less than the visibility minimums prescribed for that procedure if that airport is served by a operative ILS and an operative PAR, and both are used by the pilot. However, no pilot may operate an aircraft below the authorized MDA, or continue an approach below the authorized DH, unless—

(1) The aircraft is continuously in a position from which a descent to a landing on the intended runway can be made at a normal rate of descent using normal maneuvers and where such a descent rate will allow touchdown to occur within the touchdown zone of the runway of intended landing;

(2) The flight visibility is not less than the visibility prescribed in the standard instrument approach procedure being used; and

(3) Except for Category II or Category III approaches where any necessary visual reference requirements are specified by the authorization of the Administrator, at least one of the following visual references for the intended runway is distinctly visible and identifiable to the pilot:

(i) The approach light system, except that the pilot may not descend below 100 feet above the touchdown zone elevation using the approach lights as a reference unless the red terminating bars or the red side row bars are also distinctly visible and identifiable.
(ii) The threshold.
(iii) The threshold markings.
(iv) The threshold lights.
(v) The runway end identifier lights.
(vi) The visual approach slope indicator.
(vii) The touchdown zone or touchdown zone markings.
(viii) The touchdown zone lights.
(ix) The runway or runway markings.
(x) The runway lights.

(e) For the purpose of this section, the final approach segment begins at the final approach fix or facility prescribed in the instrument approach procedure. When a final approach fix is not prescribed for a procedure that includes a procedure turn, the final approach segment begins at the point where the procedure turn is completed and the aircraft is established inbound toward the airport on the final approach course within the distance prescribed in the procedure.

(f) Unless otherwise authorized in the certificate holder's operations specifications, each pilot making an IFR takeoff, approach, or landing at a foreign airport shall comply with the applicable instrument approach procedures and weather minimums prescribed by the authority having jurisdiction over the airport.

6. By removing § 121.653 and marking it as follows:

§ 121.653 [Reserved]

(Sec. 307, 313(a), 501, 601, 001(a) and 604, Federal Aviation Act of 1958, as amended (49 U.S.C. 1348, 1354(a), 1401, 1421, 1421(a), and 1424); 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). A copy of the evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by writing to the person identified under "For Further Information Contact:"

Note.—This rule is a final order of the Administrator as defined by the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the courts of appeals of the United States or the United States Court of Appeals for the District of Columbia.

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

Langhorne Bond,
Administrator.

[FR Doc. 81-459 Filed 1-7-81; 8:45 am]
BILLING CODE 4910-13-M

federal register

Thursday
January 8, 1981

Part IV

Interstate Commerce Commission

Rules Governing Applications for Operating Authority, Removal of Restrictions from Authorities of Motor Carriers of Property, Implementation of Intercorporate Hauling Reform Legislation, Motor Carrier Rate Bureau Provisions, Acceptable Forms of Requests for Operating Authority (Motor Carriers and Brokers of Property), and Intercorporate Hauling Interpretation; Supplemental Notices

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1002, 1003, 1011, 1100

[Ex Parte No. 55 (Sub-No. 43)]

Rules Governing Applications for Operating Authority

AGENCY: Interstate Commerce Commission.

ACTION: Final Rules; Supplemental Notice.

SUMMARY: At 45 FR 86771, December 31, 1980, the Commission adopted final rules which govern applications for operating authority filed with the Commission. The rules modify the Commission's permanent authority procedures governing the issuance of certificates, permits and licenses to motor and water carriers, freight forwarders, and brokers to speed up administrative processes. In this proceeding, Commissioner Clapp reserved his right to submit a separate expression. That separate expression appears below.

FOR FURTHER INFORMATION CONTACT: Ombudsman's Office 202-275-7440, Peter Metrinko—202-275-7805, Edward E. Guthrie—202-275-7691.

SUPPLEMENTARY INFORMATION:

COMMISSIONER CLAPP, concurring in part, dissenting in part:

I support most of the positions taken here. At the same time, I am concerned, as I have been concerned in certain other recent actions taken by the Commission, that fair play, due process, and, indeed, the dictates of the 1980 Motor Carrier Act have been submerged beyond recognition in the race to prove to all that we as a Commission favor competition in the market place. We have been proving that for several years. In the long run, however, indifference to proper procedures and to Congressional mandate may set back the very goals we seek to attain. That is not only shortsighted and self-serving, it is foolish and costly to a sound national transportation system.

For the past four years, the Commission has placed increasing emphasis on competition and the concurrent reduction of economic regulation. Congress has indicated its approval of this approach, particularly this year with the passage of the Motor Carrier Act, the Rail Act, the Household Goods Act and other legislation. The responses from industry and the public have been encouraging. In loosening the regulatory reins which grew even tighter over the years, the Commission has attempted to strip away artificial roadblocks to progress, such as frivolous protests, while retaining for the parties with legitimate grievances, the opportunity to be heard. There are disconcerting efforts to sweep all that aside. Due process goes out the window.

I am concerned about several procedural changes made by the majority—none of which were noticed in the interim rules: (1) The refusal to permit consolidation requests by anyone except applicants; (2) The total rejection of the ability of applicants to amend their cases; (3) The restriction of service of motions; and (4) The discretionary republication of incorrect **Federal Register** notices. Each of these will cause some hardship on participating parties as they attempt to keep up to date on a proceeding. All of these actions were taken, the majority states, because of time constraints placed on the Commission by Congress. When the solutions to time constraints constrain due process we had better reconsider who must make the sacrifice, the Commission with access to all the information, or parties attempting to participate. I suggest it falls on us. Certainly some better solution is available.

Another majority position more substantive than these procedural issues—and perhaps even more unfair—is the continued refusal to define the burden of the intervening parties. As I pointed out in my concurring opinion to *La Bar's Inc., Extension—Mountaintop Insulation*, 132 M.C.C. 263 (1980) we have gone to great lengths to establish presumptions for the applicant's prima facie case. See also *Tiger Transportation, Inc., Extension—Points in Ten Midwestern States*, 132 M.C.C. 281 (1980); *Art Pape Transfer, Inc., Extension—Commodities in End Dump Vehicles*, 132 M.C.C. 84 (1980).

A reasonable corollary would be to propose similar guidelines for intervening parties. Their statutory burden is to prove that a grant is inconsistent with public convenience and necessity. 49 U.S.C. 10922. But an analysis of the above cases and the statements and rules issued in this rulemaking can only result in the conclusion that we have been less than consistent in describing this burden. Again, the issue is not more or less regulation but fair play. Congress has expressly retained the concept of the opposed proceeding to provide for a balancing of interests. It is our responsibility to articulate the parameters of this balancing so that intervening parties may contribute meaningfully to the proceedings. The failure to develop clear evidentiary standards for all participants is not only prejudicial but results in an impossible burden as parties attempt to second guess the Commission.

Here in this rulemaking, we have undertaken a major restructuring of the procedural and substantive methods by which this agency and the public interact. The rules laid down here will prevail for months and perhaps years to come. While I believe that these new rules are, for the most part, a necessary improvement over past procedures, I am not convinced that we have found the best or even the fairest approach.

It should be recognized that only two of the seven decisions served December 24, 1980, all of which will have impact on motor carrier operating rights, were under statutory deadline. Most, if not all, would have profited from extended attention. This decision is no exception.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-613 Filed 1-7-81; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Parts 1002 and 1137

[Ex Parte No. MC-142 (Sub-No. 1)]

Removal of Restrictions From Authorities of Motor Carriers of Property

AGENCY: Interstate Commerce Commission.

ACTION: Final rules; supplemental notice.

SUMMARY: At 45 FR 86747, December 31, 1980, the Commission published rules implementing the Motor Carrier Act of 1980, which outline procedures to process expeditiously applications of individual motor carriers of property seeking to remove operating restrictions or to broaden unduly narrow authorizations in their outstanding certificates or permits. In this proceeding, Commissioner Clapp reserved his right to submit a separate expression. That separate expression appears below.

FOR FURTHER INFORMATION CONTACT: Ombudsman's Office—202-275-7440, Howell I. Sporn—202-275-7575, Edward E. Guthrie—202-275-7691.

SUPPLEMENTARY INFORMATION:

COMMISSIONER CLAPP, concurring in part, dissenting in part:

As I noted in my concurring opinion to the original proposal, the use of this proceeding by existing carriers seeking to expand authority may cause more significant changes in the nation's transportation system than any other section of the 1980 Motor Carrier Act. For example, general commodities

carriers may now enter the household goods and bulk areas with ease while many carriers, formerly limited by size and weight restrictions, may now expand into the general commodities arena. All of this and more can be accomplished without the necessity of the application proceeding required of new entrants.

Because of the ability of existing carriers to obtain enormous expansions in authority so easily, I feel that the majority's unwillingness to do more than merely "consider" safety fitness is extremely shortsighted. We should make it clear that with eased expansion and entry, safety fitness will be considered extremely important.

There is certainly no evidence that when Congress considered the matter of restriction removal it did so with the thought that unfit carriers should be permitted to expand their operations or that we should not consider evidence of fitness. Our duty to maintain a safe and sound system is not advanced by the majority's simplistic argument that all applicants have already been found fit—albeit 40 years ago.

The majority has also seen fit to disregard without discussion the question of whether a carrier recently found unfit by the Commission should be able to have major restrictions removed. Discussion would not only be helpful but in order since the rules specifically permit carriers with limited term certificates to request restriction removal. See Section 1137.27. Limited terms are frequently imposed on the certificates of carriers who have been found to be only marginally fit. The expectation is that the carrier will either improve its operations and receive permanent authority or the certificate will expire.

I urge parties to removal proceedings to raise fitness issues where pertinent—especially safety. The Commission should not rubber stamp restriction removal requests when serious fitness questions are raised.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-614 Filed 1-7-81; 8:45 am]

BILLING CODE 7035-01-M

---

49 CFR Parts 1002 and 1136

[Ex Parte No. MC-122 (Sub-No. 1)]

Implementation of Intercorporate Hauling Reform Legislation

AGENCY: Interstate Commerce Commission.

ACTION: Final rules; supplemental notice.

SUMMARY: At 45 FR 86761, December 31, 1980, the Commission published rules which allow related but separately incorporated members of the same corporate family to provide transportation service to each other without obtaining a license from the Commission subject to certain conditions and limitations. In this proceeding, Commissioner Clapp reserved his right to submit a separate expression. That separate expression appears below.

FOR FURTHER INFORMATION CONTACT: Melvin B. Werner—202-275-7987, Kathleen King—202-275-0956.

SUPPLEMENTARY INFORMATION:

COMMISSIONER CLAPP, concurring:

There are two items on which I wish to make further comment. Under the modified regulations, corporations may begin CIH operations immediately upon mailing their notices to the Commission. The language of the statute would appear to allow this although the statutory history is somewhat contradictory. Compare the early floor remarks on S. 2245, Congressional Record dated April 15, 1980, p. 3596, with the subsequent Report of the House Committee on Public Works and Transportation, No. 96-1069, June 3, 1980. Under our rules, an unreceipted, unpublished notice may be the only evidence available in a vehicle to attest to the legality of the operations. Should any enforcement problems arise because of this, I trust either the States or participating corporations will let us know so that we may consider remedial action.

