11-27-81
Vol. 46 No. 228
Pages 57885-58058

federal register

Friday
November 27, 1981

Highlights

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.

Contents

Federal Register
Vol. 46, No. 228
Friday, November 27, 1981

MEETINGS ANNOUNCED IN THIS ISSUE

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.

7 CFR
226 (2 documents)..... 57980, 58007
905..... 57885
907..... 57886

10 CFR
Proposed Rules:
500..... 58052
501..... 58052
504..... 58052

14 CFR
39 (2 documents)..... 57887, 57888
71 (7 documents)..... 57888–57892
75..... 57892
93..... 58036
159..... 58036
Proposed Rules:
39 (5 documents)..... 57904–57910
71 (3 documents)..... 57911–57913

21 CFR
310..... 57893
Proposed Rules:
345..... 57914

35 CFR
Proposed Rules:
Ch. I..... 57915

40 CFR
52..... 57893
62 (2 documents)..... 57893, 57896
81..... 57893

44 CFR
65..... 57897
70 (6 documents)..... 57898–57900

49 CFR
571..... 57901
Proposed Rules:
571..... 57939

Rules and Regulations

Federal Register
Vol. 46, No. 228
Friday, November 27, 1981

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Orange, Grapefruit, Tangerine and Tangelo Reg. 5, Amdt. 3]

Oranges, Grapefruit, Tangerines and Tangelos Grown In Florida; Amendment of Tangerine Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to interim rule.

SUMMARY: This amendment allows each handler to ship a quantity of smaller size Dancy variety tangerines (2$^{9}/_{16}$ inches in diameter) during the week November 23 to November 29, 1981, equal to 35 percent of total shipments during a specified prior period. In the absence of this amendment only tangerines 2$^{9}/_{16}$ inches in diameter could be shipped. This action allows an increase in the supply of tangerines during the period specified in recognition of demand conditions and the size composition of available supply in the interest of growers and consumers.

EFFECTIVE DATE: November 23, 1981.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V AMS, USDA, Washington, D.C. 20250, telephone (202) 447-5975.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably affect costs for the directly regulated handlers.

This amendment is issued under the marketing agreement and Order No. 905 (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. 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 recommendation and information submitted by the Citrus Administrative Committee, and upon other available information. It is hereby found that the regulation of Florida Dancy tangerines, as hereinafter provided, will tend to effectuate the declared policy of the act.

Interim regulation 5, setting minimum grade and size requirements for Florida Dancy tangerines, is effective for the period October 19, 1981 through December 6, 1981. The final rule is proposed to become effective on and after December 7, 1981.

This amendment would relax limitations on the handling of Dancy tangerines by permitting each handler, during the period November 23, 1981, through November 29, 1981, to ship a quantity of such tangerines of 210 size (2$^{9}/_{16}$ inches) equal to 35 percent of total shipments in a specified prior weekly period. The committee reports that Dancy tangerines are beginning to pass Florida maturity tests and the total supply is limited. Also, the committee reports that the market will accept a limited quantity of the 210 size Dancy tangerines. Thus, relaxation of the regulation is designed to allow a greater proportion of the available supply to reach the market.

It is anticipated that during subsequent weeks larger supplies of Dancy tangerines will be available for market and such fruit, left on the trees, will likely attain larger sizes. Hence, this action provides for the resumption of the 2$^{9}/_{16}$ inch minimum size for Dancy tangerines for the period November 30, 1981, through December 6, 1981, to assure availability of the sizes preferred by consumers. The proposed final rule will contine the 2$^{9}/_{16}$ inch minimum diameter for shipments of Florida Dancy tangerines.

It is further found 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), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared purposes of the act. Interested persons were given an opportunity to submit information and views on the amendment at an open meeting. This amendment relieves restrictions on the handling of Florida Dancy tangerines. Handlers have been apprised of such provisions and the effective date.

Information collection requirements (reporting or recordkeeping) under this part are subject to clearance by the Office of Management and Budget and are in the process of review. These information requirements shall not become effective until such time as clearance by the OMB has been obtained.

Accordingly, paragraph (d) of § 905.305 (Orange, Grapefruit, Tangerine, and Tangelo Regulation 5; (46 FR 50359; 55919), is revised as follows:

§ 905.305 Orange, Grapefruit, Tangerine, and Tangelo Regulation 5.

* * * * *

(d) *Percentage of size regulation applicable to Dancy variety tangerines.* Notwithstanding the provisions of Table I in paragraph (a) of this section, any handler may during the period November 23 through November 29, 1981, ship Dancy variety tangerines smaller than 2$^{9}/_{16}$ inches in diameter: *Provided,* That such smaller tangerines are not smaller than 2$^{9}/_{16}$ inches in diameter and: *Provided further,* That the quantity of such smaller tangerines does not exceed 35 percent of the quantity shipped in the applicable prior period as determined by the procedure specified in § 905.152 (46 FR 47056) of this part.

* * * * *

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

Dated, November 20, 1981, to become effective November 23, 1981.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 81-34142 Filed 11-25-81; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 907

[Navel Orange Reg. 529; Navel Orange Reg. 528, Amdt. 1]

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

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period November 27-December 3, 1981, and increases the quantity of such oranges that may be so shipped during the period November 20-November 26, 1981. Such action is needed to provide for orderly marketing of fresh navel oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: This regulation becomes effective November 27, 1981, and the amendment is effective for the period November 20-26, 1981.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, (202) 447-5975.

SUPPLEMENTARY INFORMATION: *Findings.* This rule has been reviewed under Secretary's Memorandum 1512-1, and Executive Order 12291 and has been designated a "non-major" rule. This regulation and amendment are 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). The action is based upon the recommendation 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 1981-82. The marketing policy was recommended by the committee following discussion at a public meeting on October 6, 1981. A regulatory impact analysis on the marketing policy is available from William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975.

The committee met again publicly on November 23, 1981, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for navel oranges is good.

It is further found 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), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of navel oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been appraised of such provisions and the effective time.

Forms required for operation under this part are subject to clearance by the Office of Management and Budget and are in the process of review.

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

1. Section 907.829 is added as follows:

§ 907.829 Navel orange regulation 529.

The quantities of navel oranges grown in Arizona and California which may be handled during the period November 27, 1981, through December 3, 1981, are established as follows:

(a) District 1: 1,260,000 cartons;

(b) District 2: Unlimited cartons;

(c) District 3: 149,000 cartons;

(d) District 4: Unlimited cartons;

2. Section 907.828 Navel Orange Regulation 528 (46 FR 56775), is hereby amended to read:

§ 907.828 Navel orange regulation 528.

* * * * *

(a) District 1: 968,000 cartons;

(b) District 2: Unlimited cartons;

(c) District 3: 132,000 cartons;

(d) District 4: Unlimited cartons;

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

Dated: November 24, 1981.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 81-34205 Filed 11-25-81; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[(Docket No. 81-GL-10-AD; Amdt. 39-42) 69]

Airworthiness Directives; Woodward Governor Company Model F210681 Propeller Governors Installed on Maule M5 235C Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires the replacement of Woodward Governor Model F210681, Serial Numbers as listed in body of AD, on Maule M5 235C airplanes. The AD is prompted by four reports of failures of the flyweights in these governors which cause the propeller to go to lower pitch resulting in engine overspeed and loss of thrust.

DATE: Effective December 7, 1981.

Comments related to this amendment must be received on or before December 31, 1981. Depending on the comments received, this amendment may be modified.

Compliance schedule—As prescribed in body of AD.

ADDRESSES: Send written comments in duplicate to Office of Regional Counsel, Federal Aviation Administration, Attention: Rules Docket (AGL-7) Docket No. 81-GL-10-AD, 2300 East Devon Avenue, Des Plaines, Illinois 60018. The applicable service bulletin may be obtained from: Woodward Governor Company, 5001 North Second Street, Rockford, Illinois 61101.

A copy of the applicable service bulletin is contained in the Rules Docket, Office of the Regional Counsel, FAA, Great Lakes Region, Room 415, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Charles Smalley, Flight Standards Division, Engineering and Manufacturing Branch, AGL-213, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone 312/694-7130.

SUPPLEMENTARY INFORMATION: There have been four reports of flyweight failure caused by the vibration in this Lycoming engine/governor/Hartzell HC-C2YR-1BF propeller combination. Since this condition is likely to exist or develop on certain other F210681 governors within a block of serial numbers, an Airworthiness Directive is being issued which requires replacement of Woodward Governor Model F210681, affected Serial Number, on Maule M5 235C airplanes. The consequences of the failure of a governor flyweight can be extremely hazardous in that the pilot loses control over the propeller which can overspeed and result in catastrophic destruction of the engine or propeller, or both.

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

Although this action, which involves requirements affecting immediate flight safety, is in the form of a final rule and, thus, was not preceded by notice and public comment, comments are now invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation.

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:

Woodward Governor Company. Applies to Model F210681 Serial Numbers 1446751 through 1446783, 1446785 through 1446806, 1446808, 1446809, 1446811, 1446812, 1446814 through 1446817, 1567547 through 1567562, 1567564 through 1567594, and 1567596 through 1567612 installed on Maule M5 235C airplanes.

Compliance is required as indicated, unless already accomplished. To prevent the possible failure of the flyweights, accomplish the following:

Within the next 50 hours time in service from the effective date of this AD, remove Woodward Governor Model F210681 with the above listed serial numbers and replace with a Woodward Governor Model F210681 S/N not listed above in accordance with Woodward Service Bulletin 33576 dated October 1981. This amendment becomes effective December 7, 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)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a final regulation which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A final regulatory evaluation prepared for this document is contained in the public docket, and a copy may be obtained by writing Engineering and Manufacturing Branch, AGL-213, Flight Standards Division, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018. It has also been determined under the criteria of the Regulatory Flexibility Act that this rule, at promulgation, will not have a significant economic impact on a substantial number of small entities. The aforesaid determinations under the Regulatory Flexibility Act and Executive Order 12291 are based upon the small number of aircraft and entities which will be affected by this AD, and upon the minimal loss which these entities will incur in complying with this AD.

The manufacturer's service bulletin identified in this directive is incorporated herein and made part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by the directive who have not already received these documents from the manufacturer may obtain copies upon request to: Woodward Governor Company, 5001 North Second Street, Rockford, Illinois 61101.

These documents may also be examined at the Great Lakes Regional Office, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

This rule is a final order of the Administrator under 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 Kansas City, Missouri, on November 16, 1981.

James O. Robinson,

Acting Director, Central Region.

[FR Doc. 81-34158 Filed 11-25-81; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 81-NW-37-AD; Amdt. No. 39-4268]

Airworthiness Directive; Canadair Model CL-600 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: On June 19, 1981, the FAA issued a telegraphic Airworthiness Directive (AD) T81-13-51, effective upon receipt, to all known operators of Canadair CL-600 series airplanes certified in all categories. This AD required an inspection and replacement, if necessary, of the wheel brake assembly to prevent an unsafe condition where the brakes may drag. This AD is hereby published in the **Federal Register** to make it effective to all persons.

DATES: Effective date: December 7, 1981. This AD was effective earlier to all recipients of telegraphic AD T81-13-51 dated June 19, 1981.

ADDRESSES: The service bulletins specified in this airworthiness directive may be obtained upon request to Canadair Ltd., P.O. Box 6087, Station A, Montreal, Quebec, Canada H3C3G9, or may be examined at the Federal Aviation Administration, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Mr. Harold N. Wantiez, Foreign Aircraft Certification Branch, ANM-150S, FAA Northwest Mountain Region, 9010 E. Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2530.

SUPPLEMENTARY INFORMATION: A safety hazard may exist on Canadair CL-600 airplanes if the brake drags after the wheel brake assembly, P/N 600-85083-55, has been reworked. An airworthiness directive had been previously issued by the Canadian airworthiness authority after an improperly reworked wheel brake assembly was discovered. On June 19, 1981, telegraphic AD T81-13-51 was issued to all known owners of Canadair series CL-600 airplanes which required an inspection of the wheel brake assembly and replacement if the brakes drag. This AD publishes the telegraphic AD in the **Federal Register.**

Since this condition was likely to exist or develop on other airplanes of the same type design, a telegraphic airworthiness directive was issued which requires inspections and modifications to Canadair CL-600 series airplanes. It is now published to make it effective to all persons.

Since a situation existed and still exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical 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:

Canadair: Applies to all Canadair CL-600 series airplanes certified in all categories. To detect dragging wheel brakes, unless already accomplished, accomplish the following prior to further flight.

A. Inspect and replace, if necessary, wheel brake assembly P/N 600-85083-55 with wheel brake assembly P/N 600-85083-57 in accordance with Canadair Alert Service Bulletin A600-0045, Revision 1, dated June 15, 1981.

B. Airplanes may be flown to a maintenance base for repairs or replacement in accordance with FAR 21.197.

C. Alternate means of compliance or other actions which provide an equivalent level of safety may be used when approved by the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the addresses listed above. These documents may also be examined at FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108.

This amendment becomes effective December 7, 1981 and was effective earlier to those recipients of Telegraphic AD T81-13-51 dated June 19, 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)); 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Executive Order 12291. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator under 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 Seattle, Washington, on November 16, 1981.

Robert O. Brown,

Acting Director, Northwest Mountain Region.

[FR Doc. 81-33831 Filed 11-25-81; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 81-ACE-13]

Alteration of Control Zone; Liberal, Kans.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to alter the control zone at Liberal, Kansas. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: January 21, 1982.

FOR FURTHER INFORMATION CONTACT: Charles M. Bumstead, Chief, Airspace and Procedures Section, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: To enhance airport usage, a new VOR approach to Runway 3 is being developed for the Liberal, Kansas, Municipal Airport. A 3.5 mile extension

of the control zone to the southwest is necessary to contain the new procedure. Control zones are designed to contain IFR operations in controlled airspace to the surface around airports within a specified radius and along the final approach course of the IAP. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Discussion of Comments

On page 44764 of the **Federal Register** dated September 8, 1981, the Federal Aviation Administration published a Notice of Proposed Rulemaking which would amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to alter the control zone at Liberal, Kansas. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Subpart F, § 71.171 of the Federal Aviation Regulations (14 CFR 71.171) as republished on January 2, 1981 (46 FR 455), by altering the following control zone:

Liberal, Kansas

Within a 5-mile radius of Liberal Municipal Airport (Latitude 37°02'35" N, Longitude 100°57'45" W); within 2 miles each side of the Liberal VORTAC 025° radial, extending from the 5-mile radius zone to 8 miles northeast of the VORTAC; and within 2 miles each side of the Liberal VORTAC 153° radial, extending from the 5-mile radius zone to 8 miles southeast of the VORTAC, within 3 miles each side of the Liberal VORTAC 206° radial, extending from the 5-mile radius zone to 8.5 miles southwest of the VORTAC.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); § 11.65 of the Federal Aviation Regulations (14 CFR 11.65))

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) at promulgation, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Missouri, on November 16, 1981.

Murray E. Smith,

Director, Central Region.

[FR Doc. 81-33829 Filed 11-25-81; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 81-AAL-8]

Establishment of Biorka Island, AK, Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes a transition area in the vicinity of Biorka Island, AK. This action provides controlled airspace required for air traffic control services.

EFFECTIVE DATE: January 21, 1982.

FOR FURTHER INFORMATION CONTACT: John Watterson, 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) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On October 26, 1981, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a transition area to provide controlled airspace in the vicinity of Biorka Island, AK. Surveillance radar will be commissioned at Biorka Island shortly and additional controlled airspace is required to provide efficient radar air traffic control services (46 FR 52125). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received. This amendment is the same as that proposed in the notice. Section 71.181 was republished on January 2, 1981 (46 FR 540).

The Rule

This amendment to Part 71 of the Federal Aviation Regulations establishes a transition area that extends upward from 1,200 feet above the surface within a 40 NM radius of the Biorka Island, AK, VOR extending from the 307° radial clockwise to the 148° radial; and that airspace extending upward from 4,500 feet MSL between the 40 NM and the 115 NM radius of the Biorka Island VOR clockwise from the 307° radial to the 148° radial, excluding that airspace less than 1,200 feet above the surface, and the airspace within Canada.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 540), is amended, effective 0901 GMT, January 21, 1982, as follows:

Biorka Island, AK [New]

By adding Biorka Island, AK, Transition Area to read as follows:

Biorka Island, AK

That airspace extending upward from 1,200 feet above the surface within a 40 NM radius of the Biorka Island VOR (lat. 56°51.6'N., long. 135°33.0'W.) extending from the 307° radial clockwise to the 148° radial; and that airspace extending upward from 4,500 feet MSL between a 40 NM radius and 115 NM radius of Biorka Island VOR extending from the 307° radial clockwise to the 148° radial, excluding that airspace less than 1,200 feet above the surface, and that airspace within Canada.

(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)

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on November 17, 1981.

B. Keith Potts,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 81-33828 Filed 11-25-81; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 81-AGL-36]

Alteration of VOR Federal Airway; Ohio

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revokes a segment of VOR Federal Airway V-279 between Gunne, OH, Intersection and the Columbus, OH, nondirectional radio beacon (RBN). The Columbus RBN will be decommissioned and the segment of V-279 is no longer required for the purpose of air traffic control.

EFFECTIVE DATE: January 21, 1982.

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) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On October 1, 1981, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revoke a segment of VOR Federal Airway V-279 between Gunne, OH, Intersection and the Columbus, OH, nondirectional radio beacon (RBN) (46 FR 48226). The Columbus RBN will be decommissioned and that segment is no longer required for air traffic control. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received objecting to the proposal. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 was republished on January 2, 1981 (46 FR 409).