The second matter concerns our ability to change by rulemaking the statutory 100 percent requirement. I would modify the language of the decision as I do not believe the statute or its history indicates that we may, on our own, develop such a rule. At the same time, I believe we should be watching closely to see whether problems arise and if they do we should gather information and consider proposing changes to the Congress.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-615 Filed 1-7-81; 8:45 am]

BILLING CODE 7035-01-M

---

49 CFR Part 1331

[Ex Parte No. 297 (Sub-No. 5)]

Motor Carrier Rate Bureaus—Implementation of Pub. L. 96-296

AGENCY: Interstate Commerce Commission.

ACTION: Notice of decision; policy statement; supplemental notice.

SUMMARY: At 45 FR 86736, December 31, 1980, the Commission implemented the rate bureau provisions of the Motor Carrier Act of 1980. In this proceeding, Commissioner Clapp reserved his right to submit a separate expression. That separate expression appears below.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder or Jane F. Mackall—202-275-7656.

SUPPLEMENTARY INFORMATION.

COMMISSIONER CLAPP, concurring:

The discussion on remedies for potential violations of bureau agreements is confusing. It is doubtful that the elaborate tariff rejection process is necessary, assuming a meaningful Commission enforcement role. The possibility of antitrust prosecution is probably the strongest deterrent against potential abuse. This Commission, by active and even-handed oversight efforts, could, if necessary, hold fact-finding hearings and turn the results over to the antitrust enforcement agencies. More than this seems superfluous.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-616 Filed 1-7-81; 8:45 am]

BILLING CODE 7035-01-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 55 (Sub-43A)]

Acceptable Forms of Requests for Operating Authority (Motor Carriers and Brokers of Property)

AGENCY: Interstate Commerce Commission.

ACTION: Policy statement; supplemental notice.

SUMMARY: The Commission issued this policy statement at 45 FR 86798, December 31, 1980, to guide carriers in requesting authority under the Motor Carrier Act of 1980. Carriers are now to apply for broad, unencumbered authority. In this proceeding, Commissioner Clapp reserved his right to submit a separate expression. That separate expression appears below.

FOR FURTHER INFORMATION CONTACT: Ombudsman's Office, 202–275–7440; David B. Gaynor, 202–275–7904; Edward E. Guthrie, 202–275–7691.

SUPPLEMENTARY INFORMATION:

Commissioner Clapp, Concurring in Part, Dissenting in Part

Grant descriptions is an area with which the Commission has wrestled many times. The very act of limiting a grant by commodity or territory creates controversy and confusion and has resulted in massive interpretation lists and cases. It is gratifying, therefore, that with the impetus of the 1980 Motor Carrier Act we have taken a positive step forward in simplifying the system. Regrettably, however, this particular act of "simplification" is likely to result in even more confusion and uncertainty among carriers and shippers. In particular, I am concerned with the majority's conclusion that all commodity descriptions must be as "broad or broader than the [two-digit] STCC groupings." This contrasts unfavorably with out companion decision in Ex Parte No. MC–142 (Sub-No. 1) served December 24, 1980, where we agreed that carriers could upgrade a narrow authority, through restriction removal proceedings, to (1) the appropriate two-digit STCC; (2) a commodity description from our *Descriptions* cases; or (3) a broad class description. See 49 CFR 1137.21(b).

The principal question now is how this "broad or broader" description will be interpreted both at the application and operational levels. Will the Commission reject an application for lesser authority when the carrier cannot or will not support a greater request? Or, will we grant the broader grouping although unsupported by even representational evidence? And what burden will intervening parties bear? I believe that we should continue to encourage carriers to apply for reasonable and realistic authorities which serve their full needs. The bottom line, however, should be that carriers and shippers must be able to make their own business judgments as to the sector of marketplace in which they are willing and able to participate. A decision to allow carriers some discretion in commodity choices is *not* restrictive, it is common sense.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81–617 Filed 1–7–81; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. MC–122 (Sub-No. 3)]

Interpretation—Intercorporate Hauling

AGENCY: Interstate Commerce Commission.

ACTION: Petition for declaratory order; supplemental notice.

SUMMARY: The Commission has been asked to determine whether the exemption of section 9 of the Motor Carrier Act of 1980 is available to certain types of companies. In a notice published at 45 FR 86768, December 31, 1980, the Commission published a notice asking for comments in this matter. In this proceeding, Commissioner Clapp reserved his right to submit a separate expression. That separate expression appears below.

FOR FURTHER INFORMATION CONTACT: Melvin B. Werner, 202–275–7985; Edward E. Guthrie, 202–275–7691.

SUPPLEMENTARY INFORMATION:

Commissioner Clapp, Concurring in Part, Dissenting in Part

I agree with Commissioner Gilliam's comments. Section 10524(b) was intended to eliminate the prohibitions against compensated intercorporate hauling which had arisen from past Commission interpretations of the original private carriage exemption statute. Thus it must be read as adding to section 10524(a), the original section, and not as an independent exemption. Therefore, regardless of whether a corporate family sets up a special company to provide private service to all affiliates, the transportation performed must be within the scope of, and further the family's primary business which must be other than transportation. The majority has, therefore, reached the only possible conclusion with respect to the inability of air carriers to set up exempt motor carrier affiliates and this reasoning applies with equal force to any transportation parent's attempt to set up an exempt carrier affiliate. I see no need to seek comments on this or consider implementing regulations precluding what the statute clearly prohibits.

The issue of whether a person engaged in a warehousing business may use the CIH exemption is less clear as the 1980 Act's addition of Section 10524(b) is not relevant and has not altered precedent on the primary business test of Section 10524(a). The question is whether the current exclusion of warehousing should be changed and the majority has so concluded. But, rather than form premature and unsubstantiated premises on this narrow issue, I suggest that it would be more productive to call for an extensive reexamination of the primary business test and to request comments on the entire issue including, as suggested by Commissioner Gilliam, the interplay between warehouses and freight forwarders. Also if warehousing is then found to be within the exemption, what would be the status of motor carriers who turn their terminals into affiliate "warehouses."

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81–618 Filed 1–7–81; 8:45 am]

BILLING CODE 7035–01–M

federal register

Thursday
January 8, 1981

Part V

Department of Transportation

Federal Highway Administration

Carpool and Vanpool Projects

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 656

Carpool and Vanpool Projects

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The FHWA is revising existing carpool and vanpool procedures to reflect changes required by the Surface Transportation Assistance Act of 1978. The revised rule contains the basic criteria for determining whether carpool and vanpool (ridesharing) projects are eligible for Federal-aid funding under 23 U.S.C. 146.

EFFECTIVE DATE: January 30, 1981.

FOR FURTHER INFORMATION CONTACT: Barbara Reichart, Office of Highway Planning, 202–426–0210, or Hugh T. O'Reilly, Office of the Chief Counsel, 202–426–0781, 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: This rule amends the FHWA's existing carpool and vanpool regulation (23 CFR 656) as required by Section 126 of the Surface Transportation Assistance Act of 1978 (STAA) (Pub. L. 95–599, 92 Stat. 2689). The STAA changes the Federal share for carpool and vanpool projects from 90 percent to 75 percent; permits the use of Federal-aid secondary system funds for such projects; changes these projects from demonstration projects to regular Federal-aid highway projects; and declares that special efforts should be made to promote commuter modes of transportation that conserve energy, reduce pollution and reduce traffic congestion. This rule does not concern grants and loans made pursuant to subsections (e) and (f) of Section 126 of the STAA.

A notice of proposed rulemaking (NPRM) was published in the **Federal Register** (44 FR 70753) on December 10, 1979, requesting comments on proposed revisions to the carpool and vanpool regulation. Thirty-three letters were submitted to the public docket (No. 79–28) in response to the NPRM.

Discussion of Comments

The FHWA carefully reviewed all comments received. As many comments as possible have been incorporated into this final rule. The purpose of this preamble is to explain our actions regarding the most significant comments as well as to present our approach and policies regarding the Federal-aid role in ridesharing transportation.

The FHWA recognizes that all ridesharing efforts, regardless of the purpose of the trips involved, help to conserve energy, reduce pollution, and reduce traffic congestion. However, the work or commute trip is the most adaptable trip purpose for ridesharing arrangements, accounting as it does for some 40 percent of all home-based trips taken by automobile. The commute trip is specifically addressed in the national policy statement in the STAA. The FHWA continues this emphasis for ridesharing projects as such projects contribute to better transportation system management, especially during peak travel periods where street and highway physical capacity is often constrained. This policy emphasis is not meant to inhibit State and local officials from implementing Federal-aid ridesharing projects that address other trip purposes where such projects are consistent with local needs and the policy objectives stated in § 656.3 of this rule.

Several comments were received regarding the size of vans which can be purchased with Federal-aid funds. The allowable passenger capacity in § 656.5(c)(3)(i) has been changed from 8 to 15 passengers to 7 to 15 passengers to accommodate smaller sized vans available in the marketplace and to be consistent with certain State motor vehicle code definitions that use the 7 passenger number criterion. Section 656.5(c)(3)(ii) requires that provision be made for repayment of the acquisition cost of the van, but also specifies two situations in which repayment may not be required where the van is used as a marketing device.

Many commenters objected to the lowering of the Federal matching ratio from 90 percent to 75 percent for Federal-aid ridesharing projects. This change was legislatively mandated by Congress in Section 126(b) of the STAA. The STAA repealed the Emergency Highway Energy Conservation Act of 1974 under which ridesharing projects were funded on a demonstration basis with a 90 percent Federal share. The STAA removed the demonstration status and incorporated ridesharing projects into the regular Federal-aid highway program, which limits the Federal share of the project cost to 75 percent (except as provided under Section 120 of Title 23 U.S.C., for certain public land States).

The FHWA has determined that a wide variety of in-kind services and activities can be accepted as the local share or "match" of the project cost. In-kind contributions permitted as local match include properly valued public service announcements (PSA), computer services, and project-related staff time for administration by employees of public and private organizations. Private employers are particularly encouraged to commit their resources as described above in order to contribute to areawide ridesharing efforts. In general, a project-related cost that is eligible for Federal-aid funding is, when properly valued and accounted, acceptable as a local in-kind match. The FHWA believes that this flexibility should reduce the burden some States or local areas may face in providing the required local match.

Section 656.5(c)(5) indicates that Federal-aid funds will participate in the initial or renewal costs of leasing parking spaces or the acquisition of easements or restrictions to provide preferential parking for carpools. Where a reduction in the overall number of vehicles using the designated portion of a commercial parking facility can be demonstrated, that reduction may be used in computing the lease or acquisition cost for the project. However, the regulation does not permit the cost to be computed on the basis of a reduction of the per-vehicle user charge for parking in the designated area.

Another issue raised involved the use of Federal-aid Interstate (FAI) funds for ridesharing projects. This issue had two general aspects. The first was the comment offered by many that FHWA should allow FAI funds to participate in the costs to construct exclusive (not served by existing or planned transit) carpool and vanpool fringe parking facilities not located within the existing FAI right-of-way. At the present time, FHWA has authority under 23 U.S.C. 146(a) to use Federal-aid urban (FAUS), primary (FAP) and secondary (FAS) system funds for such carpool and vanpool fringe parking facilities. Regarding FAI funds, FHWA has authority to use these funds to construct exclusive carpool and vanpool fringe parking facilities within existing FAI right-of-way. Outside existing right-of-way, FAI funds may be used for carpool and vanpool fringe parking facilities *only* when such facilities serve existing or planned public mass transportation service.

It should be emphasized that other regular construction projects such as constructing high occupancy vehicle (HOV) lanes and facilities and multimodal fringe parking facilities can be funded with all categories of Federal-aid funds including FAI funds.

The second aspect of FAI funding involved numerous suggestions that these funds be eligible to participate in

the administrative costs of ridesharing programs. Currently, 23 U.S.C. 146(a) specifically authorizes the use of FAUS, FAP, and FAS funds for such purposes. The FHWA believes that these three classes of funds have considerable untapped potential to support ridesharing projects and strongly encourages State and local officials to give priority to ridesharing projects in the annual programs of projects prepared by the States.

Another concern raised by commenters is the language in § 656.5(a) that ridesharing projects "must serve a Federal-aid system" and be financed with the appropriate class of eligible funds, "depending on the system served." This is merely a restatement of FHWA policy that Federal-aid funds should be used for projects that will improve the people-moving efficiency of the overall Federal-aid system, and that the class of funds used should depend on the system benefited by the expenditure. In projects involving physical facilities, such as providing a bus and carpool lane, the class of Federal-aid funds to use is usually obvious. With respect to other ridesharing projects such as promotion and matching programs or van acquisition, which by their nature cannot be limited to a specific physical facility, State and local officials must decide which Federal-aid system will receive the primary benefit and use that class of funds for the project. Splitting or prorating of costs among different system funds for a nonconstruction, ridesharing project that serves a geographic area is neither required nor encouraged.

Many commenters suggested that the requirement in § 656.5(b) that Federal-aid carpool and vanpool projects not have "an adverse effect on any mass transportation system" be deleted. This restriction is specifically included in the authorizing legislation (STAA) and therefore cannot be administratively deleted. In considering this legislation, the congressional conferees addressed the "adverse effect" issue in their Conference Report and stated that an adverse effect had to be an "appreciable adverse impact," more than a *de minimis* effect. The FHWA believes that the intent of this requirement is consistent with the policy and practice followed by Federal-aid ride-sharing projects since 1974, i.e., ridesharing projects are intended to complement public transportation and accommodate travel demands that transit cannot conveniently accommodate on a cost-effective basis. Carpools and vanpools are viewed as integral parts of a balanced transportation system that complement and enhance the efforts of public and private transit services to broaden the alternatives to the single-occupancy automobile. Ridesharing operations are particularly complementary for low-density and suburb-to-suburb trips not efficiently served by fixed-route, radial transit services and where adequate peak-period transit service is not available. In many cases, carpooling and vanpooling activities help to identify potential transit expansion markets and for many commuters serve as the first step in shared riding, preparing them to become transit riders as service expands.

The FHWA believes that institutional processes are in place that ensure coordination of transportation planning and project funding and protection against appreciable adverse impacts. The metropolitan planning organization, comprised of local elected officials and with representation of other agencies, including transit operators, provides the primary mechanism to ensure that ridesharing projects do not have a substantial adverse effect on area transit service. It should be noted that several transit agencies currently use Federal-aid funds to support ridesharing projects to complement their existing transit service. The FHWA welcomes these ridesharing program partners and strongly encourages other transit operators to support ridesharing projects.

Other Considerations

The FHWA believes the promotional advocacy role the Federal Government is taking with respect to ridesharing is creating an organization commitment within the transportation profession and between leaders in both the public and private sectors to implement and expand ridesharing opportunities, including highway-related incentives such as preferential HOV lanes. If a sudden and severe energy shortage were to take place, expansion of ridesharing arrangements could proceed without delay. Such a rapid response to a crisis situation could diminish the need for other emergency measures and help relieve the crisis conditions. Apart from emergency contingencies, public officials and private employers are increasingly regarding ridesharing as an effective tool of community and economic development, harnessing the efficient use of private vehicles to serve the public interest.

The FHWA's primary involvement is to provide a safe and adequate physical network of streets and highways, including funding of ridesharing incentives, to hasten the removal of legal and regulatory barriers that inhibit the growth of ridesharing and to provide information, technical assistance, and encouragement to accelerate and enhance ridesharing.

Ridesharing as a practice has grown rapidly beyond its carpool origins and is still evolving as a concept. This rule addresses the use of Federal-aid highway funds to help support and carry out carpool and vanpool projects, the backbone of the ridesharing concept.

This regulation will have no significant economic effect as it will not increase spending. The regulation will merely implement the policies set forth in the STAA. For these reasons the FHWA has determined that this document does not contain a significant regulation under the criteria established by the U.S. Department of Transportation pursuant to Executive Order 12044. A regulatory evaluation is available for inspection in the public docket and may be obtained by contacting Barbara Reichart of the program office at the address specified above.

In consideration of the foregoing and under the authority of 23 U.S.C. 146 and 315, and section 126 of the STAA (Public Law 95-599, 92 Stat. 2689) and the delegation of authority by the Secretary of Transportation in 49 CFR 1.48(b), Chapter 1 of Title 23, Code of Federal Regulations, Part 656 is revised as set forth below.

(Catalog of Federal Domestic Assistance Program Number 20205, 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: December 30, 1980.

John S. Hassell, Jr.,

Federal Highway Administrator.

23 CFR Part 656 is revised to read as follows:

PART 656—CARPOOL AND VANPOOL PROJECTS

Sec.

656.1 Purpose.
656.3 Policy.
656.5 Eligibility.
656.7 Property management.

Authority: 23 U.S.C. 146 and 315; section 126 of the Surface Transportation Assistance Act of 1978, Pub. L. 95-599, 92 Stat. 2689; 49 CFR 1.48(b).

§ 656.1 Purpose.

The purpose of this regulation is to prescribe policies and general procedures for administering a program of ridesharing projects using Federal-aid primary, secondary, and urban system funds.

§ 656.3 Policy.

Section 126(d) of the Surface Transportation Assistance Act of 1978 declares that special effort should be made to promote commuter modes of transportation which conserve energy, reduce pollution, and reduce traffic congestion.

§ 656.5 Eligibility.

(a) Projects which promote ridesharing programs need not be located on but must serve a Federal-aid system to be eligible for Federal-aid primary, secondary, or urban system funds depending on the system served. The Federal share payable will be in accordance with the provisions of 23 U.S.C 120. Except for paragraph (c)(3) of this section, for all purposes of this regulation the term "carpool" includes "vanpool."

(b) Projects shall not be approved under this regulation if they will have an adverse effect on any mass transportation system.

(c) The following types of projects and work are considered eligible under this program:

(1) Systems, whether manual or computerized, for locating potential participants in carpools and informing them of the opportunities for participation. Eligible costs for such systems may include costs of use or rental of computer hardware, costs of software, and installation costs (including both labor and other related items).

(2) Specialized procedures to provide carpooling opportunities to elderly or handicapped persons.

(3) The costs of acquiring vanpool vehicles and actual financial losses that occur when the operation of any vanpool is aborted before the scheduled termination date for the reason, concurred in by the State, that its continuation is no longer productive. The cost of acquiring a vanpool vehicle is eligible under the following conditions:

(i) The vanpool vehicle is a four-wheeled vehicle manufactured for use on public highways for transportation of 7–15 passengers (no buses, passenger cars or station wagons); and

(ii) Provision is made for repayment of acquisition cost to the project within the passenger-service life of the vehicle. Repayment may be accomplished through the charging of a reasonable user fee based on an estimated number of riders per vehicle and the cost of reasonable vehicle depreciation, operation, and maintenance. Repayment is not required under the following conditions:

(A) When vehicles are purchased as demonstrator vans for use as a marketing device. Vehicles procured for this purpose should be used to promote the vanpool concept among employees, employers, and other groups by allowing potential riders and sponsors to examine commuter vans; or

(B) When vehicles are purchased for use on a trial commuting basis to enable people to experience vanpooling first hand. The trial period must be limited to a maximum of 2 months. That part of the user fee normally collected to cover the capital or ownership cost of the van would be eligible for reimbursement as a promotional cost during the limited trial period. As with established vanpool service, all vehicle operating costs must be borne by the user(s) during the trial period.

(4) Work necessary to designate existing highway lanes as preferential carpool lanes or bus and carpool lanes. Eligible work may include preliminary engineering to determine traffic flow and design criteria, signing, pavement markings, traffic control devices, and minor physical modifications to permit the use of designated lanes as preferential carpool lanes or bus and carpool lanes. Such improvements on any public road may be approved if such projects facilitate more efficient use of any Federal-aid highway. Eligible costs may also include costs of initial inspection or monitoring of use, including special equipment, to ensure that the high occupancy vehicle (HOV) lane designation is effective and that the project is fully developed and operating properly.

(5) Signing of and modifications to existing facilities to provide preferential parking for carpools inside or outside the central business district. Eligible costs may include trial blazers, on-site signs designating highway interchange areas or other existing publicly or privately owned facilities as preferential parking for carpool participants, and initial or renewal costs for leasing parking space or acquisition of easements or restrictions, as, for example, at shopping centers and public or private parking facilities. The lease or acquisition cost may be computed on the demonstrated reduction in the overall number of vehicles using the designated portion of a commercial facility, but not on a reduction of the per-vehicle user charge for parking.

(6) Construction of carpool parking facilities outside the central business district. Eligible costs may include acquisition of land and normal construction activities, including installation of lighting and fencing, trail blazers, on-site signing, and passenger shelters. Such facilities need not be located in conjunction with any existing or planned mass transportation service, but should be designed so that the facility could accommodate mass transportation in the event such service may be developed. Except for the requirement of the availability of mass/public transportation facilities, when funded with Federal-aid Interstate funds, fringe parking construction shall be subject to the provisions of 23 CFR 810.106.

(7) Reasonable public information and promotion expenses, including personnel costs, incurred in connection with any of the other eligible items mentioned herein.

§ 656.7 Property management.

All of the applicable provisions of OMB Circular A–102, Appendix N, concerning property management standards shall apply.

[FR Doc. 81–588 Filed 1–7–81; 8:45 am]

BILLING CODE 4910–22–M

federal register

Thursday
January 8, 1981

Part VI

Department of Commerce

National Oceanic and Atmospheric Administration

Fishermen's Contingency Fund

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 296

Fishermen's Contingency Fund

AGENCY: National Marine Fisheries Service/National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Final rulemaking.

SUMMARY: The Fishermen's Contingency Fund (FCF) regulations are amended to allow the Office of the General Counsel to close a claim file when a claimant withdraws a claim, abandons a claim by failing to respond to a notice of deficiencies, or a financially responsible party admits liability. This amendment will eliminate unnecessary procedural steps involving public notice and adjudication by an Administrative Law Judge (ALJ) for files which have, in effect, ceased to be claims.

The regulations are also amended to allow a claim to be processed upon submission of sufficient, rather than all, claim information presently required by program regulations. The Agency's experience is that in some cases not all information required by the regulations for a claim application is essential to an accurate and equitable claim decision. This amendment will prevent delays occasioned by requiring claimants to provide information which may not be relevant to a decision on a particular claim.

Minor changes are also made to the requirements of the claim application to eliminate duplication and to establish specifically when estimates or when receipts for replacement or repair costs are required with a claim application. These changes will apply to all past, present, and future claims.

EFFECTIVE DATE: February 9, 1981.

FOR FURTHER INFORMATION CONTACT: Ms. Kathryn Hensley, Program Leader, Financial Services Division, National Marine Fisheries Service, 3300 Whitehaven St., N.W., Washington, D.C. 20235. Phone number (202) 634–4688.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking for implementation of Title IV, the Fishermen's Contingency Fund, was published in the **Federal Register** on May 24, 1979 (44 FR 30292).