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) revokes VOR Federal Airway V-279 between Gunne, OH, Intersection and the Columbus, OH, nondirectional radio beacon. This action reduces chart clutter and returns airspace for public use.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 409), is amended, effective 0901 GMT, January 21, 1982, as follows:

V-279 [Amended]

By deleting the words "From the Columbus, OH, RBN, INT Findlay, OH, 146° and Rosewood, OH, 045° radials;" and substituting for them the words "From INT Findlay, OH, 146° and Rosewood, OH, 083° radials; to Findlay;"

(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 regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on November 20, 1981.

John W. Baier,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 81-34157 Filed 11-25-81; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 81-ANW-7]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points, Alteration of VOR Federal Airways; Yakima, Washington

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the description of VOR Federal Airways V-497 and V-298 and revokes two alternate airways. This amendment supports our agreement with the International Civil Aviation Organization (ICAO) to eliminate alternate airways from the National Airspace System.

EFFECTIVE DATE: January 21, 1982.

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) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On September 14, 1981, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the description of VOR Federal Airways V-497 and V-298 and revoke two alternate airways (46 FR 45620). This action will reduce delays in the Yakima, WA, area by providing additional air traffic control flexibility for maneuvering traffic in the Yakima area. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 was republished on January 2, 1981 (46 FR 409).

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) alters the description of VOR Federal Airways V-497 and V-298 and revokes V-25E and V-448S in the Yakima, WA, area. This action also reduces clutter and supports our objective to eliminate alternate airways from the National Airspace System.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 409) is amended, effective 0901 GMT, January 21, 1982, as follows:

1. *V-497 [Amended]*

By deleting the words "The Dalles, OR." and substituting for them the words "The Dalles, OR; INT The Dalles 053° and Moses Lake, WA, 206° radials; to Ephrata, WA."

2. *V-298 [Amended]*

By deleting the words "INT Yakima 129° and Pasco, WA, 276° radials; Pasco;" and substituting for them the words "INT Yakima 129° and Pasco, WA, 274° radials; Pasco;"

3. *V-25 [Amended]*

By deleting the words "Yakima, WA, including an east alternate via INT The Dalles 051° and Yakima 183° radials;" and substituting for them the words "Yakima, WA;"

4. *V-448 [Revised]*

By revising the description of V-448 to read as follows: "V-448 From Portland, OR; Yakima, WA, including a S alternate via INT Portland 075° and Yakima 227° radials; Moses Lake, WA; Spokane, WA."

(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 regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on November 18, 1981.

B. Keith Potts,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 81-33978 Filed 11-25-81; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 81-ASW-35]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Extension of VOR Federal Airway; Brownsville, Texas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment extends VOR Federal Airway V-70 from Brownsville, TX, to Monterrey, Mexico. The Government of Mexico requested the airway extension to provide a direct route to/from the Brownsville terminal area.

EFFECTIVE DATE: January 21, 1982.

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) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On September 24, 1981, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to extend VOR Federal Airway from Brownsville, TX, direct to Monterrey, Mexico (46 FR 47083). The Government of Mexico requested the airway extension in order to establish direct routing to Brownsville and for transition to routes to other airports located on both sides of the U.S./Mexico boundary. This action aids flight planning. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 was republished on January 2, 1981 (46 FR 409).

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) extends V-70 from Brownsville, TX, direct to Monterrey, Mexico. This action improves air traffic control flexibility for flight operations in the terminal area, and aids flight planning.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 409), is amended, effective 0901 GMT, January 21, 1982, as follows:

V-70 [Amended]

By deleting the words "From Brownsville, TX," and substituting for them the words "From Monterrey, Mexico; Brownsville, TX;" and by adding the words at the end of the description "The airspace within Mexico is excluded."

(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 regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on November 19, 1981.

John W. Baier,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 81-33974 Filed 11-25-81; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 81-ARM-12]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Extension of VOR Federal Airways and Designation of VOR Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment extends VOR Federal Airway V-324 from Crazy Woman, WY, to Worland, WY, and designates new VOR Federal Airway V-401 from Worland, WY, to Casper, WY. These actions provide controlled airspace between these locations and promote efficient use of the airspace for air traffic control purposes.

EFFECTIVE DATE: January 21, 1982.

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) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On July 9, 1981, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to extend VOR Federal Airway V-324 from Crazy Woman, WY, to Worland, WY; designate new VOR Federal Airway V-401 from Worland to Casper, WY; and designate new VOR Federal Airway V-406 between Cody, WY, and Sheridan, WY (46 FR 35527). This amendment designates airways between existing navigational aids, thereby increasing aviation safety and improving flight planning. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received objecting to the proposal. This amendment is not the same as that proposed in the notice because V-406 from Cody, WY, to Sheridan, WY, did not flight check satisfactorily and is omitted from this action. Section 71.123 was republished on January 2, 1981 (46 FR 409).

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) extends V-324 from Crazy Woman, WY, to Worland, WY, and designates new V-401 from Worland, WY, to Casper, WY. The amendment

designates and alters airway descriptions to save fuel, aid flight planning, and increase safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 409), is amended, effective 0901 GMT, January 21, 1982, as follows:

1. *V–324 [Revised]*

By revising the description to read "V–324 From Gillette, WY; Crazy Woman, WY; to Worland, WY."

2. *V–401 [New]*

V–401 From Worland, WY; to Caster, WY.

(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 regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on November 19, 1981.

John W. Baier,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 81-33070 Filed 11-25-81; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 81-AEA-4]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Redesignation of Northeast Area Airway Structure

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates three new VOR Federal Airways and alters two VOR Federal Airways in the New York area. The airway changes will permit additional flexibility for maneuvering traffic in the Northeast Corridor, increase air safety and reduce delays, thereby saving fuel.

EFFECTIVE DATE: January 21, 1982.

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) 426–8783.

SUPPLEMENTARY INFORMATION:

History

On August 6, 1981, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate three new airways and alter two airways as the result of a comprehensive Northeast Area Procedural Study (46 FR 40033). The study was conducted to determine if a more efficient airway system could be developed in the New York area. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for additional changes, this amendment is the same as that proposed in the notice. Section 71.123 was republished on January 2, 1981 (46 FR 409).

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) designates new VOR Federal Airways V–403, V–405, and V–408 and realigns V–123 and V–213 in the New York area. This action improves traffic flow and saves fuel by reducing delays.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 409) and amended (45 FR 71773, 46 FR 29255) is further amended, effective 0901 GMT, January 21, 1982, as follows:

1. *V–123 [Amended]*

By deleting the words "INT Woodstown 043°" and substituting for them the words "INT Woodstown 042°"

2. *V–213 [Amended]*

By deleting the words "INT Woodstown 043°" and substituting for them the words "INT Woodstown 042°"

3. *V–403 [New]*

By adding new Airway V–403 to read as follows: V–403 From Solberg, NJ; Pottstown, PA; to INT Pottstown 222° and Baltimore, MD, 034° radials.

4. *V–405 [New]*

By adding new Airway V–405 to read as follows: V–405 From Broadway, NJ; Pottstown, PA; to INT Pottstown 222° and Baltimore, MD, 034° radials.

5. *V–408 [New]*

By adding new Airway V–408 to read as follows: V–408 From Modena, PA, INT Modena 257° and Harrisburg, PA, 204° radials, Harrisburg; INT Harrisburg 204° and Martinsburg, WV, 130° radials.

(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 regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on November 19, 1981.

John W. Baier,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 81-33075 Filed 11-25-81; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 75

[Airspace Docket No. 81-ASW-36]

Establishment of Jet Routes and Area High Routes; Alteration of Jet Routes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment realigns Jet Route No. J–15 between Roswell, NM, and Albuquerque, NM, and realigns Jet Route No. J–74 between St. Johns, AZ, and Texico, NM. These realignments provide a stronger navigation signal by incorporating Corona, NM, which is located approximately midpoint between those routes. This action would increase air safety in the area.

EFFECTIVE DATE: January 21, 1982.

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) 426–8783.

SUPPLEMENTARY INFORMATION:

History

On September 10, 1981, the FAA proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to realign Jet Route No. J–15 between Roswell, NM, and Albuquerque, NM, and to realign Jet Route No. J–74 between St. Johns, AZ, and Texico, NM, (46 FR 45154). This action aids pilots to remain on the centerline of J–74, thereby increasing aviation safety in that area. Also, the realignment of J–15 improves the arrival/departure flow in the Albuquerque terminal area. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 75.100 was republished on January 2, 1981 (46 FR 834).

The Rule

This amendment to Part 75 of the Federal Aviation Regulations (14 CFR Part 75) realigns J–15 between Roswell, NM, via Corona, NM, and Albuquerque, and realigns J–74 between St. Johns, AZ, and Texico, NM, via Corona, NM. This action improves aviation safety and aids traffic flow in the Albuquerque terminal area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as republished (46 FR 834), and amended (46 FR 39997), is further amended, effective 0901 GMT, January 21, 1982, as follows:

1. *Jet Route No. 15 [Amended]*

By deleting the words "Roswell, NM; INT of the Roswell 319° and the Albuquerque, NM, 126° radials; Albuquerque; Farmington, NM;" and substituting for them the words "Roswell, NM; Corona, NM; Albuquerque, NM; Farmington, NM;"

2. *Jet Route No. 74 [Amended]*

By deleting the words "Scorro, NM; Texico, NM;" and substituting for them the words "St. Johns, AZ; Corona, NM; Texico, NM;"

(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 regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on November 19, 1981.

John W. Baier,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 81-33977 Filed 11-25-81; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 310

[Docket No. 78P-0409/CP]

Labeling Requirements for Patient Labeling for Progestational Drug Products; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration is correcting the effective date of the final rule on labeling requirements for patient labeling for progestational drug products published in the **Federal Register** of October 30, 1981 (46 FR 53656).

EFFECTIVE DATE: November 30, 1981.

FOR FURTHER INFORMATION CONTACT: Robert J. Rice, Regulations Policy Staff (HFC–10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3480.

SUPPLEMENTARY INFORMATION: The following corrections are made in FR Doc. 81–31248 appearing on page 53656 in the issue of October 30, 1981:

1. On page 53656 in the first column, "EFFECTIVE DATE: December 29, 1981" is corrected to read "EFFECTIVE DATE: November 30, 1981".

2. On page 53657 in the second column, "EFFECTIVE DATE: December 29, 1981" is corrected to read "EFFECTIVE DATE: November 30, 1981".

Dated: November 19, 1981.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-33980 Filed 11-25-81; 8:45 am]

BILLING CODE 4160-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52, 62 and 81

[A-5-FRL 1966-5]

Approval and Promulgation of State Implementation Plans, Plans for Designated Facilities and Pollutants and Redesignations: Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On July 22, 1981 (46 FR 37722), July 27, 1981 (46 FR 38385), and on August 16, 1981 (46 FR 41813) EPA proposed approval of and solicited public comment on several State Implementation Plan (SIP) revisions, an air quality attainment status redesignation, and State plans required under section 111(d) of the Clean Air Act. These actions were taken at the request of the States of Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin and after reviewing supporting technical and air quality monitoring data. Several public comments were received supporting EPA's proposed approval.

The purpose of today's notice is to announce final EPA approval of these revisions and redesignation. Further information is provided below.

EFFECTIVE DATE: This final rulemaking becomes effective on December 28, 1981.

FOR FURTHER INFORMATION CONTACT: Sharon Kraft at (312) 886–6034.

SUPPLEMENTARY INFORMATION: .

Illinois (40 CFR Part 52)

Revision: Plan for Controlling Sulfuric Acid Mist Emissions and Negative Declaration Certifying That There Are No Primary Aluminum Plants or Kraft Pulp Mills Located in the State of Illinois

On July 27, 1981 (46 FR 38385), EPA proposed to approve the Illinois plan for controlling sulfuric acid mist emissions from existing production facilities submitted on August 10, 1978, and Illinois negative declarations of July 23, 1979 certifying that there are no primary aluminum plants or Kraft pulp mills located in the State of Illinois. Further information about these approvals is contained in the **Federal Register** July 27, 1981. No public comments were received on the proposed rulemaking. Therefore, EPA approves this addition to the Illinois State Implementation Plan.

In the July 27, 1981, rulemaking (46 FR 38385) where EPA proposed to approve the plan for controlling sulfuric acid mist emissions, Illinois Rules 204(f)(2) and 204(g)(2) were incorrectly listed as Rules 203(f)(2) and 203(g)(2). Similarly, the date of submission of Chapter 2 of the Illinois Air Pollution Control Regulations was incorrectly listed as November 6, 1980. These regulations were submitted to EPA on April 4, 1979. EPA is taking action today approving Rules 204(f)(2) and 204(g)(2) which specify Sulfuric Acid Mist standards and limitations, and Measurement Methods as the above errors were not substantive.

Revision: Bunge Corporation Variance

On December 10, 1980, the State submitted a SIP revision to EPA in the form of an Order of the Pollution Control Board. This Order grants Bunge Corporation until October 15, 1981, to complete installation of Total Suspended Particulate (TSP) control equipment. Based on EPA review, the proposed variance will not interfere with maintaining the National TSP Ambient Air Quality Standard. Therefore, EPA proposed approval of this variance on August 18, 1981. In the notice of proposed rulemaking, the date of the State submission was incorrectly given as September 10, 1980. Since this change is not substantive and since no public comments were received, EPA is approving the revision.

Illinois (40 CFR Part 52)

Revision: TSP and Carbon Monoxide Limitations

On July 17, 1980, the State submitted an Opinion and Order of the Illinois Pollution Control Board which exempted certain small explosive waste incinerators from the requirements of Rule 203(e) Particulate Emission Standards and Limitations for Incinerators and Rule 206(b) Carbon Monoxide Standards and Limitations for Incinerators. EPA analysis of the revision showed that there will be a negligible effect on air quality and proposed to approve the amended regulations as a revision to the Illinois SIP on August 18, 1981 (46 FR 41815). No comments were received; therefore, EPA is approving the revision.

Indiana (40 CFR Part 52)

Revision: Plan for Controlling Fluoride Emissions from Existing Primary Aluminum Plants

On January 21, 1981, the State of Indiana submitted Rule 325 IAC 11-5 which limits fluoride emissions from existing primary aluminum plants. EPA reviewed the rule and determined that it meets the requirements of section 111(d) of the Clean Air Act. On August 18, 1981, EPA published a notice of proposed rulemaking on this rule. Two comments were received supporting EPA's action. At this time, EPA is approving the rule as adopted by the State.

Indiana (40 CFR Part 52)

Revision: Regulation 325 IAC 1.1-2 (formerly APC-14)

On March 14, 1980, the State of Indiana submitted amendments to Regulation APC-14 (subsequently recodified as 325 IAC 1.1-2) which contains primary and secondary ambient air quality replacement standards for ozone and lead. Because the State's revised standards are identical to the national standards, EPA proposed approval on August 18, 1981 (46 FR 41815). One comment was received supporting EPA's action. This notice approves Regulation 325 IAC 1.1-2 as proposed.

Indiana (40 CFR Part 52)

Revision: Monitoring Requirement for Noblesville Power Generating Station

On August 18, 1981 (46 FR 41815), EPA published a notice which proposed to approve the State's request to waive its sulfur dioxide air monitoring requirement of Section 4(a), Regulation 325 IAC 7-1 in the area around Public Service Indiana Noblesville Station. The State supports the waiver with monitoring and modeling data which demonstrates that the sulfur dioxide ambient air quality standards are not threatened by emissions from this plant.

During the comment period, one comment was received supporting EPA's action. Since no new issues were raised in the comment period, EPA is approving the waiver as a revision to the Indiana SIP.

Michigan (40 CFR Part 52)

Revision: Consultation, Section 121

On February 3, 1972, the State submitted Section 336.26 of the Michigan Air Pollution Control Act (40 CFR 52.1170) and on April 25, 1979, the State submitted other material pertaining to section 121 of the Clean Air Act. EPA reviewed all of the material submitted and found it meets with the requirements of the section 121 consultation process; therefore, EPA proposed approval on August 18, 1981 (45 FR 41815). In the notice of proposed rulemaking EPA inadvertently listed August 25, 1979 as the date of the State submission. Since no comments were received during the comment period, EPA approves the consultation process as adopted by the State.

Minnesota (40 CFR Part 52)

Revision: Stipulation Agreement with Erie Mining Company

On February 20, 1981, the Minnesota Pollution Control Agency (MPCA) submitted a SIP revision for TSP emission control for the Erie Mining Company. The Erie Mining Company is located in an attainment area. The revision is in the form of a Stipulation Agreement between the MPCA and the Erie Mining Company and would allow the Company until December 31, 1983 to come into compliance with the requirements of Minnesota's Rules APC 5(C)(3) and 5(c)(1)(bb). To come into compliance with the applicable rules, the Company will implement a control strategy which will provide for 90 percent control, 5 percent more than is required by the State, by December 31, 1983.

EPA reviewed the Agreement and concluded that the TSP NAAQS will not be violated during the period of the Agreement. Additionally, by December 31, 1983, the control equipment will achieve 90 percent efficiency, 5 percent more than is required by the State. Therefore, on August 18, 1981 (46 FR 41815) EPA proposed to approve the Stipulation Agreement for Erie Mining Company as a revision to the Minnesota SIP. No comments were received during the public comment period. Thus, EPA approves this action as proposed.

Ohio (40 CFR Part 52)

Revision: Standard Oil Company of Ohio (SOHIO) Variances for Toledo Refinery Wastewater Separator and Vacuum Producing Unit; Lima Refinery—Wastewater Separator

On April 10, 1981, the State submitted revisions to its ozone SIP for the SOHIO refineries at Toledo and Lima. The revisions are in the form of variances from Rules 3745-21-09(M)(2) and 3745-21-09(M)(1). If approved, the various would allow SOHIO additional time to install the required control equipment for ozone. The proposed compliance dates are:

(1) July 1, 1982, wastewater separator (Toledo);

(2) December 31, 1984, vacuum unit (Toledo); and

(3) December 1, 1981, wastewater separator (Lima).