On January 24, 1980 (45 FR 6062), NOAA published final regulations implementing Title IV, but reserved § 296.10, which deals with procedures for adjudication of claims by an ALJ.

On July 2, 1980 (45 FR 44942), NOAA published § 296.10 and several minor changes to the previously issued regulations to improve their clarity or to delete from the required contents of a claim application several items of information which were unnecessary for the resolution of a claim.

On October 2, 1980 (45 FR 65264), NOAA published proposed rulemaking and invited comments for 30 days ending November 3, 1980. Comments were received from three sources. The following summarizes the comments and the Agency's responses.

Section 296.7(e)

Contents of claim application. The proposed amendment of § 296.7(e) provides that the Chief, FSD, may determine what information is necessary to process a claim.

Comment: One commenter stated that this provision allowed the Chief, FSD, too much leeway in determining whether a claim contains sufficient information for processing and recommended, after an opportunity for comment, specific changes in the information requirements rather than blanket authority. A second commenter contended the provision would weaken the application process by requiring inadequate proof.

Response: The purpose of the proposed amendment is to prevent unnecessary delay by allowing a claim to be processed even though not all information requirements listed under § 296.7(e) have been met. Unnecessary delay would be occasioned, for example, if the claim were not processed because the claimant had failed to state the visibility at the time and place of the damage or loss, as required by § 296.7(e)(17). This information is not always relevant to a claim decision. If, however, the circumstances of the damage or loss indicated that visibility was a relevant factor, that information would be required, and the claim would not be processed until the claimant submitted it.

The action of the Chief, FSD, is the first step in a three-tier procedural system for a claim determination. The Chief, FSD, processes the claim and proposes a settlement for consideration by the NOAA General Counsel; the NOAA General Counsel then makes an official Agency recommendation on the disposition of the claim; and an ALJ adjudicates the claim based upon either written evidence or evidence presented at an oral hearing. Since the NOAA General Counsel reviews, and the ALJ decides on, the adequacy of all claims, the leeway given the Chief, FSD, in determining the sufficiency of information for processing a claim constitutes no weakening of the claim process. In proof of either eligibility or of compensable amounts is inadequate, the NOAA General Counsel will require the Chief, FSD, to obtain such proof from the claimant. If the claimant does not provide it, the ALJ will deny the claim. In addition, interested persons have the opportunity to participate in the ALJ's adjudication and may, of course, argue the inadequacy of claim documentation at that point or seek judicial review of the ALJ's approval of a claim.

Section 296.7(e)(7)

The proposed amendment deletes the words "a full description of the fishing gear involved (including a list of all components)."

Comment: One commenter disagreed with the proposed deletion, arguing that interested persons had a right to know what equipment was in use when the damage or loss occurred.

Response: This information is required by 296.7(e)(10)(ii). The deletion was made to avoid duplication.

Section 296.7(e)(10)(iv)

Comment: One commenter observed a typographical error in line nine where "unusally" is printed for the word "usually."

Response: This error was made in printing the regulations and is corrected.

Section 296.7(e)(10)(v)

The proposed amendment allows claimants who have repaired or replaced their gear before filing a claim to submit only receipts for actual costs, rather than both receipts and second-source estimates. Second-source estimates may be requested by the Chief, FSD, if necessary.

Comment: One commenter contended that second-source estimates should always be required and not be at the discretion of the Chief, FSD.

Response: The Agency's experience is that most claimants repair or replace their lost or damaged gear before submitting their claims. These claimants have stated that they have difficulty obtaining estimates in their home ports from commercial fishing gear repair and supply companies with which they do not regularly trade. The amendment will alleviate this problem by requiring submission of only the receipt for actual costs at the time and place of the damage or loss. If the amounts shown on the receipts represent costs higher than the Agency's experience shows to be current for the time and place of the damage or loss, the Chief, FSD, will then

require from the claimant a second-source estimate and a statement explaining the reason for the higher costs. We have added to the regulation this explicit statement of when a receipt for actual costs will not be adequate. We believe this meets the concern of the commenter while avoiding unnecessary burdens on the claimant.

Section 296.8(d)(1)

Concerning timeliness, completeness and eligibility of claims. The proposed amendment provides that, regardless of whether public notice of the claim has been given, the General Counsel may close a claim file when the claimant has withdrawn or abandoned the claim by failing to respond to a notice of deficiency sent by the Chief, FSD, or by accepting payment from another source.

Comment: One commenter stated that all interested persons should be notified of the final disposition of claims closed by the General Counsel.

Response: The Agency will give notice in the **Federal Register** of all claim files closed by the General Counsel under this Section.

Note.—The Assistant Administrator for Fisheries made an initial determination that these regulations are not significant under Executive Order 12044. The Assistant Administrator has also determined that these regulations do not require the preparation of an environmental impact statement under the National Environmental Policy Act.

Dated: January 5, 1981.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

(Pub. L. 95–372; 92 Stat. 629; 43 U.S.C. section 1841 *et seq.*)

Accordingly, 50 CFR Part 296 is amended as follows:

§ 296.7 Instructions for filing claims.

1. Section 296.7 is amended by:

a. Revising the introductory clause of paragraph (e) to read as follows:

* * * * *

(e) *Contents.* Each claim shall be signed by the claimant and shall accurately and completely provide the following information, or so much of the information as the Chief, FSD, determines is necessary to process the claim:

* * * * *

b. By revising paragraph (e)(7) to read as follows:

* * * * *

(e) * * *

(7) A statement of: the type of fishing operation being conducted (for example, trawling for shrimp) and the type and size of vessel involved;

* * * * *

c. By revising paragraph (e)(10)(iv) to read as follows:

* * * * *

(e) * * *

(10 * * *

(iv) If the lost or damaged gear is not replaced or repaired before the claim is filed, estimates from two different commercial fishing gear repair or supply companies of the present replacement cost of the fishing gear and the repair cost of the fishing gear (if it is repairable). If fishing gear of the type lost or damaged is usually made or repaired by the claimant, a detailed estimate prepared by the claimant identifying the repair or replacement cost of the fishing gear may be included in place of one of the estimates from commercial fishing gear repair or supply companies;

* * * * *

d. Revising paragraph (e)(10)(v) to read as follows:

* * * * *

(e) * * *

(10) * * *

(v) If the fishing gear is repaired or replaced before a claim is filed under this Part, a copy of the itemized invoice or receipt for the repair or replacement of the fishing gear. If the fishing gear of the type lost or damaged is usually made or repaired by the claimant, an itemization of all costs (including receipts for materials) prepared by the claimant may be submitted in place of a receipt or invoice from a commercial fishing gear repair or supply company. The Chief, FSD, may request a second-source estimate for replacement or repair costs if the amounts shown on such receipts or invoices represent costs higher than the Agency's experience shows to be current for the time and place of the damage or loss; and

§ 296.8 NMFS Processing of Claims. [Amended]

2. Section 296.8 is amended by:

a. Revising paragraph (a)(3)(iv) to read as follows:

(a) * * *

(3) * * *

(iv) If any person admits responsibility under paragraph (a)(3)(ii) of this section or otherwise, the Chief, FSD, will so inform the claimant and will not take any further action on the claim. If the person admitting responsibility later denies, or withdraws the admission of, responsibility, the Chief, FSD, will resumes processing the claim. If the person admitting responsibility does compensate the claimant for the loss with respect to which the claim was filed, the Chief, FSD, will forward the claim to the General Counsel for action under paragraph (d)(1) of this section.

* * * * *

b. Revising paragraph (b)(1) to read as follows:

* * * * *

(b) * * *

(1) *General.* The Chief, FSD, will promptly review each claim filed under § 296.7 and determine whether it is timely filed within the 60-day period specified in § 296.7 (c), sufficiently complete under § 297.7(e) to allow processing, and eligible on its face.

* * * * *

c. Revising paragraph (b)(3)(i) to read as follows:

* * * * *

(b) * * *

(3) * * *

(i) If the Chief, FSD, finds that the claim is not sufficiently complete to allow processing, the Chief, FSD, will send to the claimant a written notice stating the deficiency in the claim.

* * * * *

d. Striking the word "property" in paragraph (c)(1) and inserting in lieu thereof the word "sufficiently."

e. Revising paragraph (d)(1) to read as follows:

(d) * * *

(1) *Concerning timeliness, completeness and eligibility of claims.* The General Counsel will review any finding made by the Chief, FSD, under paragraph (b)(2), (3) or (4) of this section, and will determine whether to send the claim, together with an official agency recommendation that the claim be denied, to the ALJ for an expedited proceeding under section 296.10(*l*) of this Part. If the General Counsel finds that the claimant has abandoned the claim by failing to respond to a notice of deficiency sent by the Chief, FSD, under paragraph (b)(3) of this section, by expressly withdrawing the claim from further consideration, or by accepting payment from another source, the General Counsel may close the file without further action under this Part 296, regardless of whether public notice of such a claim has been given under paragraph (a) of this section.

[FR Doc. 81-665 Filed 1-7-81; 8:45 am]

BILLING CODE 3510-08-M

federal register

Thursday
January 8, 1981

Part VII

Environmental Protection Agency

Non-Discrimination on the Basis of Race, Color, National Origin, Age, Handicap, and Sex in Federally Assisted Programs

ENVIRONMENTAL PROTECTION AGENCY

Office of the Administrator

[AS-FRL 1694-6]

40 CFR Parts 7 and 12

Non-Discrimination on the Basis of Race, Color, National Origin, Age, Handicap and Sex in Federally Assisted Programs

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing this consolidated non-discrimination regulation to apply the following provisions of Federal statutes and guidelines to all EPA assistance programs:

1. Title VI of the Civil Rights Act of 1964 (40 CFR Part 7)
2. Section 504 of the Rehabilitation Act of 1973, as amended
3. The Age Discrimination Act of 1975
4. Section 13 of the Federal Water Pollution Control Act Amendments of 1972 (40 CFR Part 12)
5. **Federal Register** Vol. 44, No. 114, June 12, 1979, pp. 33768 (Department of Health, Education & Welfare implementing guidelines for the Age Discrimination Act)
6. **Federal Register** Vol. 42, No. 86, May 4, 1977, pp. 54950 (Health, Education & Welfare implementing guidelines for Sec. 504 of the Rehabilitation Act)

These statutes along with Executive Order 12250 require the Agency to prohibit discrimination on the basis of race, color, national origin, handicap, age and sex. This Regulation provides a foundation for transforming these required prohibitions into a manageable program.

When implemented, this Regulation will streamline the administrative requirements currently imposed on recipients of agency funds by multiple non-discrimination regulations. In addition it will strengthen agency monitoring efforts by eliminating redundancy and refining compliance procedures.

DATE: Comments must be received on or before March 9, 1981.

ADDRESS: Written comments should be sent to the Mr. Eduardo Terrones, Director, Office of Civil Rights (A-105), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Arl Williams, Associate Director of External Compliance Programs Staff, Office of Civil Rights (A-105), USEPA, 401 M Street, SW, Washington, D.C. 20460, Telephone: (202) 755-0540.

SUPPLEMENTARY INFORMATION: This proposed regulation consolidates all provisions which prohibit discrimination (on the basis of race, color, national origin, sex, age, or handicap) in programs recieiving EPA assistance. In order to ensure non-discrimination, the regulation requires an assurance of non-discrimination at the time of application for EPA assistance. A transition plan outlining the steps which the recipient will take to make its facilities and programs accessible to the handicapped, and a compliance report setting forth the recipient's compliance with the regulation. If EPA, based on a complaint from an aggrieved party, or on its own investigation, finds that an applicant or recipient has not complied with this regulation, it may terminate, annul, or refuse to grant or to continue EPA assistance after a hearing. Applicants and recipients can regain eligibility for assistance by complying with this regulation.

When drafting this proposed regulation, EPA's task group did not change the content of earlier EPA regulations, but rather the form in which this content is expressed. Specifically, the proposal:

—Combines all non-discrimination provisions into a coherent structure that is easy to understand and easy to follow.

—Eliminates the portions of guidelines which are redundant or inapplicable to EPA, and

—Expresses them in simple language that preserves their original intent.

The proposed regulation streamlines certain administrative procedural requirements. For example, under the HEW guidelines, recipients must submit both a self-evaluation and a compliance report. Under EPA's proposed regulation, recipients are not required to submit a self-evaluation. In addition, applicants for Step I construction grant assistance need not file compliance reports. Moreover, applicants for Step II and Step III construction grant assistance will not be required to submit specific demographic data if the entire population in the applicant's area will be served upon completion of the project.

In addition to updating EPA's Non-Discrimination Regulations, our concern is to make the requirements as clear and convenient to comply with as possible and to make them easier for us to administer. We particularly welcome comments and suggestions on this aspect of the proposal.

We do not intend to compromise the substance of the prohibitions against discrimination. These provisions deal with four distinct legislative basis for preventing discrimination—Title VI considerations; Section 504 considerations; Age considerations and Sex considerations—and the prohibited acts of discrimination can vary with the basis. Our proposal reflects this diversity, and we have preserved the distinctions where they are required by the Acts or the nature of the protected group. For example, the proposed rule:

—Prohibits discrimination based on sex only in programs funded under the Clean Water Act of 1972, because there is no statutory authority to prohibit it under our other programs.

—Lays down special requirements to make programs accessible to the handicapped (§ 7.45), as required by the Rehabilitation Act of 1973.

—Permits exceptions on the basis of age if certain requirements are met, as permitted by the Age Discrimination Act of 1975, and requires mediation of only discrimination complaints based on age, as required by the Age Discrimination Act of 1975.

We particularly solicit commenters' attention to these distinctions; please let us know if we have omitted a significant substantive provision or retained an unnecessary distinction.

Phase-In

Because the vast majority of EPA's assistance funds are distributed under the construction grants programs, we would like to clarify the application of this regulation to that program.

In order to avoid disruption of wastewater treatment construction projects under way, this regulation will not apply to projects which receive Step I grant assistance before (effective date). All Step I projects awarded after (effective date) will be subject to this regulation. Recipients who were subject to non-discrimination rules, policies and statutes effective at the time of their initial award remain subject to those rules, policies and statutes.

Accessibility

Under § 7.55(a), recipients must make their facilities accessible to the handicapped if it can be done without unreasonable expense or risk *or* if accessibility is necessary in order to receive the benefits of the program. Our review of facilities funded under the construction grants program has shown that the actual treatment works areas are inherently hazardous and cannot be made both accessible and safe. As

accessibility is not necessary in order to receive the benefits of the program, we have determined that the treatment works areas need not be accessible. Other accessibility determinations will be made by the Deputy Compliance Officer on a case-by-case basis.

Specialized Regulation

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." We have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

It is proposed to amend title 40 CFR by removing Part 12 and by revising Part 7 to read as follows:

PART 7—EPA NON-DISCRIMINATION IN ASSISTED PROGRAMS

Subpart A—General

Sec.

7.10 Purpose of this part.
7.15 Applicability.
7.20 Agency responsibility.
7.25 Definitions.

Subpart B—Discrimination Prohibited on the Basis of Race, Color, National Origin, Sex or Age

7.30 General prohibition.
7.35 Specific prohibitions.
7.40 Exception: Permissible age distinctions.

Subpart C—Discrimination Prohibited on the Basis of Handicap

7.45 General prohibition.
7.50 Specific prohibitions.
7.51 Exceptions.
7.55 Accessibility for handicapped.
7.60 Transition Plan.

Subpart D—Requirements for Applicants and Recipients

7.65 Assurances.
7.70 Notice of non-discrimination.
7.75 Compliance reports.
7.80 Grievance procedures.
7.85 Notice of lawsuits.
7.90 Maintenance of a log of complaints.
7.95 Access to information.
7.100 Intimidation and retaliation prohibited.

Subpart E—Agency Compliance Procedures

7.105 Actions available to EPA to obtain compliance.
7.110 Coordination with other agencies.
7.115 Pre-award compliance.
7.120 Post-award compliance.
7.125 Complaint investigations.
7.130 Procedure for annulling, suspending or terminating EPA assistance.
7.135 Procedure for regaining eligibility.

Authority: Sec. 602 of the Civil Rights Act of 1964, 42 U.S.C. 2000d–1; Sec. 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794; The Age Discrimination Act of 1975, 42 U.S.C. 6101 et seq.; Sec. 13 of the Federal Water Pollution Control Act Amendments of 1972.

Subpart A—General

§ 7.10 Purpose of this part.

This Part implements the non-discrimination provisions of the following statutes (the Acts) in the financial assistance programs of the Environmental Protection Agency (EPA): Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973 as amended; the Age Discrimination Act of 1975 and Section 13 of the Federal Water Pollution Control Act. These provisions prohibit discrimination on the basis of race, color, national origin, age, handicap or sex in federally funded programs.

§ 7.15 Applicability.

(a) *General Applicability.* This Part applies to all applicants for, and recipients of, EPA assistance awarded after (effective date). It supercedes the current provisions found at 40 CFR 7 and 40 CFR 12. It does not supercede Executive Order 11246 "Equal Employment Opportunity" (September 24, 1965) nor any future amendments to that Order or EPA's implementing regulation (40 CFR 8).

(b) [Reserved]

§ 7.20 Agency responsibilities.

(a) *Policy.* EPA's Administrator, Compliance Officers and Project Officers seek the cooperation of applicants and recipients in securing compliance with this Part, and are available to provide assistance.

(b) The EPA Compliance Officer (CO) is responsible for developing and administering EPA's Compliance programs under the Acts.

(c) The Assistant Compliance Officer (ACO) will assist the Compliance Officer and may exercise the authority of the Compliance Officer.

(d) Deputy Compliance Officers (DCO's) are responsible for field administration of compliance programs according to directives and guidelines promulgated by the Compliance Officer.

(e) EPA's Project Officers will provide notice to each recipient of its obligations under this Part and will provide recipients with technical assistance or guidance upon request.

§ 7.25 Definitions.

As used in this Part, the term:

"Administrator" means the Administrator of EPA. It includes any other agency official authorized to act on his or her behalf, unless explicitly stated othewise.

"Age Distinction" means terms that necessarily imply a particular age or range of ages (for example, terms like "children," "adult," "older persons," but not terms like "student").

"Applicant" means anyone who submits an application to EPA.

"Application" means any formal or informal request for EPA assistance.

"Assistance Approving Official" means the official authorized to execute an assistance agreement on behalf of EPA.

"Compliance Officer" (CO) is the Director of the Office of Civil Rights, EPA Headquarters. The Assistant Compliance Officer (ACO) is the Director, External Compliance Programs Staff, Office of Civil Rights. The Deputy Compliance Officer (DCO) is the Regional Director of the Office of Civil Rights.

"EPA" means the Environmental Protection Agency.

"EPA Assistance" means EPA's entire contribution to a project under a grant, loan, cooperative agreement, technical assistance award, or assistance under the Intergovernmental Personnel Act. It does not include procurement contracts, or contracts of insurance or guaranty. It can take the form of:

(a) funds, or

(b) services of personnel, or

(c) interest in, or use of, real or personal property, including:

(1) transfers or leases of property for less than fair market value, and

(2) proceeds from later transferring or leasing property, if EPA's share of its fair market value is not returned.

"Facility" means all or any part of structures, equipment, or other real or personal property or interests therein.

"Handicapped Person" means any person who:

(a) has a physical or mental impairment that substantially limits one or more major life activities,

(b) has a history of, or has been classified as having, a mental or physical impairment that substantially limits major life activities,

(c) has a physical or mental impairment that substantially limits major life activities only because of other's attitudes or prejudices, or

"Major Life Activities" include caring for one's self, performing manual tasks, walking, seeing, hearing, standing, speaking, breathing, learning, and working.

"Office of Civil Rights" (OCR) is the EPA Office of Civil Rights at headquarters, Washington, D.C., with counterparts in each EPA regional office.

"Physical or Mental Impairments (Handicaps)" include: (a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; endocrine; (b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional illness, or specific learning disabilities; (c) The following diseases and conditions: orthopedic impairments; cerebral palsy; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; ataxia, Parkinson's disease; paraplegia; quadriplegia; arthritis; lung disease; kidney disease; drug addiction and alcoholism.

"Program" means an EPA assistance activity.

"Project" means the scope of work for which EPA assistance is awarded.

"Project Officer" means the EPA official designated in the Assistance Agreement as the Agency's principal contact with the recipient and responsible for the performance and/or coordination of project monitoring.

"Racial Distinctions:"

(a) American Indian or Alaskan Native. A person having origins in the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

(b) Asian or Pacific Islander. A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands. These areas include China, India, Japan, Korea, the Philippine Islands, and Samoa.

(c) Black. A person having origins in any of the black racial groups of Africa.

(d) Hispanic. A person whose culture or national origin is Mexican, Puerto Rican, Cuban, Central or South American or other Spanish heritage regardless of race.

(e) White. A person having origins in any of the original people of Europe, North Africa, or the Middle East.

"Recipient" means the primary entity receiving assistance from EPA. It does not include incidental, unintended, or ultimate beneficiaries of the assistance.

"Ultimate Beneficiaries" means those people the program is designed to benefit.

Subpart B—Discrimination Prohibited on the Basis of Race, Color, National Origin, Sex or Age

§ 7.30 General prohibition.

No person shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination in any program or activity that receives or benefits from EPA assistance, on the basis of race, color, national origin, or age, or in programs funded under the Federal Water Pollution Control Act, on the basis of sex.

§ 7.35 Specific prohibitions.

A recipient may not directly or indirectly, on the basis of race, color, national origin, age, or if applicable, sex, take any of the following actions:

(a) Denying a person any service, financial aid or other benefit of the program.

(b) Providing to a person any service, financial aid or benefit which is inferior or is provided in a different manner from that provided to others under the program.

(c) Restricting a person in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, aid or benefit provided by the program.

(d) Subjecting a person to segregation in any manner or separate treatment in any way related to receiving services or benefits under the program.

(e) Establishing criteria for participation in the program or receiving benefits therefrom which have the effect of excluding groups of qualified persons from enjoying the benefits under the program.

(f) Denying a person the opportunity to participate as a member of a planning or advisory board.

(g) Permitting discriminatory activity in a facility built in whole or in part with EPA assistance.

(h) Choosing a site for a facility that has the purpose or effect of discriminating by limiting access to the services or benefits provided by the facility.

(i) Discriminating in employment in any program whose goals include employment.

§ 7.40 Exception: Permissible age distinctions.