Based on its review, EPA believes the counties in which these refineries are located will attain the ozone ambient air quality standard by the statutory date, reasonable further progress will

continue, and RACT will be implemented as expeditiously as practicable. Therefore, EPA proposed approval of these revisions on August 18, 1981 (46 FR 41816). No comments were received. EPA takes final action to approve these variances.

Ohio (40 CFR Part 81)

Revision: Harrison Township Redesignation

On August 18, 1981 (46 FR 41816) EPA proposed to redesignate Harrison Township in Pickaway County to attainment for sulfur dioxide (SO_2). This proposal is based on the compliance of Pickaway Power Plant, the only major source of SO_2 in the Township, with Federal SO_2 limitations and the fact that the powerplant has also achieved the required boiler shutdown, as required by the SIP. No comments on this proposal were received. EPA approves the redesignation.

Wisconsin (40 CFR Part 52)

Revision: Approval of Rule 154.09 Emissions Prohibited

On July 12, 1979, the State of Wisconsin submitted amendments to Rule NR 154.09. The amendments delete the exemption for equipment breakdown (NR 154.09)(1)(b), require that any use under NR 154.09(1)(b) be carried out in accordance with a plan and schedule approved by the Department of Natural Resources, and delete the 15-day limitation of NR 154.09(1)(c). EPA reviewed the amendments and determined that attainment and maintenance of the ambient air quality standards is not jeopardized. Therefore, approval was proposed on August 18, 1981 (46 FR 41817). Since no comments were received, EPA approves the amendments as adopted by the State.

Wisconsin (40 CFR Part 52)

Revision: General Motors Variance

On January 15, 1981, the State submitted a revision to its ozone SIP for General Motors Assembly Division (GM) in Janesville. The revision is in the form of a variance from NR 154.13(4)(g) 4.a. Wisconsin Administrative Code.

During the variance period, GM will implement an emissions reduction strategy in other coating operations which will more than offset the VOC emissions resulting from the variance by 12.5 pounds VOC per hour. The conditions of the strategy are set forth below.

EPA determined that the variance and emission reduction strategy will not interfere with attaining and maintaining the ambient air quality ozone standard and, therefore, proposed approval on July 22, 1981 (46 FR 37722). EPA received no comment on its action; therefore, the revision is approved. It incorporates the following conditions specified by the State:

1) This variance, as well as the requirements herein, shall be in effect from January 1, 1981 (or the approval date of this variance, whichever is later) through December 31, 1982.

2) This variance cannot delay General Motors from attaining compliance with Section NR 154.13(4)(g)4.b.

3) General Motors shall maintain priming of truck front end sheet metal with a coating having a VOC content not to exceed 4.94 pounds per gallon, excluding water.

4) After January 1, 1981, the autombile body electrodeposition prime coating VOC content shall not exceed 1.2 pounds per gallon, excluding water.

5) Between January 1, 1981, and December 31, 1982 light duty truck topcoat (i.e., cab dulux, cab two-tone, box dulux and sheet metal spray) VOC content shall not exceed 4.3 pounds per gallon, excluding water.

Under Executive Order 12291 EPA must judge whether a regulation is a major rule and therefore subject to the requirement of a regulatory impact analysis. The attached rules are not major because they impose no new regulatory requirements and merely propose to approve State plans or ratify state law. This package was submitted to the Office of Management and Budget for review as required by Executive Order 12291. This rulemaking was submitted to the Office of Management and Budget for review as required by this Order.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached rules will not have a significant economic impact on a substantial number of small entities. This action only approves state actions and does not impose new requirements.

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

(Secs. 107(d), 110, 111(d), 121, and 301(a) of the Clean Air Act, as amended)

Note.—Incorporation by reference of the State Implementation Plans for the States of Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin was approved by the Director of the Federal Register on July 1, 1981.

Dated: November 19, 1981.

Anne M. Gorsuch,

Administrator.

Parts 52, 62, and 81 of Chapter I, Title 40, Code of Federal Regulations are amended as follows:

PART 52—APPROVAL AND PROMULGATION OF STATE IMPLEMENTATION PLANS

1. Section 52.720 is amended by removing the words "sulfuric acid mist emissions:" from the fourth sentence in paragraph (c)(16) and by adding paragraphs (c) (36) and (37) to read as follows:

Subpart O—Illinois

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(36) On December 10, 1980, the State submitted a July 24, 1980, Opinion and Order of the Illinois Pollution Control Board and a September 18, 1980, Order of the Board granting Bunge Corporation's Cairo, Illinois soybean processing plant and grain elevator variance from Illinois Pollution Control Board's particulate emission standards under Rules 203(g)(1)(D) and 103(b)(1) of Chapter 2 of the Air Pollution Control Regulations through October 15, 1981.

(37) On July 17, 1980, the State submitted an April 3, 1980, Opinion and Order of the Illinois Pollution Control Board adopting a December 13, 1979, Proposed Opinion and Order of the Board which exempted certain small explosive waste incinerators from the requirements of Rule 203(e) Particulate Emission Standards and Limitations for incinerators and Rule 206(b) Carbon Monoxide Emissions Standards and Limitations for incinerators.

2. Section 52.770 is amended by adding paragraphs (c) (27) and (28) to read as follows:

Subpart P—Indiana

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(27) On October 6, 1980, Indiana submitted Regulation 325 IAC 1.1–2 (formerly APC 14) which includes the primary and secondary ambient air quality standards for ozone and lead.

(28) On February 26, 1981, Indiana submitted a revision to its plan waiving the State's sulfur dioxide air monitoring requirement of section 4(a) of Regulation 325 IAC 7–1 for the area around Public

Service of Indiana's Noblesville Generating Station.

* * * * *

3. Section 52.1170 is amended by adding paragraph (c)(41) to read as follows:

Subpart X—Michigan

§ 52.1170 Identification of plan.

* * * * *

(c) * * *

(41) On April 25, 1979, the State submitted materials which satisfy the intergovernmental consultation process.

4. Section 52. 1220 is amended by adding paragraph (c)(18) to read as follows:

Subpart Y—Minnesota

§ 52.1220 Identification of plan.

* * * * *

(c) * * *

(18) Stipulation Agreement between the State Pollution Control Agency and Erie Mining Company submitted by the State on February 20, 1981.

5. Section 52. 1870 is amended by adding paragraphs (c)(33) and (34) to read as follows:

Subpart KK—Ohio

§ 52.1870 Identification of plan.

* * * * *

(c) * * *

(33) Revision to plan allowing Standard Oil Company of Ohio Toledo refinery variances from State Regulations 3745–21–09(M) (1) and (2) submitted April 10, 1981 by the State.

(34) Revision to plan allowing Standard Oil Company of Ohio Lima refinery variance from State Regulation 3745–21–09(M)(2) submitted April 10, 1981 by the State.

6. Section 52.2570 is amended by adding paragraphs (c) (22) and (23) to read as follows:

Subpart YY—Wisconsin

§ 52.2570 Identification of plan.

* * * * *

(c) * * *

(22) On July 12, 1979, the State submitted revisions to Regulation NR 154.09, Wisconsin Administrative Code.

(23) Revision to plan allowing General Motors Assembly Division Janesville plant variance from Regulation NR 154.13(4)(g) 4.a., Wisconsin Administrative Code submitted January 15, 1981 by the State Department of Natural Resources.

PART 62—APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

1. Part 62 is amended by adding Subpart O (§§ 62.3300 and 62.3325) to read as follows:

* * * * *

Subpart O—Illinois

Sulfuric Acid Mist Emissions From Existing Sulfuric Acid Production Plants

Sec.

62.3330 Identification of plan.

Total Reduced Sulfur Emissions From Kraft Pulp Mills

62.3325 Identification of plan-negative declaration.

* * * * *

Subpart O—Illinois

Sulfuric Acid Mist Emissions From Existing Sulfuric Acid Production Plants

§ 62.3300 Identification of Plan.

(a) Title of Plan: "Illinois Plan for the Control of Sulfuric Acid Mist from Existing Contract Process Sulfuric Acid Plants."

(b) The plan was officially submitted on August 10, 1978.

(c) Identification of sources: The plan includes the following sulfuric acid production plants:

(1) Beker Industries in LaSalle County

(2) U.S.I. Chemical Company in Douglas County

(3) Mobil Chemical Company in Bureau County

(4) Swift Chemical Company in Cook County

(5) American Cyanamid Company in Will County

(6) Amax Zinc Company in St. Clair County

(7) Monsanto Company in St. Clair County

(8) Smith Douglas—Division of Border Chemical in Livingston County

Total Reduced Sulfur Emissions From Kraft Pulp Mills.

§ 62.3325 Identification of Plan—Negative Declaration.

The Illinois Environmental Protection Agency submitted on July 23, 1979, a letter certifying that there are no existing kraft pulp mills in the State subject to Part 60, Subpart B of this Chapter.

2. Section 62.3625 is added to read as follows:

Floride Emissions From Existing Primary Aluminum Plants

§ 62.3625 Identification of plan.

(a) Title of plan: "Fluoride Emission Limitations for Existing Primary Aluminum Plants."

(b) The plan was officially submitted on January 7, 1981 by the Technical Secretary of the Indiana Air Pollution Control Board.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

§ 81.336 [Amended]

Section 81.336 is amended by removing Pickaway County from the table designated "Ohio—Sulfur Dioxide".

[FR Doc. 81–34137 Filed 11–25–81; 8:45 am]

BILLING CODE 6560–38–M

---

40 CFR Part 62

[A–5–FRL 1971–6]

Indiana; Fluoride Emissions Control, Alternate Test Methods

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: On January 21, 1981, in response to section 111(d) of the Clean Air Act, Indiana submitted its plan for controlling fluoride emissions from existing primary aluminum plants, 325 IAC 11–5. EPA is approving this plan elsewhere in today's **Federal Register.** On July 17, 1981, Indiana submitted as a part of its plan revised fluoride compliance test methods. Alcoa Methods 4075A, 4076A, 913A, 914E, and 914F. EPA has previously recognized these methods as an alternate test method to Method 13, 40 CFR Part 60, Appendix A. EPA, therefore, is approving these alternate test methods as a part of Indiana's fluoride plan. This action will be effective 60 days from today unless notice is received within 30 days that someone wished to submit adverse or critical comments.

DATE: This final rulemaking is effective as of January 26, 1982.

ADDRESSES: A copy of Indiana's submittal is available for public review at:

The Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C.

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

Air Programs Branch, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604
Indiana Air Pollution Control Division, Indiana State Board of Health, 1330 West Michigan Street, Indianapolis, Indiana 46206.

FOR FURTHER INFORMATION CONTACT: Sharon Kraft, Regulatory Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6034.

SUPPLEMENTARY INFORMATION: On January 21, 1981, Indiana submitted its section 111(d) plan for controlling fluoride emissions from existing primary aluminum plants, 325 IAC 11-5. EPA proposed to approve this plan on August 18, 1981 (46 FR 41814) and has approved it elsewhere in today's **Federal Register.** On July 17, 1981, Indiana submitted revised fluoride compliance test methods, Alcoa Methods 4075A, 4076A, 913A, 914E, and 914F. EPA had previously accepted these methods as an alternate test method to Method 13, 40 CFR Part 60, Appendix A in a December 18, 1978 letter from George Walsh, Chief of the Emission Measurement Branch, Emission Standards and Engineering Division to Alcoa. Because EPA has determined that these methods are equivalent to Method 13, EPA is approving these alternate test methods as a part of Indiana's fluoride plan.

Because EPA considers today's action as noncontroversial and routine, it is approving it today without prior proposal. The public is advised that this action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received by EPA within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and a subsequent notice will be published before the effective date. The notice will withdraw the final action and begin a new rulemaking by announcing a proposal of the action and a comment period.

Pursuant to the provisions of 5 U.S.C. 605(b) I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities. This action only approves a state action. It will impose no new requirements.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not Major because it only approves a State action and does not impose any additional requirements in and of itself.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

Under section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of 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.

Note.—Incorporation by reference of the State Implementation Plan for the State of Indiana was approved by the Director of the Federal Register on July 1, 1981.

(Sec. 111 of the Clean Air Act, as amended (42 U.S.C. 7411))

Dated: November 19, 1981.

Anne M. Gorsuch,

Administrator.

PART 62—APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

Title 40 of the Code of Federal Regulations, Chapter I, Part 62 is amended as follows:

Subpart P—Indiana

1. Section 62.3625 is amended by adding paragraph (c) to read as follows:

§ 62.3625 Identification of plan.

* * * * *

(c) The State on July 17, 1981, submitted Alcoa methods 4075A, 4076A, 913A, 914E and 914F as alternate test methods.

* * * * *

[FR Doc. 81-34139 Filed 11-25-81; 8:45 am]

BILLING CODE 6560-38-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA-6206]

Communities With No Special Hazard Areas for the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency, after consultation with local officials of the communities listed below, has determined, based upon analysis of existing conditions in the communities, that these communities would not be inundated by 100-year flood. Therefore, the Agency is converting the communities listed below to the Regular Program of the National Flood Insurance Program of (NFIP) without determining base flood elevations.

EFFECTIVE DATE: Date listed in fourth column of list of Communities with no Special Flood Hazards.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Chief, Engineering Division, (202) 287-0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: In these communities, there is no reason not to make full limits of coverage available. The entire community is now classified as Zone C. In a Zone C, insurance coverage is available on a voluntary basis at low actuarial nonsubsidized rates. For example, under the Emergency Program in which your community has been participating the rate for a one-story 1-4 family dwelling is $.40 per $100 of coverage. Under the Regular Program, to which your community has been converted, the equivalent rate is $.10 per $100 coverage. Contents insurance is also available under the Regular Program at low actuarial rates. For example, when all contents are located on the first floor of a residential structure, the premium rate is $.15 per $100 of coverage.

In addition to the less expensive rates, the maximum coverage available under the Regular Program is significantly greater than that available under the Emergency Program. For example, a single family residential dwelling now can be insured up to a maximum of $185,000 coverage for the structure and $60,000 coverage for contents.

Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program.

The effective date of conversion to the Regular Program would not appear in the Code of Federal Regulations except for the page number of this entry in the **Federal Register.**

Pursuant to the provision of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities.

This rule provides routine legal notice regarding the completed stage of engineering tasks in delineating the special floor hazard areas of the specified community and imposes no new requirements or regulations on participating communities.

The entry reads as follows:

§ 65.8 List of Communities with No Special Flood Hazard Areas.

State	County	Community	Date of conversion to regular program
Virginia	Dinwiddie	Town of McKenney.	Nov. 20, 1981.
Virginia	Giles	Town of Pearisburg.	Nov. 20, 1981.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: November 12, 1981.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 81-34152 Filed 11-25-81; 8:45 am]

BILLING CODE 6718-03-M

---

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of Scottsdale, Arizona, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Scottsdale, Arizona. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Scottsdale, Arizona, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: November 27, 1981.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Office of State and Local Programs and Support, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0270.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 045012A Panel 20, published on October 6, 1980, in 45 FR 66116, indicates that Lot 323, Hallcraft Villas Scottsdale Two, Scottsdale, Arizona, as recorded in Book 157, Page 42, in the Office of the Recorder, Maricopa County, Arizona is within the Special Flood Hazard Area.

Map No. H & I 045012A Panel 20 is hereby corrected to reflect that the above mentioned property is not within the Special Flood Hazard Area identified on January 9, 1976. This lot is in Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968, effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: November 10, 1981.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 81-34148 Filed 11-25-81; 8:45 am]

BILLING CODE 6718-03-M

---

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for St. Tammany Parish, Louisiana, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included St. Tammany Parish, Louisiana. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for St. Tammany Parish, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: November 27, 1981.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert G. Chappell, P.E. Chief, Engineering Branch, Office of State and Local Programs and Support, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0270.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda,

Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 225205A Panel 31, published on October 6, 1980, in 45 FR 66093, indicates, that Lot 77, Singing River Estates, Phase Three, St. Tammany Parish, Louisiana, recorded as Document No. 377095 in Conveyance Book 851, Folio 419, in the Office of the Clerk of Court, St. Tammany Parish, Louisiana, is within the Special Flood Hazard Area.

Map No. H & I 225205A Panel 31 is hereby corrected to reflect that the above mentioned property is not within the Special Flood Hazard Area identified on September 17, 1976. This structure is in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: November 10, 1981.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 81-34149 Filed 11-25-81; 8:45 am]

BILLING CODE 6718-03-M

44 CFR PART 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of Tulsa, Oklahoma, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Tulsa, Oklahoma. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Tulsa, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: November 27, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Office of State and Local Programs and Support, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0270.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 405381D Panel 73, published on October 6, 1980, in 45 FR 66095, indicates, that Lot 14, Block 1, Dollie-Mac Addition, Tulsa, Oklahoma, recorded as Document No. 993737 in Book 4567, Page 1455, in the Office of the Clerk, Tulsa County, Oklahoma, is within the Special Flood Hazard Area.

Map No. H & I 405381D Panel 73 is hereby corrected to reflect that the above mentioned property is not within the Special Flood Hazard Area identified on August 14, 1979. This lot is in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: November 10, 1981.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 81-34146 Filed 11-25-81; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for Clackamas County, Oregon, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Clackamas County, Oregon. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Clackamas County, Oregon, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquistion purposes.

EFFECTIVE DATE: November 27, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Office of State and Local Programs and Support, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0270.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial

assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638-6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 415588 Panel 35, published on October 6, 1980, in 45 FR 66124, indicates that 1.23 acre tract of land located in Section 19, T3S, R1E, of the W.M., Clackamas County, Oregon, recorded as Certificate No. 77-51989, in the Office of the Recorder of Conveyances is within the Special Flood Hazard Area.