(a) A recipient may take an action which is based on age if age bears a reasonable relationship to its normal program operations or activities, or if factors other than age cannot easily be measured without reference to age, or

(b) A recipient may consider other relevant factors regardless of any disproportionate impact on persons of different ages if those factors bear a reasonable relationship to the normal operation of the program or activity, or to the achievement of a statutory objective, or

(c) A recipient may make age distinctions prescribed in a Federal, State or local statute or ordinance adopted by an elected legislative body, if the statute or ordinance:

(1) provides benefits or assistance based on age, or

(2) establishes criteria for participation in age-related terms, or

(3) describes intended beneficiaries or target groups in age-related terms.

Subpart C—Discrimination Prohibited on the Basis of Handicap

§ 7.45 General prohibition.

No qualified handicapped person shall be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in any program or activity that receives or benefits from EPA assistance, on the basis of handicap.

§ 7.50 Specific prohibitions.

A recipient, in providing any aid, benefit or service may not, directly or through contractual, licensing, or other arrangement:

(a) Deny a qualified handicapped person any service financial aid or other benefit of an EPA assisted program;

(b) Provide to a qualified handicapped person any service, financial aid or other benefit which is inferior or is provided in an inferior manner from that provided to others under the program;

(c) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons than is provided to others unless the action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;

(d) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or services to beneficiaries of the recipient's program;

(e) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards which are a part of the program, through membership criteria, location of permanent meeting sites or other administrative action;

(f) Choose a site for a facility that has the purpose or effect of excluding handicapped persons, denying them

benefits of the program or otherwise subjecting them to discrimination;

(g) Fail to make a reasonable accommodation for handicapped employees and applicants for employment, taking into account the safe and efficient operation of the program; or

(h) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit or service from the program.

§ 7.51 Exceptions.

(a) Handicapped persons must always have the same opportunity as non-handicapped persons to participate in EPA-assisted programs. Nevertheless, recipients may provide separate or different programs for the handicapped when reasonable accommodation of the standard program will not permit handicapped people to get the same results obtained by the non-handicapped.

(b) When separate or different programs are used, the program aids, benefits and services must be as effective as those associated with the standard program. These aids, benefits and services need not produce results or levels of achievement for handicapped persons that are identical to those obtained by non-handicapped persons; rather they must give handicapped persons equal opportunity to obtain the same results, to gain the same benefits, or to reach the same levels of achievement in the most integrated setting appropriate to their needs.

§ 7.55 Accessibility for the handicapped.

(a) *General Accessibility Requirements.* A recipient must operate each program or project so that as a whole it is readily accessible to and usable by handicapped persons. Facilities must be made accessible only if:

(1) Removing barriers to accessibility can be accomplished without incurring unreasonable costs or unreasonably impairing the safe and efficient operation of the facility, or

(2) Accessibility is necessary to receive the benefit of the program. However, a recipient does not have to make each of its facilities or every part of a facility accessible to and usable by all handicapped persons. A recipient need not alter existing facilities where other methods will satisfy the accessibility requirements of this section.

(b) *Methods of Making a Facility Accessible Without Alterations.* A recipient may comply with the accessibility requirements of this section by redesigning equipment, by reassigning services to accessible building, by assigning aids to beneficiaries, or by any other means that result in its program or activity being accessible to the handicapped. However, in choosing among available alternatives for accessibility, a recipient must give priority to methods that offer program benefits to handicapped persons in the most integrated setting possible.

(c) *Methods of Making Facilities Accessible With Alterations.* Design, construction or alteration of facilities that conform to the "American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," (ANSI) published by the American National Standards Institute, Inc. (ANSI A117.1–1961) (R1971), incorporated by reference in this Part, constitutes compliance with this section. EPA will permit departures from these standards if the recipient demonstrates that the departures provide equivalent access to the facility.

(d) *Deadlines for Making Existing Facilities Accessible.*

(1) Facilities not requiring alterations for accessibility must adhere to the provisions of this section by (60 days of effective date).

(2) Recipients having an existing facility which does require alterations to be made accessible, must submit a transition plan by (six months from effective date). The recipient must make the changes as soon as possible, but not later than (three years from effective date).

§ 7.60 Transition plan.

If structural changes are necessary to make the program accessible to the handicapped, an applicant or recipient must submit a transition plan.

(a) *Requirements.* The transition plan must set forth the steps needed to complete the structural changes required. It must, at a minimum:

(1) Identify the physical obstacles in its facilities that limit handicapped person's access to its program or activity,

(2) Describe in detail what will be done to make the facilities accessible,

(3) Specify the schedule for the steps needed to make the program fully accessible, and include a year-by-year timetable if it will take more than a year,

(4) Indicate the person responsible for carrying out the plan.

(b) *Availability to the Public.* Applicants and recipients must make a copy of the transition plan available for public inspection at the site of the project or at the main office of the applicant or recipient.

(c) *Notice of Accessibility.* The recipient must make sure that interested persons, including those with impaired vision or hearing, can find out about the existence and location of the assisted program services, activities, and facilities that are accessible to and usable by handicapped persons.

Subpart D—Requirements for Applicants and Recipients

§ 7.65 Assurances.

Applicants for EPA assistance must submit an assurance with their applications, providing that the assisted activity will not involve any discrimination that is prohibited by this Part. The Compliance Officer (CO) must approve the assurance before financial assistance is granted. The applicant's acceptance of EPA assistance is an acceptance of the obligation of this assurance and this Part.

(a) *Duration of assurance.* (1) Real property. When EPA awards assistance in the form of real property, the transfer instrument may contain a covenant running with the land which assures non-discrimination. EPA may also retain a right of reverter which will cause the property to revert to EPA if the covenant is ever broken.

(2) Personal property. When EPA provides assistance to obtain personal property, the assurance will obligate the recipient for as long as it continues to own or possess the property.

(3) In all other cases, the assurance will obligate the recipient for as long as EPA assistance is extended.

§ 7.70 Notice of non-discrimination.

(a) *Requirements.* A recipient must provide public notice that it does not discriminate on the basis of race, color, national origin, sex, age, or handicap to the following groups: participants, applicants, employees—including those with impaired vision or hearing—and unions or professional organizations holding collective bargaining or professional agreements with the recipient. The notice must also identify the responsible employee designated under the grievance procedure, as required in S. 7.80. Methods of initial and continuing notification may include posting notices, publishing in newspapers and magazines, placing notices in recipients' internal publications, and distributing memoranda or other written communications in English and any other language as necessary. The notice must be included in all major

correspondence prepared by the recipient (i.e., printed letterhead).

(b) *Deadline.* Current recipients must provide initial notice of non-discrimination by (90 days of effective date). Recipients of assistance awarded after (effective date) must provide initial notice by 30 days after award. The recipient must continue to provide notice for as long as it receives EPA assistance.

§ 7.75 Compliance reports.

(a) *Submission Requirement.* Each recipient must submit a Compliance Report to the Project Officer before work is initiated on the project. Recipients of Step I assistance under Title II of the Clean Water Act need not submit new compliance reports, but must submit any reports that are submitted in connection with earlier receipt of other federal funds.

(b) *Processing the Compliance Report.* Upon receipt of the Compliance Report, the Project Officer will forward it to the Deputy Compliance Officer (DCO) for approval. If the DCO does not approve the compliance report, he or she will direct the recipient to take steps to gain approval. If these steps are not taken in a timely fashion, the DCO may initiate a compliance review or investigation pursuant to §§ 7.115 and 7.120 of this Part.

(c) *Recipient Requirements.* In preparing the Compliance Report, the recipient must:

(1) Consult with interested and involved persons in describing compliance with age and handicap provisions;

(2) Identify and justify each age distinction it imposes if the recipient has at least 15 full-time employees. (The Administrator or Regional Administrator, as appropriate, may order recipients with fewer than 15 full-time employees to do this as well);

(3) Consider the effects of its current policies and practices that do or may involve handicap discrimination;

(4) Provide, on request of the DCO, statistics on racial/ethnic, national origin, age, sex, and handicapped data, showing the extent to which these groups are or will be beneficiaries of the recipient's program. (In no event shall recipients of wastewater treatment construction grants be required to conduct demographic surveys or to expend grant assistance for the collection of such data.)

(5) Notify Sub-Recipient of their Obligation Under This Part.

(d) *Racial Distinctions.* Compliance reports must include the racial distinctions set forth in the § 7.25 when determining categories of race, color and national origin.

(3) *Records Required.* A recipient must maintain adequate records of its efforts to comply with this Part. It must keep records for three years after the project has been completed except when any complaint or other action for possible violation of this Part is brought before the three-year period ends. In that case, the recipient must keep the records until the complaint is resolved.

(f) *Corrective Action.* Recipients must take corrective and remedial action whenever the DCO determines that the compliance report is inaccurate, incomplete, or reflects discrimination in violation of this Part.

(g) *Requirements for Sub-Recipients.* Sub-recipients must submit these reports to the primary recipient.

(h) *Availability to the Public.* The recipient must make its Compliance Report available to the public on request for three years following project completion.

(i) *Inaccessibility of Information.* If any information required of a recipient is in the exclusive possession of another agency, institution, or person which refuses to release the information, the recipient must state this in its report. The recipient must also explain the efforts it has made to obtain the information.

§ 7.80 Grievance procedures.

(a) *Requirements.* Each recipient must: (1) designate at least one person to coordinate its efforts to comply with this Part, and (2) adopt grievance procedures incorporating appropriate due process for the prompt and fair resolution of complaints which allege violation of this Part.

(b) *Exception:*

Recipients with fewer than 15 full-time employees need not comply with this section unless the Administrator finds a violation of this Part or determines that creating a grievance procedure will not significantly impair the recipient's ability to provide benefits or services.

§ 7.85 Notice of lawsuits.

Within two weeks of service of process recipients must notify the CO of any lawsuits filed against it alleging discrimination on the basis of race, color, sex, national origin, age and handicap.

§ 7.90 Maintenance of a log of complaints.

Each recipient must maintain a log of complaints which identifies each complaint by the nature of the complaint, the date this complaint was filed, the date the recipient's investigation was completed, and the disposition and date of disposition.

§ 7.95 Access to information.

Each recipient shall permit the CO or his designated representative access during normal business hours to its books, records, accounts, and other sources of information, including its facilities, as may be pertinent to ascertain compliance with this Part. Where any information required from a recipient is in the exclusive possession of any other agency, institution, or person and that agency, institution or person refuses to furnish this information, the recipient must set forth in writing the efforts it has made to obtain the information and provide it to the CO or his designee.

§ 7.100 Intimidation and retaliation prohibited.

No applicant or recipient or other person may intimidate, threaten, coerce, or discriminate against any individual either:

(a) For the purpose of interfering with any right or privilege guaranteed by the Acts or this Part, or

(b) Because the individual has filed a complaint or has testified, assisted or participated in any way in an investigation, proceeding or hearing under this Part.

Subpart E—Agency Compliance Procedures

§ 7.105 Actions available to EPA to obtain compliance.

(a) *Specific Actions.* Under the procedures set forth in this Subpart, if EPA determines that any applicant or recipient is not in compliance with this Part, it may:

(1) Terminate, suspend, annul, or refuse to grant or continue EPA assistance, or

(2) Refer the matter to the U.S. Department of Justice to enforce the rights of the United States, or

(3) Order the recipient to take remedial action to overcome the effects of the discrimination. If a recipient exercises control over a sub-recipient who has discriminated, EPA may require both to take remedial action.

(b) *Other Means.* EPA may also use any other means authorized by law to obtain compliance, either in place of or in addition to the actions listed above.

§ 7.110 Coordination with other agencies.

If the EPA Office of Civil Rights (OCR) conducts a compliance review or investigates an alleged violation of this Part, it will notify any other agency with jurisdiction over the subject matter under investigation and inform it of the

findings in order that subsequent investigations can be coordinated. When EPA and another agency or agencies give assistance to the same recipients, EPA and the other agencies will:

(a) Coordinate their efforts to achieve recipients' compliance with the Acts, and

(b) Insure that one of the agencies is designated as the primary one for this purpose.

§ 7.115 Pre-award compliance procedure.

(a) *Review of Assurances and Reports.* Before Federal assistance is approved, the DCO will review the assurances report from each applicant and any other compliance data that EPA has on file from that applicant, and issue a written determination of their compliance with this Part. The DCO may request additional information from the applicant, local government officials, and protected class organization; and may conduct on-site reviews.

(b) *Non-Compliance.* If the review indicates non-compliance, an applicant may agree in writing to take enumerated steps to come into compliance with this Part. The DCO must approve the written agreement before any award is made.

(c) *Refusal To Comply.* If the applicant refuses to enter into such an agreement, the DCO shall notify the CO who in turn shall notify the Assistant Attorney General for Civil Rights, U.S. Department of Justice, of the following:

(1) The preliminary findings of non-compliance,

(2) The actions necessary to come into compliance, and

(3) The fact that the applicant or recipient has ten (10) days to come into compliance, and that it may provide during this period a documentary submission responding to, rebutting, or denying the allegations raised in the notice.

(d) *Enforcement.* If within this ten (10)-day period, the applicant has not complied with the actions set forth to come into compliance, the CO must make a formal determination of non-compliance, notify the applicant, the Assistant Attorney General for Civil rights, (if a Title VI matter), and institute enforcement proceedings under § 7.130.

§ 7.120 Post-award compliance.

(a) *Periodic Review.* The OCR will periodically conduct compliance reviews of selected recipients, based on:

(1) The number and nature of complaints filed against a recipient with EPA or other Federal agencies; and

(2) The scope of problems identified in a compliance investigation; and

(b) *Notice of Review.* The DCO will notify each recipient selected for a compliance review, and of the time for which the review is scheduled. The recipient may at any time before receiving EPA's review findings, make a documentary submission responding to, rebutting, or denying allegations raised in the course of the compliance review.

(c) *Post Review Notice.* Within 180 days from the initiation of the compliance review, the DCO will notify the recipient in writing by certified mail, return-receipt requested of:

(1) Preliminary findings;

(2) Recommendations for achieving voluntary compliance; and

(3) Recipient's right to engage in voluntary compliance negotiations where appropriate.

(d) *Title VI.* The CO must at the same time notify the Assistant Attorney General for Civil Rights of these recommendations if they relate to Title VI.

(e) *Formal Determination of Non-Compliance.* If within 50 days after receiving the post/award notice the recipient has not agreed to the EPA recommendations, the preliminary findings have not been proven to be false, and voluntary compliance has not been secured, the DCO shall prepare a formal written determination of non-compliance. It shall be issued no later than 14 days after the conclusion of the 50-day negotiation period. After review and approval of the determination, the CO will send a copy to both the recipient and the Assistant Attorney General for Civil Rights.

(f) *Voluntary Compliance Time Limits.* After the recipient and the Assistant Attorney General for Civil Rights are notified of the determination, the recipient will have ten (10) days to come into voluntary compliance. This ten-day period will begin at the time the recipient receives written notice of the determination. If voluntary compliance is not achieved within the 10 days, the CO shall institute proceedings under § 7.130.

(g) *Form of Voluntary Compliance Agreements.* All agreements to come into voluntary compliance shall be in writing, shall set forth the specific steps the recipient has agreed to take, and shall be signed by the DCO or his/her designee and an official of the recipient with authority to legally bind the recipient.

§ 7.125 Complaint investigations.

OCR must promptly investigate all complaints filed under this section unless both parties agree to a delay, pending settlement negotiations. OCR must also investigate when a compliance report or review indicates a violation of this Part.

(a) *Who May File a Complaint.* A person who believes that he or she or a specific class of persons has been discriminated against in violation of this Part, and who has been unable to resolve the complaint informally, may file a complaint. The complaint may be filed by a representative, with the prior consent of the complainant.

(b) *Where, When and How to file Complaint.* The complainant may file a complaint at any EPA office. It will, if appropriate, be referred to the regional office where the cause of complaint occurred.

(1) The complaint should be in writing and it must describe the alleged discriminatory acts which violate this part.

(2) The complaint must be filed within 180 days of the time the alleged discrimination occurred, unless the DCO waives the time limit for good cause.

(c) *Response to Complaint.* The DCO will promptly acknowledge receipt of the complaint and notify the complainant, the recipient, and the Assistance Approving Official involved that the complaint has been accepted or rejected. If accepted, the DCO will include an explanation of the recipient's rights and obligations under EPA's complaint procedure. If the complaint is rejected because EPA lacks jurisdiction, the CO will refer the complaint to the Federal agency having jurisdiction and advise the complainant, the recipient and the Assistance Approving Official accordingly.

(d) *Prompt Resolution.* The parties to the complaint must participate actively to ensure prompt resolution of the complaint. EPA may impose penalties on parties who do not cooperate in a good faith and timely manner. The penalties may include dismissal of the complaint for failure to prosecute or an automatic finding for the complainant.

(e) *Confidentiality.* The DCO and Regional Administrator will agree to keep the complainant's identity confidential except to the extent that disclosure would be required by law in proceedings for enforcement of this Part. If that occurs the agency will request the complainant to release EPA from its agreement.

(f) *Mediation.* (1) The CO will refer all accepted complaints alleging age discrimination to the Federal Mediation and Conciliation Service (FMCS).

(2) Both the complainant and the recipient must participate in the mediation process to the extent necessary to reach an agreement or make an informed judgment that an agreement is not possible. The recipient

and the complainant must meet with the mediator at least once before EPA's CO will accept a judgment that an agreement is not possible. However, the recipient and the complainant need not meet with the mediator at the same time.

(3) If the complainant and the recipient reach an agreement, the mediator shall prepare a written statement of the agreement and have the complainant and recipient sign it. The mediator will send a copy of the agreement to EPA's CO, who will take no further action on the complaint unless the complainant or the recipient fails to comply with the agreement.

(4) The mediator must protect the confidentiality of all information obtained in the course of the mediation process. No mediator shall testify in any adjudicative proceeding, produce any document, or otherwise disclose any information obtained in the course of the mediation process without prior approval of the Director, FMCS.

(5) EPA will use the mediation process for a maximum of 60 days after receiving a complaint. Mediation ends if:

(i) 60 days elapse from the time EPA received the complaint; *or*

(ii) Before the end of that 60-day period, the mediator determines that an agreement cannot be reached.

(6) The mediator shall return unresolved complaints to OCR.

§ 7.130 Procedure for annulling, suspending or terminating EPA assistance.

(a) *Recommendation of Termination.* If OCR determines that a recipient has violated this Part, the DCO, (with approval of the CO), will recommend to the Assistance Approving Official that assistance be annulled, suspended or terminated. The DCO must send a copy of this recommendation to the recipient by certified mail, return-receipt requested, and the CO will send a copy to the Assistant Attorney General, Office of Civil Rights, U.S. Department of Justice.

(b) *Recommendation of Dismissal.* If OCR's investigation of a complaint reveals no violation of this Part, the DCO (with approval of the CO) will recommend to the Assistance Approving Official that the complaint be dismissed. The DCO will send a copy of this recommendation to the complainant and/or recipient by certified mail, return receipt requested.

(c) *Final Decision.* The Assistance Approving Official must issue a final decision under EPA regulations [40 CFR 30, Subpart J] within 30 days of the date of OCR's recommendation. If the final decision suspends or terminates assistance, it must provide that it will not become effective until 30 days from the recipient's receipt of the letter. The Assistance Approving Official must send the final decision to the recipient by certified mail, return-receipt requested, with a copy to the complainant. The final decision must contain the following paragraph:

This is a final decision by (name) the Assistance Approving Official. Under applicable EPA regulations (see particularly Subpart J of 40 CFR Part 30), this decision will be final and conclusive unless you file a brief written notice of appeal within 30 days from the date of receipt of this decision. Send the appeal to the *EPA Board of Assistance Appeals* (A–134), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460 by certified mail, return-receipt requested. Your notice of appeal need only indicate that an appeal is intended, include a copy of this decision, and add a brief explanation of why you believe the decision is wrong. The Board will notify you of further applicable requirements and procedures.

(d) *Appeal Rights.* When a recipient receives the Assistance Approving Official's final decision to annul, suspend or terminate assistance, it may:

(1) Proceed to regain eligibility by complying with § 7.135;

(2) File notice of appeal with the EPA Board of Assistance Appeals (Board) within 30 days, as provided in the final decision letter; or

(3) May have a conference hearing or an evidentiary hearing.

(e) *Consequence.* (1) *Board's Decision.* If the Board finds that the recipient has violated this Part, it will issue a decision making an explicit finding of non-compliance.

(2) *Report to Congressional Committees.* EPA will submit a full written report of the circumstances and the grounds for annulment, suspension or termination to the Committees of the House and Senate having legislative jurisdiction over the program or activity involved. The Administrator personally will sign that report.

(3) *Effective Date.* EPA will annul, suspend or terminate assistance after 30 calendar days from the time the Board's decision is issued. The annulment, termination or suspension must be limited to the particular recipient who was found to have discriminated, and must be limited in its effect to the particular program or the part of it in which the discrimination was found.

(f) *Consolidated or Joint Hearings.* The Board may, by agreement with other departments or agencies, provide for consolidated or joint hearings, when the same or related facts are asserted to constitute either:

(1) non-compliance with the Part involving two or more types of EPA assistance, or

(2) non-compliance with both this Part and the regulations of one or more Federal departments or agencies issued under the Acts.

§ 7.135 Procedure for regaining eligibility.

(a) *Requirements.* A recipient whose assistance has been annulled or suspended under this Part regains eligibility as soon as it:

(1) Provides reasonable assurance that it is complying and will comply with this Part in the future, *and*

(2) Satisfies the terms and conditions for regaining eligibility that are specified in the annulment, termination or suspension order.

(b) *Procedure.* The recipient must submit a written request to restore eligibility to the Project Officer, declaring that the requirements set forth in § 7.135(a) have been met. If these requirements have been met, the Assistance Approving Official must restore the recipient's eligibility, and must notify the recipient of the restoration of award.

(c) *Rights on Denial of Restoration of Eligibility.* If the Assistance Approving Official denies a request to restore eligibility, the recipient may file a written request for a hearing, listing the reasons it believes the Assistance Approving Official was in error. EPA will conduct a hearing, according to the procedures set forth in § 7.130(d)(2). The Board will issue a written decision, setting forth the reasons for restoring or failing to restore eligibility.

PART 12—[REMOVED]

Dated: December 22, 1980.

Douglas Costle,

Administrator, Environmental Protection Agency.