Map No. H & I 415588 Panel 35 is hereby corrected to reflect that the existing structure located on the above mentioned property is not within the Special Flood Hazard Area identified on March 1, 1978. This structure is in Zone C.

Pursuant to provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support.)

Issued: November 10, 1981.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 81-34147 Filed 11-25-81; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the Township of Lower Merion, Pennsylvania Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the Township of Lower Merion, Pennsylvania. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Township of Lower Merion, Pennsylvania, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: November 27, 1981.

FOR FURTHER INFORMATION CONTACT: Robert G. Chappell, P.E., Chief, Engineering Branch, Office of State and Local Programs and Support, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0270.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638-6620 toll free

The Map amendments listed below are in accordance with § 70.7(b):

Map No. 420701, Panel No. 0002B, published on October 6, 1980, in 45 FR 66045, indicates that a 1.553-acre parcel of land, known as 1125 Indian Creek Road, Township of Lower Merion, Montgomery County, Pennsylvania, as recorded in Book 3700, Pages 361 through 364, in the Office of the Recorder of Deeds of Montgomery County, Pennsylvania, is partially located within the Special Flood Hazard Area.

Map No. 420701, Panel No. 0002B, is hereby corrected to reflect that the above-mentioned property is not within the Special Flood Hazard Area identified on February 1, 1978. The property is in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements on regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: November 10, 1981.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 81-34150 Filed 11-25-81; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-6076]

Letter of Map Amendment for the City of Union City, Tennessee Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Union City, Tennessee. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical

review of the Flood Insurance Rate Map for the City of Union City, Tennessee, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: November 27, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Office of State and Local Programs and Support, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0270.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP), P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map Number H & I 470142 Panel 0010B published on June 10, 1981, in 46 FR 30627 indicates that portions of the parcel of land located on East Main St. in the City of Union City, Tennessee and recorded in Deed Book 20–C, Pages 810 through 812 of the Register's Office of Obion County, Tennessee is within the Special Flood Hazard Area.

Map Number H & I 470142 Panel 0010B is hereby corrected to reflect that those portions of the above-mentioned property identified on May 5, 1981 which are presently at or above 322 feet National Geodetic Vertical Datum (NGVD) are not within the Special Flood Hazard Area. Those portions of the property which are between 322 feet (NGVD) and 323 feet (NGVD) are located within Zone B and those portions which are at or above 323 feet (NGVD) are in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support).

Issued: November 10, 1981.

Lee M. Thomas,

Associate Director, Office of State and Local Programs and Support.

[FR Doc. 81-34151 Filed 11-25-81; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 81–08; Notice 2]

Federal Motor Vehicle Safety Standards; New Pneumatic Tires for Passenger Cars

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

ACTION: Final rule.

SUMMARY: Pursuant to petitions by the Rubber Manufacturers Association (RMA), the European Tyre and Rim Technical Organisation (ETRTO), and Michelin Tire Corporation (Michelin), this notice amends Federal Motor Vehicle Safety Standard No. 109, *New Pneumatic Tires—Passenger Cars*, by adding certain tire size designations to Table I of Appendix A of that standard. This notice also responds to a petition by the B.F. Goodrich Company (Goodrich), by amending Appendix A to permit speed ratings to appear on all tire size designations except temporary spare tire sizes. Finally, the notice corrects some typographical errors which appeared in previous amendments. This amendment permits the introduction of the specified tire sizes into interstate commerce.

EFFECTIVE DATE: December 28, 1981, if no objections are received from commenters before that date.

ADDRESS: Comments should refer to Docket No. 81–08, Notice 2, and be submitted to: Docket Section, Room 5109, 400 Seventh Street, SW., Washington, D.C. 20590 (Docket hours are from 8:00 a.m. to 4:00 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: John A. Diehl, Office of Automotive Ratings, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202–426–0852).

SUPPLEMENTARY INFORMATION: According to agency practice, the National Highway Traffic Safety Administration responds to petitions for adding new tire sizes to Table I of Appendix A of Standard No. 109 by quarterly issuing final rules under an abbreviated rulemaking procedure for expediting such routine amendments. Guidelines for this procedure were published at 33 FR 14964, October 5, 1968, and were amended at 36 FR 8298, May 4, 1971; 36 FR 13601, July 22, 1971; and 39 FR 28980, August 13, 1974. Those guidelines provide that these final rules become effective December 28, 1981, if no comments objecting to them are received by NHTSA during this 30-day period. If objections are received, regular rulemaking procedures for issuing and amending motor vehicle safety standards are initiated.

The RMA has petitioned to request the addition of six new tire size designations to the existing tire tables. ETRTO requested the addition of one new tire size designation to an existing table. Michelin petitioned for the addition of a 415 millimeter tire size to Table I–QQ in the summer of 1980, and this size was published as part of a routine amendment in 45 FR 62083, September 18, 1980. An objection to this tire size was timely submitted by RMA, so that amendment did not become effective.

The RMA objection was based on that group's belief that it would be possible to mount a 16-inch tire on the 415 millimeter rims designed for use with the millimetric tire size, and that the bead of the 16-inch tire could explode during inflation. In response to this safety concern, Michelin sent both RMA and this agency a September 15, 1981 letter explaining that it would not be possible to mount a 16-inch tire on these rims, because the maximum well depth established for these rims would preclude the smaller 16-inch tire from fitting over the rim. Subsequently, on September 28, 1981, Michelin submitted photographs to NHTSA demonstrating an unsuccessful attempt to mount 16-

inch tires on these rims. As a result of examining these data, RMA withdrew its objection to this tire size in a September 30, 1981 letter to this agency.

Ordinarily, the filing of such an objection would require NHTSA to follow the regular rulemaking procedures for issuing and amending safety standards set forth in 49 CFR Part 553. However, since the objection has been withdrawn, NHTSA does not believe it is necessary to resort to that lengthier procedure. There are no valid safety objections known to this agency which might arise from including this size designation in Appendix A. Therefore, this notice adds that size to Table I–QQ.

Goodrich petitioned the agency to add a footnote to Tables I–GG, I–HH, I–JJ, I–KK, I–SS, I–WW, and I–YY permitting the letters "H," "S," or "V" to appear adjacent to the letter "R" in the size designations of the tires in those tables. The letters "H," "S," and "V" are speed rating symbols established by ETRTO. In its petition, Goodrich stated that tires without these speed ratings are not as desirable outside of North America, and that not having those speed ratings hinders U.S. tire manufacturers in their efforts to export tires.

NHTSA has already stated in a June 25, 1981 letter to a group of Japanese tire manufacturers that Standard 109 does not prohibit these speed rating symbols from appearing as part of the tire size, even when the tire tables do not specifically state that the speed rating may appear. This notice incorporates that interpretation in Standard No. 109 by adding a footnote to the tables referred to by Goodrich which states that the speed rating symbols may appear on tires listed in the tables. This footnote already appears in all other tables, except for those showing temporary spare tire sizes.

This notice also corrects some clerical and typographical errors which have appeared in prior amendments. In Table I–JJ, there are three typographical errors. In Table I–KK, a typographical error caused the publication of an incorrect minimum size factor for the P235/60R14 tire size. In Table I–QQ, a typographical error appeared in the size designation of the 190/55 R 365 tire size. Finally, the minimum size factor and section width published in Table I–AAA were incorrect, and those errors are corrected in this notice.

The bases for accepting or denying requests to add new tire size designations to the tire tables are set forth in the introductory guidelines to Appendix A. Briefly, the tests are the appropriateness of the information submitted for inclusion in the tire tables and the appropriateness of the location within the tables of the requested tire size. The seven new tire sizes included in this notice meet these criteria. Accordingly, the RMA, ETRTO, and Michelin petitions are granted, and seven new tire sizes are added to Table I of Appendix A of the standard pursuant to the abbreviated rulemaking procedures.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

In consideration of the foregoing, 49 CFR Part 571.109 is amended as specified below, subject to the 30-day comment period outlined above;

§ 571.109 Standard No. 109; New pneumatic tires. [Appendix Amended]

1. Table I of Appendix A is amended by adding the following sizes and corresponding values to Tables I–DD, I–HH, I–JJ, I–KK, I–QQ, and I–SS, and I–AAA:

TABLE I—DD: TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR "55" SERIES RADIAL PLY TIRES

Tire size [1], designation	Maximum tire loads (pounds) at various cold inflation pressures (psi)													Test rim width (inches)	Minimum size factor (inches)	Section width [2] (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
195/55R13	635	675	715	755	795	830	865	900	930	965	995	1025	1055	6	28.85	7.91

[1] The letters "H," "S," or "V" may be included in any specified tire size designation adjacent to the "R."
[2] Actual section width and overall width shall not exceed the specified section width by more than 7 percent.

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

Tire size,[1] designation	Maximum tire loads (kilograms) at various cold inflation pressures (kPa)									Test rim width (inches)	Minimum size factor (mm)	Section [2] width (mm)
	120	140	160	180	200	220	240	260	280			
P185/75R15	430	465	500	530	560	585	610	635	660	5	829	184

[1] The letters "D" for diagonal and "B" for bias belted may be used in place of the "R."
[2] Actual section width and overall width shall not exceed the specified width by more than the amount specified in S4.2.2.2.
[3] The letters "H," "S," or "V" may be included in any specified tire size designation adjacent to the "R."

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

Tire size,[1] designation [3]	Maximum tire loads (kilograms) at various cold inflation pressures (kPa)									Test rim width (inches)	Minimum size factor (mm)	Section [2] width (mm)
	120	140	160	180	200	220	240	260	280			
P185/70R15	405	435	465	495	520	550	570	595	620	5	812	184
P215/70R15	520	565	600	640	675	705	735	765	795	6	883	216

[1] The letters "D" for diagonal and "B" for bias belted may be used in place of the "R."
[2] Actual section width and overall width shall not exceed the specified width by more than the amount specified in S4.2.2.2.
[3] The letters "H," "S," or "V" may be included in any specified tire size designation adjacent to the "R."

TABLE I—KK: TIRE LOAD RATING, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR 'P/60' SERIES ISO TYPE TIRES

Tire size,[1] designation	Maximum tire loads (kilograms) at various cold inflation pressures (kPa)									Test rim width (inches)	Minimum size factor (mm)	Section [2] width (mm)
	120	140	160	180	200	220	240	260	280			
P 215/60R15	450	490	520	555	585	610	640	665	690	6	841	216

[1] The letters "D" for diagonal and "B" for bias belted may be used in place of the "R."
[2] Actual section width and overall width shall not exceed the specified width by more than the amount specified in S4.2.2.2.

TABLE I—KK: TIRE LOAD RATING, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR 'P/60' SERIES ISO TYPE TIRES—Continued

Tire size,[1] designation	Maximum tire loads (kilograms) at various cold inflation pressures (kPa)									Test rim width (inches)	Minimum size factor (mm)	Section[2] width (mm)
	120	140	160	180	200	220	240	260	280			

TABLE I—QQ: TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR "55" SERIES, ALL MILLIMETRIC RADIAL PLY TIRES (TR OR JM RIMS)

Tire size,[1] designation	Maximum tire loads, (pounds) at various cold inflation pressures (psi)													Test rim width (mm)	Minimum size factor (mm)	Section width[2] (mm)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
240/55R415	1095	1170	1240	1300	1370	1430	1490	1545	1600	1655	1710	1760	1810	180	909	245

[1] The letters "H," "S," or "V" may be included in any specified tire size designation adjacent to the "R."
[2] Actual section with width and overall width shall not exceed the specified section width by more than 7 percent.

TABLE I—SS: TIRE LOAD RATING, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTH FOR 'P/50' SERIES ISO TYPE TIRES

Tire size[1] designation[3]	Maximum tire loads (kilograms) at various cold inflation pressures (kPa)									Test rim width (inches)	Minimum size factor (mm)	Section[2] width (mm)
	120	140	160	180	200	220	240	260	280			
P245/50R15	480	520	555	590	620	655	680	710	735	7	860	248

[1] The letters "D" for diagonal and "B" for bias belted may be used in place of the "R."
[2] Actual section width and overall width shall not exceed the specified width by more than the amount specified in S4.2.2.2.
[3] The letters "H," "S," or "V" may be included in any specified tire size designation adjacent to the "R."

TABLE I—AAA: TIRE LOAD RATING, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR T '80' SERIES 60 LB/IN[2] TIRES

Tire size,[1] designation	Maximum tire loads (pounds at 60 psi cold inflation pressure)	Test rim width (inches)	Minimum size factor (inches)	Section[2] width (inches)
T135/80D15	60 psi, 1742 lbs	4	26.55	5.44

[1] The letters "D" for diagonal and "B" for bias belted may be used in place of the "R."
[2] Actual section width and overall width shall not exceed the specified width by more than the amount specified in S4.2.2.2.

2. Table I of Appendix A is amended by adding the following footnote to Tables I-GG, I-HH, I-JJ, I-KK, I-SS, I-WW, and I-YY:

[3] The letters "H," "S, " or "V" may be included in any specified tire size designation adjacent to the "R."

3. Table I-JJ is amended as follows: for the 235/70R14 size designation, remove the "620" in the 240 kPa column, and insert, in its place, "820". For the 225/70R15 size designation, remove the "585" in the 120 kPa column, and insert, in its place, "565". For the 255/70R15 size designation, remove the "990" in the 200 kPa column, and insert, in its place, "900".

4. Table I-KK is amended as follows: for the P235/60R14 size designation, remove the "834" in the Minimum size factor column, and insert, in its place, "857".

5. Table I-QQ is amended as follows: remove the 190/55R65 size designation and insert, in its place, "190/55R365".

6. Table I-AAA is amended as follows: for the T135/80R13 size designation, remove the "26.30" in the Minimum size factor column and the "5.54" in the Section width column, and insert, in their place, "26.54" and "5.43", respectively.

Interested persons are invited to submit comments on these additions. Comments must be limited so as not to exceed 15 pages in length. Necessary attachments may be appended without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion. Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. When the comments are received, the docket supervisor will return the postcard by mail.

The agency has reviewed the impacts of this rule and determined that they are limited to permitting the introduction of the newly listed tire sizes by those manufacturers wishing to do so. The rule does not impose any regulatory burden on any manufacturer. The rule increases the availability of new tire sizes to the public. Accordingly, NHTSA has determined that this rule is neither major within the meaning of Executive Order 12291 nor significant within the meaning of the DOT regulatory policies and procedures. Further, the agency reviewed this amendment under the National Environmental Policy Act and determined that the rule will have no significant effect on the human environment.

The program official and attorney principally responsible for the development of this rule are John A. Diehl and Stephen Kratzke, respectively.

(Secs. 103, 109, 201, and 202, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407, 1421, and 1422); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on November 18, 1981.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 81-33852 Filed 11-25-81; 8:45 am]

BILLING CODE 4910-59-M

Proposed Rules

Federal Register
Vol. 46, No. 228
Friday, November 27, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 81-NW-77 AD]

Airworthiness Directives: British Aerospace, Aircraft Group (Formerly British Aircraft Corporation) Model BAC 1-11 400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes an Airworthiness Directive (AD) that would require an inspection for corrosion and replacement, if necessary, of all spoiler operating rod turnbarrels on British Aerospace, Aircraft Group, Model BAC 1-11 400 series airplanes. This action is necessary since corrosion occurring in the internal turnbarrel threads could cause thread failure which would prevent normal spoiler operation.

DATE: Comments must be received on or before December 31, 1981. Compliance Schedule—as prescribed in the body of the AD.

ADDRESSES: Federal Aviation Administration, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108. The applicable service bulletin may be obtained from: British Aerospace, Inc., Box 17414, Dulles International Airport, Washington, D.C. 20041.

FOR FURTHER INFORMATION CONTACT: Mr. Harold N. Wantiez, Foreign Aircraft Certification Branch, ANM-150S, FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108; telephone (206) 767-2530.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Availability of NPRMS

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to: Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket, Docket No. 81-NW-77 AD, 9010 East Marginal Way South, Seattle, Washington 98108.

Discussion of Proposed Rule

There have been reports of corrosion in the threads of the spoiler turnbarrels. Investigation disclosed that multiple batches of turnbarrels manufactured between 1968 and 1979 contained excessive thread truncations. Threads which were in excess of the maximum truncation tolerances allowed moisture to enter, creating an environment for corrosion to develop in the threads. Approximately 60% of all turnbarrels inspected contained corrosion. Failure of a turnbarrel will cause the spoiler not to fully respond to commands, causing a partial loss of controllability.

It is estimated that 22 airplanes will be affected by this AD, that it will take approximately 4 man-hours per airplane to accomplish the required inspections, and that the average labor cost will be $30 per man-hour. Based on these figures, the total cost impact of this AD is estimated to be $2,640.00 for the U.S. fleet each inspection period. Fitting replacement cost have not been included in this estimate, since the potential extent of such is unknown.

Since this condition is likely to exist or develop on other airplanes of the same type design, the proposed AD requires repetitive visual inspections and replacement of the turnbarrels, if necessary, on British Aerospace, Aircraft Group Model BAC 1-11 series 400 airplanes.

The Proposed Amendment

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

British Aerospace, Aircraft Group (formerly British Aircraft Corporation): Applies to Model BAC 1-11 series 400 airplanes certificated in all categories. Compliance required as indicated unless already accomplished. To prevent overloads and possible failure of the spoiler operating rods caused by corroded turnbarrels, accomplish the following:

A. Within the next 1,200 landings or 6 months after the effective date of this AD, whichever occurs first, and thereafter at intervals not exceeding 10,000 landings or 5 years from the last inspection, inspect the internal threads of the spoiler operating rod turnbarrels for corrosion and excessive thread truncation and replace the turnbarrel, if necessary, in accordance with paragraph 2. *Accomplishment Instructions* of British Aerospace, Aircraft Group, BAC 1-11 Alert Service Bulletin 27-A-PM5732, Issue No. 2, dated November 13, 1980.