[FR Doc. 81–808 Filed 1–7–81; 8:45 am]

BILLING CODE 6560–38–M

Reader Aids

Federal Register

Vol. 46, No. 5

Thursday, January 8, 1981

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Public Inspection Desk	633-6930
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

Privacy Act Compilation	523-3517
United States Government Manual	523-5230

SERVICES

Agency services	523-3408
Automation	523-3408
Dial-a-Reg	
Chicago, Ill.	312-663-0884
Los Angeles, Calif.	213-688-6694
Washington, D.C.	202-523-5022
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public briefings: "The Federal Register—What It Is and How To Use It"	523-5235
Public Inspection Desk	633-6930
Regulations Writing Seminar	523-5240
Special Projects	523-4534
Subscription orders and problems (GPO)	783-3238
TTY for the deaf	523-5239

FEDERAL REGISTER PAGES AND DATES, JANUARY

1-858 2
859-1248 5
1249-1658 6
1659-2022 7
2023-2312 8

CFR PARTS AFFECTED DURING JANUARY

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.

3 CFR

Executive Orders:

11063 (Amended by EO 12259) 1253
11145 (See EO 12258) 1251
11183 (See EO 12258) 1251
11287 (See EO 12258) 1251
11562 (See EO 12258) 1251
11776 (See EO 12258) 1251
11922 (See EO 12258) 1251
11970 (See EO 12258) 1251
12022 (Revoked by EO 12258) 1251
12050 (See EO 12258) 1251
12054 (Revoked by EO 12258) 1251
12059 (See EO 12258 1251
12061 (Revoked by EO 12258) 1251
12063 (Revoked by EO 12258) 1251
12064 (See EO 12258) 1251
12078 (Revoked by EO 12258) 1251
12084 (See EO 12258) 1251
12093 (Revoked by EO 12258) 1251
12103 (Revoked by EO 12258) 1251
12110 (Superseded by EO 12258) 1251
12130 (Revoked by EO 12258) 1251
12131 (See EO 12258) 1251
12137 (See EO 12258) 1251
12157 (Revoked by EO 12258) 1251
12190 (See EO 12258) 1251
12195 (Revoked by EO 12258) 1251
12196 (See EO 12258) 1251
12216 (See EO 12258) 1251
12258 1251
12259 1253
12260 1653
12261 2023

Proclamations:

4600 (Revoked by Proc. 4812) 1249
4811 1
4812 1249

5 CFR

Proposed Rules:

715 1278

7 CFR

6 1659
210 3
215 3
226 4
271 1421
272 1421
273 1421
274 1421
354 1661
907 ..... 5, 2025
910 ..... 5, 6
916 1662
917 1662
1701 6
2851 1257
2855 7
2856 7
2858 1257
2859 7
2870 7

Proposed Rules:

979 2084
987 1742
1040 1279

8 CFR

292 2025

9 CFR

82 859
307 1258
319 1257
350 1258
351 1258
354 1258
355 1258
362 1258
381 1258

Proposed Rules:

318 1286
381 1286

10 CFR

73 2025
212 1246
456 1616

Proposed Rules:

Ch. I 1742
205 71
212 1287

12 CFR

208 ... 2026
211 ... 2027
225 ... 2026
226 ... 1662
265 ... 1663, 2027
400 ... 1132
523 ... 2029

Proposed Rules:

701 ... 920, 922
741 ... 922

13 CFR

101 ... 10
305 ... 859
309 ... 859

Proposed Rules:

113 ... 931

14 CFR

1 ... 2280
39 ... 14–17, 861–867, 2030, 2031
71 ... 18, 402, 868, 2032
73 ... 18, 402, 868
75 ... 402, 868
91 ... 19, 2280
97 ... 2033
121 ... 2280
203 ... 1664

Proposed Rules:

21 ... 931
36 ... 931
67 ... 75
71 ... 932, 2085, 2088
91 ... 76
93 ... 932, 933
121 ... 76
125 ... 76
135 ... 76
221 ... 934
296 ... 934
297 ... 934

15 CFR

19 ... 1574
368 ... 868
370 ... 868
371 ... 20, 1665
372 ... 868
373 ... 868, 1665
374 ... 20
376 ... 1665
378 ... 1665
379 ... 868
385 ... 868, 1258, 1665
399 ... 1258, 1665

16 CFR

13 ... 2034, 2035

Proposed Rules:

423 ... 935

17 CFR

1 ... 21
240 ... 1665
249b ... 1665
250 ... 2035

Proposed Rules:

210 ... 1288
229 ... 78
230 ... 78
231 ... 78
239 ... 78
240 ... 78, 1288
241 ... 78
249 ... 78

18 CFR

282 ... 1666, 2036

Proposed Rules:

4 ... 1291
141 ... 1743
260 ... 1744
271 ... 941
375 ... 1291
430 ... 23

19 CFR

353 ... 1667

20 CFR

Proposed Rules:

404 ... 2093
416 ... 2093

21 CFR

178 ... 27
203 ... 28, 1259
431 ... 28
510 ... 1260
520 ... 1259, 1260
522 ... 30
524 ... 1261
558 ... 31

Proposed Rules:

436 ... 1298
1020 ... 111
1308 ... 943

22 CFR

306 ... 1611

23 CFR

Ch. I ... 32
655 ... 2038
656 ... 2298
1217 ... 32

Proposed Rules:

625 ... 1228, 2020, 2093
630 ... 943
655 ... 2020, 2093
1221 ... 2097

24 CFR

300 ... 1261

25 CFR

52 ... 1668
53 ... 1674

Proposed Rules:

251 ... 1298
256 ... 33
260 ... 944

26 CFR

1 ... 1676–1719
154 ... 2042

Proposed Rules:

1 ... 112, 114, 116, 1744, 1753
26 ... 120
48 ... 129
51 ... 1754

27 CFR

4 ... 1725

28 CFR

51 ... 870

Proposed Rules:

59 ... 1302

29 CFR

2 ... 34
2520 ... 1261, 1265
2550 ... 1266

Proposed Rules:

2520 ... 1304

30 CFR

Ch. VII ... 2043

Proposed Rules:

901 ... 1306
914 ... 1309
942 ... 1309
944 ... 946
948 ... 1311

31 CFR

51 ... 1120

32 CFR

286f ... 880
298a ... 881

33 CFR

117 ... 2043

Proposed Rules:

1 ... 946
92 ... 946
117 ... 2120
161 ... 946

34 CFR

78 ... 881

36 CFR

Proposed Rules:

7 ... 1312, 1313
261 ... 1758
262 ... 1758

37 CFR

306 ... 884
307 ... 891
308 ... 892

39 CFR

111 ... 35
232 ... 897

Proposed Rules:

3001 ... 952

40 CFR

51 ... 1267
52 ... 35, 36, 898, 2043
81 ... 899
86 ... 1590, 1599, 1603
87 ... 2044
122 ... 2045
123 ... 1727
162 ... 2008
401 ... 2264

Proposed Rules:

7 ... 2306
12 ... 2306
52 ... 133, 953, 1314–1316, 1760, 1761
60 ... 1102, 1136, 1317
61 ... 1165, 1318
86 ... 1910
123 ... 954, 2120
420 ... 1858
430 ... 1430
431 ... 1430

41 CFR

Ch. 101 ... 1731
1–4 ... 1196
5–6 ... 908
5–14 ... 911
5–60 ... 900
5A–6 ... 908
5A–14 ... 911
5A–60 ... 900
5B–60 ... 900
14–2 ... 1730
101–35 ... 1213
101–36 ... 1213

Proposed Rules:

9–15 ... 955
9–50 ... 959

42 CFR

442 ... 1268

Proposed Rules:

36 ... 1318
405 ... 959
481 ... 959
482 ... 959

43 CFR

2091 ... 1634
2200 ... 1634
2210 ... 1634
2220 ... 1634
2230 ... 1634
2240 ... 1634
2250 ... 1634
2260 ... 1634
2270 ... 1634

Public Land Orders:

1362 (Revoked by PLO 5799) ... 2047
2307 (Revoked by PLO 5798) ... 2046
3917 (Partially revoked by PLO 5802) ... 2047
4849 (Partially revoked by PLO 5799) ... 2047
5797 ... 2046
5798 ... 2046
5799 ... 2047
5800 ... 1734
5801 ... 1734
5802 ... 2047
5803 ... 1734
5804 ... 2047
5805 ... 2048

44 CFR

Ch. I ... 1270
10 ... 2049
59 ... 1273
60 ... 1273
64 ... 1273
65 ... 1274, 1736
67 ... 1275

Proposed Rules:

67 ... 1319

45 CFR

304 ... 1275

1067 1234
1225 1608

Proposed Rules:
Ch. XII 960
16 1644
74 1644
301 1319
302 1321
303 1321
1062 961

45 CFR

225 913
284 913
286 913
291 913
502 1276

49 CFR

512 2049
525 2063
537 2063
555 2063
571 2064
1002 ..... 2294, 2295
1003 2294
1011 2294
1033 1738
1100 2294
1136 2295
1137 2294
1207 2076
1331 2295

Proposed Rules:
23 969
172 ..... 2121, 2126
173 ..... 2121, 2126
175 2126
178 2126
179 2126
192 39
195 ..... 39, 2130
571 ..... 40, 55, 2132, 2136
1039 134
1201 ..... 1323, 2146
1206 1323
1207 1323
1208 1323
1209 1323
1210 1323
1241 2146
1300 1324
1301 1324
1303 1324
1305 1324

50 CFR

26 ..... 913, 916, 2076
33 ..... 917, 918, 2078
250 66
296 2302
611 ..... 1738, 2079, 2081
652 1740

Proposed Rules:
216 ..... 1761, 2153
611 ..... 2153, 2154
643 2153
672 2154

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

INTERIOR DEPARTMENT

Heritage Conservation and Recreation Service—

81384 12-9-80 / National natural landmarks program provisions

PERSONNEL MANAGEMENT OFFICE

81029 12-9-80 / Provision for reinstatement of Administrative Law Judges

TRANSPORTATION DEPARTMENT

Federal Aviation Administration—

83204 12-18-80 / Designation of transition area; Hinesville, Ga.

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.**

A complete listing for the second session of the 96th Congress is published in the Reader Aid section of the issue of January 7, 1981.

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2½ hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between Federal Register and the Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

WHEN: January 16 and 30; February 13 and 27; at 9 a.m. (identical sessions).

WHERE: Office of the Federal Register, Room 9409, 1100 L Street NW., Washington, D.C.

RESERVATIONS: Call King Banks, Workshop Coordinator, 202-523-5235.



Just Released

Code of Federal Regulations

Revised as of July 1, 1980

Quantity	Volume	Price	Amount
_____	Title 41—Public Contracts and Property Management (Chapters 19 to 100)	$7.50	$_____

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).

Please do not detach

Order Form

Mail to: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Enclosed find $_____. Make check or money order payable to Superintendent of Documents. (Please do not send cash or stamps). Include an additional 25% for foreign mailing.

Charge to my Deposit Account No.

☐☐☐☐☐☐–☐

Order No._____

VISA

MasterCard

Credit Card Orders Only

Total charges $_____ Fill in the boxes below.

Credit Card No. ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Expiration Date Month/Year ☐☐☐☐

Please send me the **Code of Federal Regulations** publications I have selected above.

Name—First, Last

Street address

Company name or additional address line

City State ZIP Code

(or Country)

PLEASE PRINT OR TYPE

For Office Use Only.

	Quantity	Charges
Enclosed		
To be mailed		
Subscriptions		
Postage		
Foreign handling		
MMOB		
OPNR		
UPNS		
Discount		
Refund		