B. Alternative means of compliance with this AD or later approved revisions to the service bulletin which provide an equivalent level of safety may be used when approved by the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85)

Note.— the FAA has determined that this proposed regulation involves a regulation which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act since it involves few, if any, such entities. A draft evaluation has been prepared for this proposed regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington, on November 13, 1981.

Robert O. Brown,

Acting Director, Northwest Mountain Region.

[FR Doc. 81-33826 Filed 11-25-81; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 81-NW-61-AD]

Airworthiness Directive: Fokker B. V. Model F-28 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes a new Airworthiness Directive (AD), which requires inspection, replacement, and modification of certain components on Fokker Model F-28 airplanes, as necessary, to detect and prevent unsafe conditions. These unsafe conditions were found earlier; however, no AD action was taken at the time each was found because there was only one Fokker Model F-28 airplane on the U.S. Civil Aircraft Register, and correction of the unsafe condition was established on an individual airplane basis. The entry of additional Fokker Model F-28 aircraft onto the U.S. Register necessitates AD action at this time to ensure that such aircraft maintain an acceptable level of safety. This Notice pertains to unsafe conditions related to the propulsion installation.

DATE: Comments must be received on or before February 1, 1982. Compliance schedule—as prescribed in the body of the AD.

ADDRESSES: Federal Aviation Administration, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108. The applicable service bulletins may be obtained from: Service Manager, Fokker B. V., Box 7600, Schiphol Oost, The Netherlands.

FOR FURTHER INFORMATION CONTACT: Dick Nelson, Foreign Certification Branch, ANM-150S, FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108. Telephone: (206) 767-2530.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Availability of NPRMS

Any persons may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 81-NW-61-AD, 9010 East Marginal Way South, Seattle, Washington 98108.

Discussion

The Netherlands Civil Aviation Department (RLD) has, in accordance with existing provisions of a bilateral agreement, notified the FAA of a number of inspections, replacements, and modifications which they have imposed to correct unsafe conditions on Fokker Model F-28 airplanes manufactured in the Netherlands and operated under registry of the Netherlands. Previously, only one Fokker Model F-28 was on the U.S. Civil Aircraft Register. Correction of these unsafe conditions was accomplished in each instance on a voluntary basis by the operator of this airplane and verified by the FAA, thereby obviating the need for AD action. There have recently been a number of additional Fokker Model F-28 airplanes entered on the U.S. Register. Although those entered thus far were new airplanes, it appears that used airplanes on which the RLD Mandatory Service Bulletins may not have been accomplished and the unsafe conditions exist may be entered on the U.S. Register in the future. It is, therefore, necessary to consider the issuance of an AD at this time to preclude the entry of any additional aircraft without correction of the unsafe conditions.

The requirements presented in this proposed AD are based on the notifications of the RLD in accordance with the bilateral agreement and are related to the following unsafe conditions:

A. Inadvertent cross connection of the engine fire extinguishing bottle electrical wiring following bottle replacement can result in the discharge of extinguishing agent into the wrong engine nacelle. (Reference Fokker Service Bulletin (SB) F.28/26-2, Revision 1, dated March 19, 1970.)

B. Inadvertent fuel transfer due to the use of check valves with incorrect cracking pressure. (Reference Fokker SB F.28/28-3 dated January 6, 1970.)

C. Chafing of the fuel supply tubes which could result in fuel leakage and associated fire hazards. (Reference Fokker SB F.28/28-8 dated February 24, 1969, and SB F.28/28-22, Revision 1, dated December 18, 1972.)

D. The rubbing of electrical wires against the APU fuel supply line can result in a fuselage fire. (Reference Fokker SB F.28/28-32, Revision 1, dated September 3, 1979.)

E. Leakage of the Auxiliary Power Unit (APU) duct check valve due to excessive wear can result in damage to the APU. (Reference Fokker SB F.28/36-9, Revision 1, dated February 16, 1973.)

F. Leakage of the seventh stage bleed air duct fire seal in the nacelle/stub wing area which could result in non containment of a fire. (Reference Fokker SB F.28/36-10 dated February 12, 1973.)

G. Failure of the single walled portion of the APU exhaust which can result in secondary damage to the surrounding equipment and structure. (Reference Fokker SB F.28/49-24 dated February 23, 1976.)

H. Inadequate drainage of flammable fluids from the APU compartment which could result in a fire hazard. (Reference Fokker SB F.28/49-25 dated July 18, 1977.)

I. Existence of an unused hole in each of the engine firewalls that compromises the integrity of the firewall and could allow a fire to progress beyond designated fire zones. (Reference Fokker SB F.28/54-2, Revision 1, dated June 15, 1970.)

J. Corrosion which could cause failure of the engine HPC and/or RPM control cables and result in loss of engine control. (Reference Fokker SB F.28/76-16, Revision 1, dated October 6, 1975.)

K. Lack of safety wire and improper microswitch rigging encourages inadvertent closure of the fire shutoff valves which will cause an engine flame out. (Reference Fokker SB F.28/76-20 dated January 1, 1979.)

Since these conditions are likely to exist or develop in other airplanes of the same type design, the proposed AD would require inspections, replacements, and modifications, as necessary, on certain Fokker Model F-28 airplanes. Each lettered paragraph of this proposed AD identifies the serial numbers of the airplanes affected, the specific unsafe condition to which it is directed, and the related corrective action that would be required for resolution of this unsafe condition.

It is estimated that no airplane will be immediately affected by this AD inasmuch as there is only one airplane

of the specified serial numbers currently on the U.S. Register, and the operator of that airplane has previously performed the inspections, replacements, and modifications on a voluntary basis. Any other airplane of the specified serial numbers will be affected only if it is later entered on the U.S. Register and if the inspections, replacements, and modifications have not been accomplished under the cognizance of the airworthiness authority of the country from which it is imported. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291.

The Proposed Amendment

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

Fokker B.V.: Applies to Model F-28 Series 1000 and 4000 airplanes, certificated in all categories, serial numbers as indicated below.

Note.—Some serial numbers listed below may actually be Series 2000, 3000, 5000, or 6000 airplanes that are not presently eligible for U.S. certification. If so, those serial numbers may be disregarded insofar as this AD is concerned.

1. Unless already accomplished, accomplish the following within the time specified in each paragraph below after the effective date of this AD.

A. Applies to airplanes with serial numbers (S/N's) 11004 through 11016. Compliance required within the next 750 hours time in service. To prevent inadvertent cross connection of the engine fire extinguishing bottle electrical wiring, install placards and inspect and rework the wiring in accordance with the Accomplishment Instructions of Fokker Service Bulletin F.28/26-2, Revision 1, dated March 19, 1970.

B. Applies to airplanes with S/N's 11003, 11004, 11006, and 11009 through 11012. Compliance required within the next 900 hours time in service. To preclude inadvertent fuel transfer, install one (1) p.s.i. check valve and rework the defueling control valve wiring in accordance with the Accomplishment Instructions of Fokker Service Bulletin F.28/28-3 dated January 6, 1970.

C. Applies to airplanes with S/N's 11004 through 11016, 11021 through 11052, 11054 through 11061, 11063 through 11066, and 19901 through 11993. Compliance required within the next 100 hours time in service. To preclude fuel leakage, inspect fuel supply tubes for chafing damage, repair or replace such tubes as necessary, and provide adequate chafing protection in accordance with the Accomplishment Instructions of Fokker Service Bulletin F.28/28-8 dated February 24, 1969 (S/N's 11004 through 11016), or Service Bulletin F.28/28-22, Revision 1, dated December 18, 1972 (S/N's 11021 through 11052, 11054 through 11061, 11063 through 10066 and 11991 through 119930.

D. Applies to airplanes with S/N's 11053, 11062, 11077, 11080, 11081, 11090 through 11093, 11108 through 11112, 11114 through 11116, 11118, 11120 through 11124, 11126 through 11128, 11130, 11133, 11135, 11138 through 11142, and 11144. Compliance required within the next 100 hours time in service. To preclude a fuselage fire, perform both of the following:

(i) Inspect the APU fuel supply line for interference with electrical wiring and replace as necessary; and

(ii) Modify the fuel supply line installation and electrical wiring to provide adequate clearance in accordance with the Accomplishment Instructions of Fokker Service Bulletin F.28/28-32, Revision 1, dated September 3, 1979.

E. Applies to all airplanes having check valve Part No. 123312-2-1 installed in the Auxiliary Power Unit (APU) bleed air duct. Compliance required within the next 100 hours time in service and at no greater than 3,000 hour intervals time in service thereafter. To preclude damage to the APU, inspect the check valve for wear and replace, as necessary, in accordance with the Accomplishment Instructions of Fokker Service Bulletin F.28/36-9, Revision 1, dated February 16, 1973.

F. Applies to airplanes with S/N's 11003 through 11056 and 11991 through 11993. Compliance required within the next 100 hours time in service. To ensure proper functioning of the fire seal, inspect the seventh stage bleed air duct fire seal and modify, as necessary, in accordance with the Accomplishment Instructions of Fokker Service Bulletin F.28/36-10 dated February 12, 1973.

G. Applies to airplanes with S/N's 11003 through 11101, and 11991 through 11993. Initial compliance required within the next 100 hours time in service and on a daily basis thereafter. To detect failure of the APU extension silencer and thereby preclude failure of APU exhaust jet pipe, inspect the extension silencer in accordance with the Accomplishment Instructions of Fokker Service Bulletin F.28/49-24 dated February 23, 1976. These inspections may be discontinued upon installation of an improved APU extension silencer in accordance with Fokker Service Bulletin F.28/49-21, Revision 1, dated May 10, 1976.

H. Applies to airplanes with S/N's 11003 through 11131, and 11991 through 11993. Compliance required within the next 1,500 hours time in service. To ensure adequate drainage of fuel leakage from the APU compartment, modify the APU enclosure drain system in accordance with the Accomplishment Instructions of Fokker Service Bulletin F.28/49-25 dated July 18, 1977.

I. Applies to airplanes with S/N's 11003 through 11013. Compliance required within the next 750 hours time in service. To maintain the integrity of the firewall, close the unused holes in the left hand and right hand engine nacelle firewalls in accordance with the Accomplishment Instructions of Fokker Service Bulletin F.28/54-2, Revision 1, dated June 15, 1970.

J. Applies to airplanes with S/N's 11003 through 11073, 11075 and 11991 through 11993. Compliance required within the next 150 hours time in service. To prevent control cable failure due to corrosion, inspect, replace as necessary, and treat HPC and RPM control cables in accordance with the Accomplishment Instructions of Fokker Service Bulletin F.28/76-16, Revision 1, dated October 6, 1975.

K. Applies to airplanes with S/N's 11003 through 11124, 11126 through 11132, 11134, 11991, and 11992. Compliance required within the next 100 hours time in service. To preclude inadvertent closure of the fire shutoff valves, inspect and correct microswitch adjustment, as necessary, and install seal wire (safety wire) on fire switch guards in accordance with the Accomplishment Instructions of Fokker Service Bulletin F.28/76-20 dated January 1, 1979.

2. Alternative means of compliance with this AD which provide an equivalent level of safety may be used when approved by the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region.

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

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this proposal who have not already received these documents from the manufacturer may obtain copies upon request to the Service Manager, Fokker B.V., Box 7600, Schiphol Oost, The Netherlands. These documents also may be examined at FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

Note.— The FAA has determined that this proposed regulation involves a regulation which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act since it involves few, if any, such entities. A draft evaluation has been prepared for this proposed regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington, on November 13, 1981.

Robert O. Brown,

Acting Director, Northwest Mountain Region.

[FR Doc.81-33827 Filed 11-25-81; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 81-NW-62-AD]

Airworthiness Directives: Fokker B. V. Model F-28 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This Notice proposes a new Airworthiness Directive (AD), which requires inspection, replacement, and modification of certain components on Fokker Model F-28 airplanes, as necessary, to detect and prevent unsafe conditions. These unsafe conditions were found earlier; however, no AD action was taken at the time each was found because there was only one Fokker Model F-28 airplane on the U.S. Civil Aircraft Register, and correction of the unsafe condition was established on an individual airplane basis. The entry of additional Fokker Model F-28 aircraft onto the U.S. Register necessitates AD action at this time to ensure that such aircraft maintain an acceptable level of safety. This Notice pertains to unsafe conditions related to the systems and equipment installations.

DATE: Comments must be received on or before February 1, 1982. Compliance schedule—as prescribed in the body of the AD.

ADDRESSES: Federal Aviation Administration, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108. The applicable service bulletins may be obtained from: Service Manager, Fokker B. V., Box 7600, Schiphol Oost, The Netherlands.

FOR FURTHER INFORMATION CONTACT: Dick Nelson, Foreign Certification Branch, ANM-150S, FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108. Telephone: (206) 767-2530.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Availability of NPRMS

Any persons may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 81-NM-62-AD, 9010 East Marginal Way South, Seattle, Washington 98108.

Discussion

The Netherlands Civil Aviation Department (RLD) has, in accordance with existing provisions of a bilateral agreement, notified the FAA of a number of inspections, replacements, and modifications which they have imposed to correct unsafe conditions on Fokker Model F-28 airplanes manufactured in the Netherlands and operated under registry of the Netherlands. Previously, only one Fokker Model F-28 was on the U.S. Civil Aircraft Register. Correction of these unsafe conditions was accomplished in each instance on a voluntary basis by the operator of this airplane and verified by the FAA, thereby obviating the need for AD action. There have recently been a number of additional Fokker Model F-28 airplanes entered on the U.S. Register. Although those entered thus far were new airplanes, it appears that used airplanes on which the RLD Mandatory Service Bulletins may not have been accomplished and the unsafe conditions exist may be entered on the U.S. Register in the future. It is, therefore, necessary to consider the issuance of an AD at this time to preclude the entry of any additional aircraft without correction of the unsafe conditions.

The requirements presented in this proposed AD are based on the notifications of the RLD in accordance with the bilateral agreement and are related to the following unsafe conditions:

A. Severe loss of oxygen caused by the inadvertent connection of any unused oxygen mask to the observer's seat oxygen outlet if cabin decompression were to occur above 25,000 feet (reference Fokker Service Bulletin (SB) F28/11-20, Revision 2, dated January 14, 1974).

B. Failure of the AC electrical supply cables due to damage caused by inadequate clearance with the backup ring of the pressure bung between the stub wing and cabin which would result in partial loss of electrical power (reference Fokker SB F28/24-17 dated October 19, 1973).

C. Chafing of the electrical cable loom at extreme positions of the horizontal stabilizer which could result in electrical failure of essential equipment (reference Fokker SB F28/24-22 dated March 20, 1974).

D. Some systems time delay relays have been found to be sensitive to voltage spikes which might occur during switching of services. Timing could be disturbed, and systems time delay or release could inadvertently become energized. (Reference Fokker SB F28/24-27, revised March 14, 1979).

E. Chafing of electrical cables on fuel tubes (lines) could result in electrical failure (reference Fokker SB F28/24-31 dated October 10, 1979).

F. Hat rack panels constructed from substandard materials may contribute to a fire hazard (reference Fokker SB F28/25-35, Revision 1, dated November 22, 1976).

G. Inadvertent movement of the pilot or copilot seat back rest to the rear most position at a critical flight phase could result in loss of control of the aircraft (reference Fokker SB F28/25-38 dated June 16, 1972).

H. Loosening of the lock pin may result in failure of the passenger escape chute (slide) during emergency egress (reference Fokker SB F28/25-41 dated September 22, 1972).

I. Failure of the pilot or copilot seat track lock stop block at a critical flight phase could result in loss of control of the aircraft (reference Fokker SB F28/25-71 dated September 6, 1976).

J. The rear escape belts can stretch diagonally across the left and right hand rear overwing emergency exits and hamper emergency egress (reference Fokker SB F28/25-75 dated February 15, 1981).

K. Failure of the bolt securing the pilot or copilot seat track lock stop block at a critical flight phase could result in loss of control of the aircraft (reference Fokker SB F28/25-82 dated January 1, 1979).

L. Deletion of the rear escape belts to correct the condition noted in paragraph J. above necessitates the establishment of a new emergency egress route via the wing trailing edge (reference Fokker SB F28/25-86 dated February 15, 1981).

M. Electrical cable loom to flap asymmetry synchro assemblies can be damaged by the flap trolley when operating flaps. This can result in an inoperative flap asymmetry system

(reference Fokker SB F28/25-68 dated June 23, 1972).

N. Drain adapters with rubber tubes are adversely affected by Skydrol. This, in turn, may cause damage to accumulator and result in hydraulic system failure (reference Fokker SB F28/29-21 dated August 17, 1971).

O. Antiskid system malfunction may occur due to loose wheel speed generators (reference Fokker SB F28/32-117 dated January 5, 1976).

P. Antiskid system malfunction may occur due to the use of time delay relays that are sensitive to voltage spikes (reference Fokker SB F28/32-127 dated March 14, 1979).

Q. A failure of one (right) AC bus will result in the loss of pilot's instrument lighting to his operative instrument systems. The failure of one (left) AC bus will result in loss of the copilot's instrument lighting to his operative instrumentation (reference Fokker SB F28/33-11, Revision 2, dated April 4, 1975).

R. Overheating of ballast transformers may result in loss of instrument panel lights and smoke in the cockpit (reference Fokker SB F28/33-16 dated March 20, 1974).

S. Electrical wires may be cross connected resulting in compass flag warning on wrong course indicator (reference Fokker SB F28/34-14, Revision 2, dated January 27, 1972).

Since these conditions are likely to exist or develop in other airplanes of the same type design, the proposed AD would require inspections, replacements, and modifications, as necessary, on certain Fokker Model F-28 airplanes. Each lettered paragraph of this proposed AD identifies the serial numbers of the airplanes affected, the specific unsafe condition to which it is directed, and the related corrective action that would be required for resolution of this unsafe condition.

It is estimated that no airlane will be immediately affected by this AD inasmuch as there is only one airplane of the specified serial numbers currently on the U.S. Register; and the operator of that airplane has previously performed the inspections, replacements and modifications on a voluntary basis. Any other airplane of the specified serial numbers will be affected only if it is later entered on the U.S. Register and if the inspections, replacements, and modifications have not been accomplished under the cognizance of the airworthiness authority of the country from which it is imported. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291.

The Proposed Amendment

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

Fokker B. V.: Applies to Model F-28 Series 1000 and 4000 airplanes, certificated in all categories, serial numbers as indicated below. Note: Some serial numbers listed below may actually be Series 2000, 3000, 5000, or 6000 airplanes that are not presently eligible for U.S. certification. If so, those serial numbers may be disregarded insofar as this AD is concerned.

Unless already accomplished, accomplish the following within the time specified in each paragraph below after the effective date of this AD.

A. Applies to airplanes with serial numbers (S/N's) 11003 through 11052, 11054 through 11061, and 11991 through 11993 when equipped with Robert Shaw oxygen system. Compliance required within the next 100 hours time in service. To preclude severe loss of oxygen, install placards in accordance with the Accomplishment Instructions of Fokker Service Bulletin F28/11-20, Revision 2, dated January 14, 1974.

B. Applies to airplanes with S/N's 11042 through 11069. Compliance required within the next 100 hours time in service. To preclude electrical failure, rework the backup ring of the pressure bung between the stub wing and the cabin in accordance with the Accomplishment Instructions of Fokker Service Bulletin F28/24-17 dated October 19, 1973.

C. Applies to airplanes with S/N's 11003 through 11055 and 11991 through 11993. Compliance required within the next 100 hours time in service. To preclude electrical failure, inspect and relocate the cable loom in the horizontal stabilizer bullet fairing in accordance with the Accomplishment Instructions of Fokker Service Bulletin F28/24-22 dated March 20, 1974.

D. Applies to airplanes with S/N's 11122 through 11142. Compliance required within the next 100 hours time in service. To prevent relay sensitivity to voltage spikes, disturbed timing, and inadvertent energizing of certain relays with time delay, install improved time delay relays in accordance with Part III of the Accomplishment Instructions of Fokker Service Bulletin F28/24-27, Revision 1, dated March 14, 1979.

E. Applies to airplanes with S/N's 11003 to 11145, 11147, 11150, 11151, 11991, and 11992. Compliance required within the next 500 hours time in service. To preclude electrical failure, inspect and relocate cable looms in designated areas of concern in accordance with the Accomplishment Instructions of Fokker Service Bulletin F28/24-31 dated October 10, 1979.

F. Applies to airplanes with S/N's 11003 through 11053, and 11991 through 11993. Compliance required within the next 500 hours time in service. To provide necessary cabin safety, replace the hat rack panels in accordance with the Accomplishment Instructions of Fokker Service Bulletin F28/25-35, Revision 1, dated November 22, 1976.

G. Applies to airplanes with S/N's 11003 through 11052, and 11991 through 11994 when equipped with pilot and copilot seats with part numbers E173213, E173214, E171755, and E171756. Compliance required within the next 100 hours time in service. To preclude loss of aircraft control, inspect and modify the pilot and copilot seats in accordance with the Accomplishment Instructions of Fokker Service Bulletin F28/25-38 dated June 16, 1972.

H. Applies to airplanes with S/N's 11017 through 11031, and 11033 through 11049 when equipped with galley door mounted Walter Kidde escape chutes (slides). Compliance required within the next 100 hours time in service. To preclude failure during emergency egress, secure the attachment bar lock pin with lock wire (safety wire) in accordance with the Accomplishment Instructions of Fokker Service Bulletin F28/25-41 dated September 22, 1972.

I. Applies to airplanes with S/N's 11080 through 11086 and to airplanes with S/N's 11003 through 11079 and 11087 when modified in accordance with Fokker Service Bulletin F28/25-52 with modification kits delivered by Fokker before September 1, 1976. Compliance required within the next 100 hours time in service. To preclude loss of aircraft control, replace pilot and copilot seat track lock stop blocks in accordance with Parts I and II of the Accomplishment Instructions of Fokker Service Bulletin F28/25-71 dated September 6, 1976. Note.—Parts I and II of Fokker Service Bulletin incorporate by reference and consist of Ipeco Service Bulletins A001-25-A2 dated July 30, 1976, and A001-25-2 dated August 10, 1976, respectively.

J. Applies to airplanes with S/N's 11111, 11112, 11114 through 11116, 11120, 11122, 11123, and 11126. Compliance required within the next 500 hours time in service. To preclude obstruction of the left and right hand rear overwing emergency exits, remove the rear emergency escape belts in accordance with the Accomplishment Instructions of Fokker Service Bulletin F28/25-75 dated February 15, 1981. An additional escape route must be provided concurrently within this change in accordance with paragraph L below.

K. Applies to airplanes with S/N's 11080 through 11086, and 11088 through 11143; and to airplanes with S/N's 11003 through 11079, 11087, 11991, and 11992 when modified in accordance with Fokker Service Bulletin F28/25-52. Compliance required within the next 100 hours time in service. To preclude loss of aircraft control, inspect and install larger bolts to secure the pilot and copilot seat track lock stop in accordance with Parts I and II of the Accomplishment Instructions of Fokker Service Bulletin F28/25-82 dated January 1, 1979. Note.—Parts I and II of Fokker Service Bulletin incorporate by reference and consist of Ipeco Service Bulletin A001-25-3 dated November 1, 1978.

L. Applies to airplanes with S/N's 11111, 11112, 11114 through 11116, 11118, 11120 through 11123, 11126 through 11128, 11130, 11133, 11135, 11138 through 11142, 11144, and 11148. Compliance required within the next 500 hours time in service. To facilitate emergency egress, establish an additional

escape route via the wing trailing edge in accordance with the Accomplishment Instructions of Fokker Service Bulletin F28/25-86 dated February 15, 1981. Note.—The disparity of serial numbers with those of related paragraph J. above is due to the fact that the change was incorporated on certain airplanes prior to delivery from the factory.

M. Applies to airplanes with S/N's 11003 to 11022, and 11991 to 11992. Compliance required within the next 100 hours time in service. To preclude damage to electrical cable looms to the flap asymmetry synchro assemblies, improve cable routing and provide protection in accordance with the Accomplishment Instructions of Fokker Service Bulletin F28/27-68 dated June 23, 1972.

N. Applies to airplanes with S/N's 11003 through 11041, and 11991 through 11994 modified in accordance with Fokker Service Bulletin F28/29-10. Compliance required within the next 100 hours time in service. To prevent separation of the drain tube from the adaptor and resultant damage to the hydraulic accumulator, install adaptors with metal drain tubes in accordance with the Accomplishment Instructions of Fokker Service Bulletin F28/29-21 dated August 17, 1971.

O. Applies to airplanes with S/N's 11003 through 11101 and 11991 through 11993. Compliance required within the next 100 hours time in service. To prevent improper functioning of the antiskid system due to loose wheel speed generators, install generator support rings in accordance with the Accomplishment instructions of Fokker Service Bulletin F28/32-117 dated January 5, 1976.

P. Applies to airplanes with S/N's 11003 through 11046, 11048 through 11081, 11083, 11085 through 11101, 11103, 11105 through 11107, 11991, and 11992 when modified in accordance with Fokker Service Bulletin F28/32-116 and to airplanes with S/N's 11047, 11082, 11084, 11102, 11104, and 11108 through 11141. Compliance required within the next 500 hours time in service. To preclude antiskid system malfunction, replace the time delay relays in accordance with the Accomplishment Instructions of Fokker Service Bulletin F28/32-127 dated March 14, 1979.

Q. Applies to airplanes with S/N's 11003 through 11066, and 11991 through 11993. Compliance required within the next 500 hours time in service. To ensure that lighting for all instruments remains available in the event one AC bus fails, modify the electrical system in accordance with Fokker Service Bulletin F28/33-11, Revision 2, dated April 4, 1975.

R. Applies to airplanes with S/N's 11003 through 11070, and 11991 through 11993. Compliance required within the next 500 hours time in service. To prevent smoke in cockpit due to burning out of ballast transformers, relocate the ballast transformers in accordance with the Accomplishment Instructions of Fokker Service Bulletin F28/33-16 dated March 20, 1974.

S. Applies to airplanes with S/N's 11008, 11014 to 11020, 11023, 11024, and 11991. Compliance required within the next 100 hours time in service. To prevent compass system flag warning showing on wrong course indicator, current installation in accordance with the Accomplishment Instructions of Fokker Service Bulletin F28/34-14, Revision 2, dated January 27, 1972.

Alternative means of compliance with this AD, which provide an equivalent level of safety, may be used when approved by the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region.

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

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this proposal who have not already received these documents from the manufacturer may obtain copies upon request to the Service Manager, Fokker B.V., Box 7600, Schiphol Oost, The Netherlands. These documents also may be examined at FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108.

(Sec. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85)

Note.—The FAA has determined that this proposed regulation involves a regulation which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act, since it involves few, if any, such entities. A draft evaluation has been prepared for this proposed regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington, on November 13, 1981.

Robert O. Brown,

Acting Director, Northwest Mountain Region.

[FR Doc. 81-33825 Filed 11-25-81; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 81-NW-71-AD]

Airworthiness Directives; Bell Model 206 Helicopters With Chadwick, Inc. Model C-22 Fuel System Installed per STC SH139WE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes a new Airworthiness Directive (AD) which requires installation of C-22-FM Flow Monitoring Kits on the Chadwick Auxiliary Fuel System installed on Bell 206 helicopters per STC SH139WE. This modification is required to provide early warning of auxiliary fuel transfer pump failure and the associated decrease in usable auxiliary fuel.

DATE: Comments must be received on or before January 15, 1982. Compliance schedule as prescribed in the body of the AD unless already accomplished.

ADDRESSES: The applicable service information may be obtained from Chadwick, Inc., 11969 S.W. Herman Road, Sherwood, Oregon 97140. This information also may be examined at FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT:

Mr. Paul F. Hawkins, Aerospace Engineer, Propulsion Branch, ANM-140S, FAA Northwest Mountain Region; Seattle Area Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2520.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthness Directive Rules Docket No. 81-NW-71-AD, 9010 East Marginal Way South, Seattle, Washington 98108.

Discussion

The Chadwick auxiliary fuel system (C–22) consists of two skid mounted tanks, a fuel pump in each tank and a cross-feed line between tanks to allow operation with only one pump. In preparation for an extended overwater flight, one operator discovered that the loss of a single auxiliary boost pump decreased the usable auxiliary fuel by 12 to 18 gallons. These results were confirmed by test at the manufacturer's facility and identified the cross-feed system as limiting. The Auxiliary Fuel System provides no warning of an auxiliary fuel pump failure and the associated decrease in usable auxiliary fuel.

To alleviate this unsafe condition, the C–22–FM Flow Monitoring Kit was developed. This kit installs a pressure switch on the output side of each auxiliary fuel pump and will light warning lights when either pump stops pumping. Thus, the lights provide the pilot with an early warning of a pump failure and the associated decrease in usable auxiliary fuel.

It is estimated that no more than 75 helicopters will be affected by this AD, that it will take approximately four man-hours per airplane to accomplish the required actions, and that the average labor cost will be $35 per man-hour. Repair parts are estimated at $170 per airplane. Based on these figures, the total cost impact of this AD is estimated to be no more than $23,500. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291.

The Proposed Amendment

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

Bell: Applies to Bell Model 206 Helicopters with Chadwick C–22 Auxiliary Fuel System installed per Supplemental Type Certificate SH139WE. Compliance is required as indicated.

To provide early warning of auxiliary fuel transfer pump malfunction and the associated decrease in usable auxiliary fuel, accomplish the following, unless already accomplished:

1. Within 30 days after the effective date of this AD, unless already accomplished, install a placard (per Chadwick Service Bulletin 20–81–01) limiting usable fuel to half the amount in the auxiliary tanks at takeoff.

2. Within 300 hours time-in-service or six months from the effective date of this AD, whichever occurs first, install the C–22–FM Flow Monitoring Kit in accordance with Chadwick Service Bulletin 20–81–01 dated October 6, 1981. The placard installed per 1 above may be removed.

3. Alternate modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this proposal who have not already received these documents from the manufacturer may obtain copies upon request to Chadwick, Inc., 11969 S.W. Herman Road, Sherwood, Oregon 97140. These documents also may be examined at FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

Note.—The FAA has determined that this document involves a proposed regulation that is not major under the provisions of Executive Order 12291, because of its minimal economic impact, as summarized earlier in this document. It has been further determined that this proposed regulation is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft regulatory evaluation 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." In addition, it has been determined under the criteria of the Regulatory Flexibility Act that this proposed rule, at promulgation, will not have a significant impact on a substantial number of small entities, since it involves few, if any, small entities.

Issued in Seattle, Washington, on November 16, 1981.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 81-34159 Filed 11-25-81; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 81-NW-78-AD]

Airworthiness Directives; Hughes Model 369 Helicopters With Chadwick, Inc. Model C–20 Fuel System Installed per STC SH129WE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes a new Airworthiness Directive (AD) which requires installation of C–20–FM Flow Monitoring Kits on the Chadwick Auxiliary Fuel System installed on Hughes 369 helicopters per STC SH129WE. This modification is required to provide early warning of auxiliary fuel transfer pump failure and the associated decrease in usable auxiliary fuel.

DATE: Comments must be received on or before January 15, 1982. Compliance schedule as prescribed in the body of the AD unless already accomplished.

ADDRESSES: The applicable service information may be obtained from Chadwick, Inc., 11969 S.W. Herman Road, Sherwood, Oregon 97140. This information also may be examined at FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Mr. Paul F. Hawkins, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA Northwest Mountain Region, Seattle Area Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767–2520.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Directive Rules Docket No. 81–NW–78–AD, 9010 East Marginal Way South, Seattle, Washington 98108.

Discussion

The Chadwick auxiliary fuel system (C–20) consists of two skid mounted tanks, a fuel pump in each tank and a cross-feed line between tanks to allow operation with only one pump. In preparation for an extended overwater

flight, one operator discovered that the loss of a single auxiliary boost pump decreased the usable auxiliary fuel by 12 to 18 gallons. These results were confirmed by test at the manufacturer's facility and identified the cross-feed system as limiting. The Auxiliary Fuel System provides no warning of an auxiliary fuel pump failure and the associated decrease in usable auxiliary fuel.

To alleviate this unsafe condition, the C-20-FM Flow Monitoring Kit was developed. This kit installs a pressure switch on the output side of each auxiliary fuel pump and will light warning lights when either pump stops pumping. Thus, the lights provide the pilot with an early warning of a pump failure and the associated decrease in usable auxiliary fuel.

It is estimated that no more than 15 helicopters will be affected by this AD, that it will take approximately four man-hours per airplane to accomplish the required actions, and that the average labor cost will be $35 per man-hour. Repair parts are estimated at $170 per airplane. Based on these figures, the total cost impact of this AD is estimated to be no more than $4,650. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291.

The Proposed Amendment

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

Hughes: Applies to Hughes Model 369 Helicopters with Chadwick C-20 Auxiliary Fuel System installed per Supplemental Type Certificate SH129WE. Compliance is required as indicated.

To provide early warning of auxiliary fuel transfer pump malfunction and the associated decrease in usable auxiliary fuel, accomplish the following, unless already accomplished:

1. Within 30 days after the effective date of this AD, unless already accomplished, install a placard (per Chadwick Service Bulletin 20-81-01) limiting usable fuel to half the amount in the auxiliary tanks at takeoff.

2. Within 300 hours time-in-service or six months from the effective date of this AD, whichever occurs first, install lthe C-20-FM Flow Monitoring Kit in accordance with Chadwick Service Bulletin 20-81-01 dated October 6, 1981. The placard installed per 1 above may be removed.

3. Alternate modifications or other actions which provde an equivalent level of safety may be used when approved by the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this proposal who have not already received these documents from the manufacturer may obtain copies upon request to Chadwick, Inc., 11969 S.W. Herman Road, Sherwood, Oregon 97140. These documents also may be examined at FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S. C. 1655(c)); and 14 CFR 11.85)

Note.—The FAA has determined that this document involves a proposed regulation that is not major under the provisions of Executive Order 12291, because of its minimal economic impact, as summarized earlier in this document. It has been further determined that this proposed regulation is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft regulatory evaluation 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." In addition, it has been determined under the criteria of the Regulatory Flexibility Act that this proposed rule, at promulgation, will not have a significant impact on a substantial number of small entities, since it involves few, if any, small entities.

Issued in Seattle, Washington, on November 16, 1981.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 81-34161 Filed 11-25-81; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 81-ACE-4]

Transition Area; Benton, Kansas; Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to designate a 700-foot transition area at Benton, Kansas, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Benton, Kansas Airport, utilizing the Wichita VORTAC as a navigational aid.

DATE: Comments must be received on or before January 4, 1982.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Charles M. Bumstead, Chief, Airspace and Procedures Section, Operations, Airspace and Procedures Branch, Air Traffic Division, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before January 4, 1982 will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374-3408.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, Section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) by designating a 700-foot transition area at Benton, Kansas. To enhance airport usage, a new instrument approach procedure is being developed for the Benton, Kansas Airport, utilizing the Wichita VORTAC as a navigational aid. This radio facility will provide new navigational guidance for aircraft utilizing the airport. The establishment

of a new instrument approach procedure based on this navigational aid entails designation of a transition area at Benton, Kansas, at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. Transition areas are designed to contain IFR operations in controlled airspace during portions of the terminal operation and while transiting between the terminal and en route environment. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

The Proposed Amendment

Accordingly, Federal Aviation Administration proposes to amend Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1981 (46 FR 540), by adding the following new transition area:

Benton, Kansas

That airspace extending upward from 700 feet above the surface, within a five statute mile radius of Benton Airport, Kansas (Latitude 37° 46' 45"N, Longitude 97° 06' 45"W) and 4.5 statute miles each side of the Wichita VORTAC 070° radial extending from the 5 statute mile radius area of the Benton Airport to 26.5 statute miles NE of the Wichita VORTAC, excluding that portion of the airspace which overlies the Wichita, Kansas transition area.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65))

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) at promulgation, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Missouri, on November 17, 1981.

Murray E. Smith,

Director, Central Region.

[FR Doc. 34160 Filed 11-25-81; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 81-ANW-10]

Proposed Alteration of VOR Federal Airways; Portland, Oreg.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposed to alter several VOR Federal Airways in the vicinity of Portland, OR. These airway changes are in support of our commitment to the International Civil Aviation Organization (ICAO) to eliminate alternate airway designations from the National Airspace System. This action would eliminate alternate airways in Portland by assigning them new numbers.

DATES: Comments must be received on or before December 28, 1981.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Northwest Mountain Region, Attention: Chief, Air Traffic Division, Docket No. 81-ANW-10, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, WA 98108.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW, Washington, D.C.

An informal docket may be examined during normal business hours at the office of the Regional Air Traffic Division.

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) 426-8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the 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 proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. 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. 81-ANW-10." 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 proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket 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 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, 900 Independence Avenue, SW., Washington, D.C., 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.123 and § 71.125 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter several VOR Federal Airways and designate several VOR airways in the vicinity of Portland, OR. These airway changes are in support of our agreement with ICAO to eliminate alternate airways from the National Airspace System. This would aid flight planning and enhance air traffic control. Sections 71.123 and 71.125 of Part 71 were republished on January 2, 1981 (46 FR 409 and 443).

Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 and § 71.125 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 409) and 46 FR 443) as follows: Under § 71.123.

1. V-23 [Amended]

By deleting the words "Fort Jones, CA; Medford, OR, including an east alternate via INT Fort Jones 041° and Medford

157° radials; Eugene, OR; Portland, OR, including an east alternate and including a west alternate from Fort Jones to Portland via INT Fort Jones 340° and Roseburg, OR, 174° radials, Roseburg, INT Roseburg 355° and Corvallis, OR, 195° radials, Corvallis and Newburg, OR; 20 miles, 45 MSL INT Portland 350° and Seattle, WA, 197° radials; 21 miles, 45 MSL, Seattle, including an east alternate from Portland to Seattle via direct radials;" and substituting for them the words "Fort Jones, CA; Medford, OR; Eugene, OR; Portland, OR; INT Portland 350° and Seattle, WA, 197° radials; 21 miles, 45 MSL, Seattle;"

2. V–448 [Amended]

By deleting the words "From Portland, OR, via" and substituting the words "From Medford, OR, via Roseburg, OR; INT Roseburg 003° and Eugene, OR, 187° radials, Eugene; INT Eugene 030° and Portland, OR, 180° radials, Portland;"

3. V–481 [New]

By adding "V–481 From Eugene, OR, via Corvallis, OR, to INT Corvallis 351°T (331°M) and Newberg, OR, 203°T(183° M) radials."

4. V–495 [New]

By adding "V–495 From Victoria, British Columbia, Canada, via Seattle, WA; Portland, OR; Newberg, OR; Corvallis, OR; INT Corvallis 195°T(174°M) and Roseburg, OR, 355°T(335°M) Roseburg; INT Roseburg 174°T(154°M) and Fort Jones, CA, 340°T(327°M) radials, to Fort Jones. The airspace within Canada is excluded."

Under Section 71.125.

V–440 [Amended]

By deleting the words "From Seattle, WA, to Victoria, British Columbia, Canada." and substituting the words "From Victoria, British Columbia, Canada."

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1345(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 proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant ecomomic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on November 20, 1981.

John W. Baier,

Acting Chief, Airspace and Air Traffic Rules Division.

[Fr Doc. 81-34156 Filed 11-25-81; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 81-AEA-65]

Proposed Renumbering of Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to renumber certain alternate VOR Federal Airways in the eastern part of the U.S. This action would eliminate the assignment of alternate airway segments for the affected airways. It is in accordance with international Civil Aviation Organization (ICAO) agreement to phase out alternate airways from the National Airspace System.

DATE: Comments must be received on or before December 28, 1981.

ADDRESS: Send comments on the proposal in triplicate to: Director, FAA Eastern Region, Attention: Chief, Air Traffic Division, Docket No. 81–AEA–65, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, NY 11430.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: John Watterson, 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) 426–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the 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 proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. 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. 81–AEA–65." 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 proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket 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 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 NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to renumber V–93E, V–143S, V–162S, V–222N, V–375N, and V–433E. There would be no change in the amount of designated controlled airspace as a result of this action. The alternate airway segments are numbered to eliminate the use of alternate airway assignments. This action would be in accordance with ICAO agreement to phase out alternate airways from the National Airspace System. Section 71.123 of Part 71 was republished on January 2, 1981 (46 FR 409).

Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 409) as follows:

1. V-93 [Amended]
   By deleting the words "including an E alternate via the INT of Baltimore 034° and Lancaster 181° radials;"
2. V-499 [Amended]
   By deleting the words "From Lancaster, PA," and substituting the words "From Baltimore, MD, via INT of Baltimore 034° and Lancaster, PA, 181° radials; Lancaster,"
3. V-143 [Amended]
   By deleting the words "including an S alternate via Westminister, MD;"
4. V-457 [New]
   By adding "V-457 From Lancaster, PA, via Westminister, MD; to Martinsburg, WV."
5. V-162 [Amended]
   By deleting the words, "including a S alternate via INT Harrisburg 0.87° and East Texas 225° radials"
6. V-222 [Amended]
   By deleting the words "including an N alternate from Lynchburg via Gordonsville, VA."
7. V-476 [New]
   By adding "V-476 From Lynchburg, VA, via Gordonsville, VA, to INT Brooke, VA, 045° and Richmond, VA, 009° radials."
8. V-375 [Amended]
   By deleting the words "; including a N alternate via the INT Roanoke 035° and Montebello, VA, 250° and Montebello, VA."
9. V-473 [New]
   By adding "V-473 From Roanoke, VA, via INT Roanoke 035° and Montebello, VA, 250° radials; Montebello; Gordonsville, VA."
10. V-433 [Amended]
    By deleting the words, "including an E alternate via FATIMA 058° and Yardley 196° radials"
11. V-479 [New]
    By adding "V-479 From FATIMA, DE, via INT FATIMA 058° and Yardley, PA, 196° radials; to yardley."

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

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the critieria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on November 19, 1981.

John W. Baier,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 81-33979 Filed 11-25-81; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR PART 345

[Docket No. 78N-0024]

Vitamin and Mineral Drug Products for Over-the-Counter Human Use; Withdrawal of Proposed Monograph

AGENCY: Food and Drug Administration.

ACTION: Withdrawal of proposed monograph (advance notice of proposed rulemaking).

SUMMARY: The Food and Drug Administration (FDA) is withdrawing a proposed monograph (an advance notice of proposed rulemaking) of March 16, 1979 that would have established conditions under which over-the-counter (OTC) vitamin and mineral drug products are generally recognized as safe and effective and not misbranded. The proposed monograph was based on recommendations of the FDA Advisory Review Panel on OTC Vitamin, Mineral, and Hematinic Drug Products. The agency is taking this action because the proposal did not discuss what effects legislation that was enacted in 1976 would have on the agency's vitamin and mineral policies. Because of this omission, the proposal has been misinterpreted, resulting in considerable public confusion concerning the agency's intention to regulate vitamin and mineral drug products.

EFFECTIVE DATE: November 27, 1981.

FOR FURTHER INFORMATION CONTACT: Eileen Hodkinson, Bureau of Drugs (HFD-30), Food and Drug Administration, 5600 Fishers Lane, Rockville, Md 20857, 301-443-6490.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 11, 1972 (37 FR 9464), FDA issued final regulations for the review of all OTC drugs by independent advisory review panels (21 CFR Part 330). Acting under these regulations the agency issued in the **Federal Register** of October 15, 1973 (38 FR 28581), a request for data on all active ingredients used in OTC vitamin, mineral, and hematinic drug products. The Commissioner of Food and Drugs also appointed as an independent advisory committee the Advisory Review Panel on OTC Vitamin, Mineral, and Hematinic Drug Products. This Panel was directed to review the vitamin and mineral drug product data and to prepare a report on the safety, effectiveness, and labeling of these products. Also in 1973, in a separate and unrelated proceeding, FDA proposed to establish standards of identity and labeling requirements for vitamins and minerals sold as dietary supplements under the food provisions of the Federal Food, Drug, and Cosmetic Act. This proposal was made final in the **Federal Register** of August 2, 1973 (38 FR 20708, 20730).

On December 11, 1973, the Panel began reviewing the data, and on November 1, 1977, submitted its report to FDA. In the **Federal Register** of March 16, 1979 (44 FR 16126), FDA issued the Panel's report and a proposed monograph (advance notice of proposed rulemaking) which would, if adopted, establish conditions under which OTC vitamin and mineral drug products would be generally recognized as safe and effective and not misbranded. It should be noted that under the regulations in 21 CFR Part 330, the Panel's report, and the proposed monograph are the recommendations of the independent OTC advisory committee only: FDA had not at that stage evaluated either the report or proposed monograph. Therefore, the Panel's report on OTC vitamin and mineral products and the proposed monograph based on the Panel's recommendation did not represent the agency's position. The Panel's report and the proposed monograph were published to stimulate discussion, evaluation, and comment by interested persons before the agency conducted its evaluation. (Although the proposed monograph for OTC vitamin and mineral drug products was captioned in the **Federal Register** as a notice of proposed rulemaking, its actual status is that of an advance notice of proposed rulemaking. Under the OTC drug review procedures, the agency's position and proposal are first stated in the tentative final monograph, which has the status of a proposed rule. Final action occurs in the final monograph, a final rule.)

While the Panel was in the process of completing the OTC vitamin and mineral drug report, Congress on April 22, 1976, amended the act so as to restrict the agency's authority both to limit the maximum potency of vitamins and minerals when used as dietary supplements and to limit the ingredient composition of multinutrient

supplements that are offered for use by adults and are recognized as safe (Pub. L. 94–278, sec. 501 (a) (the "Proxmire Amendment"), which added section 411 to the Federal Food, Drug, and Cosmetic Act). In addition, the legislation precluded the agency from declaring a vitamin or mineral to be a drug solely because it exceeds the level of potency the agency has determined to be nutritionally rational or useful. The Proxmire Amendment essentially mandated that any regulation of the potency of vitamin and mineral products, whether sold as drugs or as dietary supplements, must be based on considerations of human toxicity rather than human need.

After enactment of the Proxmire Amendment, FDA issued in the **Federal Register** of October 19, 1976 (41 FR 46156), a revised final regulation establishing standards and labeling requirements for vitamin and mineral dietary supplements, conforming them to this new legislation. On February 16, 1978, the United States Court of Appeals for the Second Circuit vacated the October 19, 1976 regulation and remanded it to the agency for further proceedings. *National Nutritional Foods Association* v. *Kennedy*, 572 F. 2d 377 (2d Cir. 1978). The court held that the Proxmire Amendment had substantially changed the agency's authority over vitamins and minerals marketed as dietary supplements and, therefore, FDA had to provide opportunity for further public notice and comment. To comply with the decision of the court, FDA issued a notice in the **Federal Register** of March 16, 1979 (44 FR 16005), revoking the dietary supplement regulations. By coincidence, it was published the same day the OTC Panel's report and the proposed monograph on vitamin and mineral drug products were published (44 FR 16126).

The coincidence in publication dates in the **Federal Register** caused great confusion concerning FDA's intentions to regulate vitamin and mineral OTC drug products. Vitamins and minerals when used as dietary supplements—by far, the greatest number of currently marketed vitamin and mineral products—are regulated under the food provisions of the act. The OTC Panel's report and the proposed monograph, however, related only to vitamin and mineral products labeled with drug claims and sold as OTC drugs. Further, because of the Proxmire Amendment, the Panel report attempted to distinguish between vitamins and minerals subject to the drug provisions of the act and those subject to the food provisions of the act. Nevertheless, comments submitted in response to the Panel's report showed that many persons did not understand the distinction. Many letters from the public mistakenly expressed concern that vitamins and minerals would no longer be available over-the-counter and would require a prescription by a physician. Part of the confusion likely can be attributed to the agency's not explaining the effect of the Proxmire Amendment on the regulation of vitamin and mineral products at the time the OTC Panel's report and the proposed monograph were published. In the absence of any such discussion, many individuals and organizations interpreted the OTC Panel's report on vitamin and mineral drug products and the proposed monograph as an attempt to subvert the Proxmire Amendment. Certainly, FDA did not intend to subvert or circumvent the law.

Therefore, because of the confusion in the public's mind over FDA's intent, the unsuccessful attempts to correct the misinterpretations concerning the agency's jurisdiction over vitamins and minerals, and the significant change in FDA's legal authority over vitamins and minerals since the OTC Panel was first convened, the agency is withdrawing the proposed monograph (advance notice of proposed rulemaking). By this action, the agency formally recognizes and responds to the growing public sentiment expressed by the thousands of comments received from the public and by recent congressional interest in vitamin and mineral regulation. It is indicative also of an ongoing agency reassessment of all aspects of vitamin and mineral regulation.

The agency stresses, however, that it is withdrawing only the proposed monograph (advance notice of proposed rulemaking) and that this withdrawal does not in any way denigrate the scientific content of the report and the excellent work of the OTC Panel in its long efforts to produce it. FDA believes that the information in the report will provide valuable guidance to both the agency and industry in the area of vitamins and minerals.

The agency recognizes that OTC vitamin and mineral drug products constitute a very small segment of the marketplace and that withdrawal of the proposed monograph does not affect the agency's authority to take action against OTC vitamin or mineral drug products that are unsafe or misbranded.

Accordingly, the proposed monograph (advance notice of proposed rulemaking) published in the **Federal Register** of March 16, 1979 (44 FR 16126), which would have added new Part 345—Vitamin and Mineral Drug Products For Over-The-Counter Human Use (21 CFR Part 345) is hereby withdrawn, effective November 27, 1981. The Panel report will remain on public display in the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

This withdrawal is issued under authority of the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 505, 701, 52 Stat. 1040–1042 as amended, 1050–1053 as amended, 1055–1056 as amended (21 U.S.C. 321, 352, 355, 371)) and 21 CFR 5.11 and under authority delegated to the Commissioner (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)).

Dated: September 23, 1981.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

Dated: November 16, 1981.

Richard S. Schweiker,

Secretary of Health and Human Services.

[FR Doc. 81–34165 Filed 11–25–81; 8:45 am]

BILLING CODE 4160–01–M

PANAMA CANAL COMMISSION

35 CFR Ch. I

Revised Shipping and Navigation Rules for the Panama Canal

AGENCY: Panama Canal Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Upon entry into force on October 1, 1979, of the Panama Canal Treaty of 1977, the United States relinquished and Panama assumed plenary jurisdiction over what what was the Canal Zone. Under the Panama Canal Act of 1979, the statute implementing the new treaty, the Canal Zone Government was disestablished and the Panama Canal Company was replaced by the Panama Canal Commission, which will operate the waterway until the termination of the treaty on December 31, 1999. This document contains the proposed regulations of the Commission relating to shipping and navigation.

DATE: Written comments concerning the proposed regulations must be received by December 20, 1980.

ADDRESS: Send comments to: Mr. Michael Rhode, Jr., Secretary, Panama Canal Commission, Rm 312, Pennsylvania Bldg., 425 13th Street, NW., Washington, D.C. 20004 (Telephone: (202) 724–0104).

FOR FURTHER INFORMATION CONTACT: Dwight A. McKabney, General Counsel, Panama Canal Commission, APO Miami 34011, Telephone in Balboa Heights, Republic of Panama 52-7511.

SUPPLEMENTARY INFORMATION: The Canal Zone Government, an independent agency of the United States, was charged by law with the performance of the various duties connected with the civil government, including health, sanitation and protection of the Canal Zone (2 C.Z.C. 31, 76A Stat. 7). The Panama Canal Company was a corporate agency and instrumentality of the United States responsible for maintaining and operating the Panama Canal and for conducting business operations incident thereto and incident to the civil government of the Canal Zone (2 C.Z.C. 61, 76A Stat. 8).

Upon entry into force on October 1, 1979 of the Panama Canal Treaty of 1977 between the United States and the Republic of Panama, the United States relinquished and Panama assumed plenary jurisdiction over the Canal Zone. Pursuant to the Panama Canal Act of 1979, Pub. L. 96-70, 93 Stat. 452, the statute implementing the new treaty, the Canal Zone Government was disestablished and the Panama Canal Company was replaced by a new United States Government agency, the Panama Canal Commission, which is charged with the responsibility of the United States to manage, operate, and maintain the waterway until the termination of the treaty on December 31, 1999. Pursuant to that treaty, many of the functions performed by the two former Canal agencies may not be undertaken by the Panama Canal Commission.

As a result of the treaty and the Panama Canal Act of 1979, the regulations published in Title 35, CFR have to be rewritten in accordance with the substantially different authority and responsibilities which the new agency has.

On November 29, 1979, the President signed Executive Order No. 12173 (44 FR 69271) which continued, on an interim basis, the applicability of Panama Canal regulations that address matters which the President is authorized to regulate pursuant to the Panama Canal Act of 1979. The authority to prescribe regulations governing shipping and navigation, as provided in section 1801 of the Panama Canal Act, which are the subject of this notice, was delegated by the President to the Secretary of Defense by Executive Order 12215 of May 27, 1980 (44 FR 36043). That order requires the Secretary, in carrying out this function, to provide, by redelegation or otherwise, for its performance by the Commission. The Secretary redelegated that authority to the Commission on July 18, 1980.

Most of the changes to Subchapter C of Chapter I of Title 35 being proposed herein are designed to reflect the new agency organization, structure and responsibilities. For example, references to the Canal Zone or its governor, or to the two former Canal agencies would be revised to reflect the situation and organization which exist under the 1977 Treaty and the legislation implementing its terms. A number of other proposed changes eliminate provisions related to functions which, as a result of the treaty and related agreements, are not performed by the Panama Canal Commission. Examples are the use and control of the port areas and the performance of the immigration function, both of which are now the responsibility of the Republic of Panama. There are also a number of proposed substantive changes, most of which are intended to incorporate existing requirements which have been put into effect pursuant to this title and published via Marine Director's Notices to Shipping. Accordingly, the agency has determined that none of the proposed changes to the regulations will have a significant economic impact on a substantial number of small entities. Therefore, sections 603 and 604 of 5 U.S.C. do not apply to the regulations proposed in this document and the head of the agency so certifies pursuant to 5 U.S.C. 605(b).

Furthermore, this revision of Subchapter C of Chapter I of title 35, Code of Federal Regulations does not constitute a "major rule" as defined in section 1(b) of Executive Order 12291 of February 17, 1981. The regulations are expected to have neglible or no impact on the economy and, will not result in a major increase in costs or prices for consumers, individual industries, Federal, State or local governmental agencies or geographic regions. Moreover, the regulations will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Finally, the agency has determined that the substantive changes contained herein would not have a significant effect on the environment. Therefore, this proposed rule is deemed not to constitute a "major Federal action" under either the National Environmental Policy Act, Pub. L. 91-90, 83 Stat. 853 (42 U.S.C. 4331 *et seq.*) as amended, or Executive Order 12114, January 4, 1979. Accordingly, it is proposed that provisions of Subchapter C of Chapter I of title 35, Code of Federal Regulations be revoked, redesignated, revised, or amended as follows:

(1) Part 101, regulating the arrival and departure of vessels, including various communications, documentation, sanitation, and admeasurement requirements, is amended by revising the citation of authority, the part heading and the headings of §§ 101.1, 101.8 and 101.13 and by making a number of minor editorial changes to provide clarity and consistency in terminology. Section 101.1 is amended to eliminate reference to visual signal stations at Canal entrances inasmuch as visual signal stations are no longer in use and communication among vessels navigating the Canal today is via radio. The following provisions are amended to reflect the proper nomenclature for the new agency organization and structure, and to eliminate references to functions no longer being performed by the Commission: Sections 101.2, 101.3, 101.9, 101.10, and 101.13. The following provisions are revoked because they are inconsistent with provisions of the Panama Canal Treaty of 1977 and related agreements and concern functions no longer performed by the Commission: Sections 101.5, 101.6, 101.7, and 101.10(b). Section 101.8(e) has been revised to eliminate the reference to anchorages for pleasure yachts and to provide that the anchorage areas as described in the treaty documents will govern if there are any discrepancies between the descriptions in this section and the treaty documents. Section 101.11, regarding passenger lists, has been incorporated, in revised form, into §101.10(c). A new section 101.14 is being included to define the term "Panama Canal waters" which is used at various places throughout the Subchapter.

(2) Part 103, establishing the general provisions governing vessels, is amended by revising the citation of authority, revising the headings of §§ 103.21, 103.26, 103.27, 103.29 and 103.34, and by making a number of minor editorial changes to correct typographical errors and to provide clarity and consistency in terminology. The following provisions are amended to reflect the proper nomenclature for the new agency organization and structure and to eliminate references to functions no longer being performed by the Canal agency: Sections 103.3, 103.4(b), 103.7, 103.10(e), 103.12, 103.14, 103.15, 103.16, 103.18(a), 103.20, 103.21, 103.25, 103.26, 103.27(a), (c), and (e), 103.28, 103.29, 103.31, 103.32 (a), 103.34

and 103.41. The following sections are revoked because they are inconsistent with provisions of the Panama Canal Treaty of 1977 and related agreements and concern functions not performed by the Commission: Sections 103.6, 103.22, 103.23, 103.24, and 103.30. The following sections are revoked because they refer to visual signal stations no longer in use in the Canal: Sections 103.25, 103.36, 103.37, and 103.38. Sections 103.4(b), 103.6(h) and 103.10(e) provide revised limitation of liability provisions to clarify that if vessels that fail to meet the transit requirements set forth in those sections are allowed to transit, they will do so at their own risk and may be liable to the Commission to the extent that the failure to meet transit requirements causes or contributes to an accident in which Commission installations, facilities or equipment are damaged. A new paragraph (b) has been added to § 103.5, setting forth the limitations on protruding deck cargo which were established by the Marine Director's Notice to Shipping No. 12–81, dated March 16, 1981. The same notice also established the size and draft limitations for transiting vessels and those limitations have been incorporated into § 103.6. Section 103.7, authorizing the temporary holding of vessels, is revised to specify that vessels may be held for the purpose of conducting marine accident investigations under Parts 115 and 117 and to eliminate references to claims, disputes, complaints or allegations of a violation of the laws of the United States. Section 103.15 is revised to include boarding officers from the Republic of Panama as officials authorized to board vessels at anchor or underway. Section 103.19 has been Incorporated into paragraphs (d), (e) and (f) of 103.18. The references in these provisions to the 1960 International Convention for Safety of Life at Sea have been revised to refer to the 1974 Convention. A new § 103.19 has been added to provide the requirements for pilot platforms which are mandatory for vessels requiring four pilots to transit the Canal. The requirements for these platforms were established by the Marine Director's Notice to Shipping No. 11–75, dated May 28, 1975. Section 103.27(b) is amended to require all vessels over 197 feet in length to be equipped with specific steering range lights. Section 103.30 provides the requirements for dead tows which were established by the Marine Director's Notice to Shipping No. 4–80, dated March 26, 1980. Section 103.32 paragraph (c), is revised by adding log books and a record of an automatic course recording device to the list of records which must be surrendered upon request to the Board of Local Inspectors or other Canal authorities.

(3) Part 105, regarding pilotage, is amended by revising the citation of authority and making a number of minor editorial changes to provide clarity and consistency in terminology. The following provisions are amended to reflect the proper nomenclature for the new agency organization and structure and to eliminate references to functions no longer being performed by the Canal agency: Sections 105.1, 105.2, 105.3 and 105.4.

(4) Part 107, regarding manning of vessels, is amended by revising the citation of authority. Sections 107.1, 107.2 and 107.3 are amended to reflect the proper nomenclature for the new agency organization and structure and to eliminate references to functions no longer being performed by the Commission. A new paragraph (c) has been added to § 107.2 to incorporate into the regulations the existing practice of leaving it to the discretion of the Marine Director or his designee to determine the manning levels required on Commission vessels. A new paragraph (c) has been added to § 107.3 to establish as a regulation the duty of the Master of a vessel or his qualified designee to insure that the pilot's navigational orders are promptly and properly carried out.

(5) Part 109, specifying the requirements for vessels entering and preparing to enter the locks, is amended by revising the citation of authority. Section 109.3 is amended to reflect the proper nomenclature for the new agency organization and structure and to eliminate references to functions not performed by the Commission. Section 109.6 is amended to provide the requirements for construction, number and location of chocks and bitts which was established by the Marine Director's Notice to Shipping, No. 9–81, dated March 6, 1981. The limitation of liability provision provided in § 109.6(m) has been redesignated paragraph (p) and revised to clarify that vessels that fail to meet the chocks and bitts requirements which are allowed to transit do so at their own risk and may be liable to the Commission to the extent that failure to meet the requirements of the section causes or contributes to an accident in which Commission installations, facilities or equipment are damaged.

(6) Part 111, providing the rules for the prevention of collisions, is amended by revising the citation of authority, revising the headings to sections 111.204 and 111.205 and by making some minor editorial changes to correct typographical errors and to provide clarity and consistency in terminology. The following provisions are amended to reflect the proper nomenclature for the new agency organization and structure and to eliminate references to functions not performed by the Commission: Sections 111.1, 111.58(d), 111.150 (a) and (e), 111.161 (d) and (e), 111.162 (b), (c), and (d), 111.163(a), 111.203 (a) and (b), 111.204 and 111.205. Section 111.155, regarding bend signals, is revoked. Sections 111.206 and 111.207 are incorporated, in revised form, into paragraphs (b) and (c) of § 111.205, respectively. A new § 111.206 is added to specify that a proper lookout is required on all vessels underway in the Canal and adjacent waters.

(7) Part 113 regarding hazardous cargoes has been rewritten in its entirety. The agency is adopting by reference United States Coast Guard regulations defining and classifying dangerous cargo, and regulations specifying the requirements for vessels carrying dangerous cargo and for the handling of such cargo, thus eliminating the agency's own detailed regulations on these subjects. Other provisions of unique applicability in the Canal, such as § 113.2 defining the anchorage areas for ships loaded with dangerous cargoes, are being retained in revised form. Section 113.4 provides the transit restrictions for vessels carrying dangerous cargo, and § 113.42(b) specifies the dangerous cargoes which are prohibited from being carried aboard vessels in the Panama Canal; these provisions were previously established by the Marine Director's Notice to Shipping No. 10–81, dated March 9, 1981.

(8) Part 115, regarding the composition and functions of the Panama Canal Commission Board of Local Inspectors, is being amended by revising the citation of authority and by making minor editorial changes to provide clarity and consistency in terminology. Sections 115.1 and 115.2 (a) through (c) are amended to reflect the proper nomenclature for the new agency organization and structure. Section 115.2(c) is being amended to designate the Supervising Inspector as the official authorized to name an alternate to any official regularly serving on the Board.

(9) Part 117, regarding marine accident investigations, is being amended by revising the citation of authority, revising the heading of § 117.3 and making a number of minor editorial changes to provide clarity and consistency in terminology. The following provisions are being amended

to reflect the proper nomenclature for the new agency organization and structure: Sections 117.1, 117.2, 117.3, 117.4, 117.5, and 117.6. Section 117.1(c) is being revised to replace the Port Captain with the Chairman of the Board of Local Inspectors as one of the officials to whom a Master of a vessel may address a request for an investigation of a marine accident. Section 117.1(d), defining the term "serious marine accident," is being revised to eliminate the requirement that certain accidents in which there is no Panama Canal Commission involvement be investigated.

(10) Part 119, regarding licensing of marine personnel, is being amended by revising the citation of authority and the headings of §§ 119.6 and 119.18 and by making minor editorial changes to correct typographical errors and to provide clarity and consistency in terminology. The following provisions are amended to reflect the proper nomenclature for the new agency organization and structure and to eliminate references to functions no longer being performed by the Canal agency: Sections 119.1, 119.2, 119.3, 119.6(b), 119.10, 119.12(a), (f) and (h), 119.16, 119.17(e), 119.61, 119.63, 119.103, 119.141, 119.143, 119.183, 119.187, 119.222, 119.223, 119.224, and 119.225. Sections 119.184 and 119.185 are being revoked because they refer to matters which, as a result of the Treaty and related agreements, are no longer the responsibility of the Commission. Sections 119.1(b) and 119.3 are being revised to permit the Supervising Inspector to designate another official of the Commission as the official empowered to issue licenses or consider an appeal from a refusal by the Board of Local Inspectors to recommend a person for licensing. Section 119.2 has been revised to include a requirement that all marine personnel licensed by the Commission have an annual physical examination attesting to their physical condition, acuity of vision and color sense. Section 119.4, which provided for the suspension or revocation of licenses, is revoked. Section 119.6(a) which provides that citizenship of the United States or the Republic of Panama is a requirement for obtaining a license is revoked. Section 119.6(b) is amended to exclude licensing of operators who intend to operate motorboats for recreational or other private purposes. Section 119.9(a) is being amended to require that photostatic copies of service records and endorsements presented to the Board in support of an application for a license be certified. Section 119.9(b) is amended by deleting the requirement for four endorsements on applications. The lists of subjects to be tested by the Board of Local Inspectors for the various licenses are deleted from the regulations. Thus, §§ 119.62, 119.64, 119.102, 119.104, 119.142, 119.144, 119.186, and 119.226 are revoked. Consequently, § 119.14 is amended to provide that the lists of subjects to be tested by examination may be obtained from the Board, and a new paragraph (b) is added to specify that applicants are required to pass a practical examination. Section 119.12(h) is amended to delete the reference to citizenship and to exempt from the requirement of the paragraph persons qualifying for license under the Commission's training program for pilots. Section 119.13 is amended to delete the reference to citizenship. Sections 119.12 (i) and 119.22 are revoked as unnecessary because they refer to clerical matters which are within the discretion of the Board. Section 119.16(e) is amended to add that service in the armed forces of the Republic of Panama will not be considered an interruption in computing the sea service required for application of raise in grade of a marine license. Section 119.18(a) is amended by adding that sea service as a member of the armed forces of the Republic of Panama will be accepted as qualifying experience for a marine license. Section 119.18(b) is amended by adding that service in a civilian capacity on a vessel owned or operated by the Republic of Panama shall be given appropriate credit by the Board in considering qualifications for licenses. Section 119.25 is amended to delete the reference to unexpired terms when duplicate licenses are issued. Section 119.61 (a) and (b), and § 119.103(b) are revised to include the requirement that qualifying experience for licensing of Master and mate must be obtained on vessels engaged in towing. Section 119.103(c) is revoked in order to provide that when qualifying experience for mate is obtained aboard Commission vessels it is done only through an approved Commission training program as provided in paragraph (a)(1) of that section. Sections 119.224(a)(1) and 119.225(a)(1) which refer to experience required for licensing as assistant engineer of steam vessels and of motor vessels, respectively, are being amended to add that graduation from the Panama Nautical School's program for engineer officers is acceptable as qualifying experience for eligibility for examination. A similar change has been made to § 119.103(a)(1), regarding licensing for mate, steam, or motor vessels. Section 119.17(f), providing that an applicant for renewal of license who is pronounced color blind may be given limited service in daylight only, is being revoked. Section 119.141(a)(1), regarding minimum pilot qualification requirements is being revised to require experience as a licensed chief mate rather than second mate. A new subparagraph (4) has been added to § 119.141(a) to provide for completion of the Commission's Pilot Training Program as an alternative minimum pilot qualification requirement. Consequently, subparagraph (4) of § 119.141(a) has been redesignated subparagraph (5). Section 119.183 is being rewritten to provide that licenses for motorboat operators will only be issued to an applicant who can establish that he is conditionally eligible for appointment to a position with the Panama Canal Commission or with another U.S. Government agency operating in Canal waters requiring such a license.

(11) Part 121, regarding inspection and registration of vessels, is amended by revising the citation of authority and by making minor editorial changes to provide clarity and consistency in terminology. Section 121.1, defining the applicability of the Part, is revised to provide that the regulations apply only to vessels, floating equipment and motorboats owned or operated by the Panama Canal Commission or by other U.S. Government agencies operating in Canal waters. Section 121.3 provides, however, that a transiting vessel may be inspected at the request of the owner, agent or Master of the vessel. Section 121.2(a) is being amended to provide the cross-referenced section number consonant with the revised Subchapter. The following provisions are being amended to reflect the proper nomenclature for the new agency organization and structure and to eliminate references to functions no longer being performed by the Canal agency: Sections 121.3, 121.43, 121.89, 121.90, 121.92, 121.171, and 121.173.

(12) Part 123, regarding radio communications, is amended by revising the citation of authority and the headings of §§ 123.2 and 123.5. Section 123.2, defining the Commission's control of radio communications, is being revised to conform with Panama Canal Treaty of 1977 and related agreements. Section 123.6 is revoked because it relates to a function not performed by the Commission. The following provisions have been amended to reflect the proper nomenclature for the new agency organization and structure and to eliminate references to functions no longer being performed by the Canal

agency: Sections 123.3, 123.4, 123.5, 123.7, 123.9, and 123.10.

(13) Part 125, regarding sanitary requirements for vessel wastes, garbage and ballast, is amended by revising the citation of authority and by revising §§ 125.1 and 125.4 to reflect the proper nomenclature of the new agency organization and structure in accordance with the Panama Canal Treaty of 1977. Section 125.1(a) is being revised to prohibit the discharge of water closet chutes into the waters of the Canal. Section 125.3 is being revoked because it refers to functions no longer being performed by the Canal agency.

(14) Part 129 which provided the regulations relating to safeguarding of vessels, harbors, ports, and waterfront facilities and which appears in Executive Order No. 10226 of March 17, 1951 (16 FR 2682) is revoked because it has been superseded by the Panama Canal Treaty of 1977 and the 1977 Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal.

(15) Part 131 regarding the neutrality of the Canal has been rewritten in its entirety to provide that matters concerning the neutrality of the Panama Canal are governed by the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, signed on September 7, 1977.

(16) Part 133, regarding tolls for the use of the Canal, is amended by revising the citation of authority, by revoking § 133.35 to eliminate reference to a function not performed by the Commission, and by revising §§ 133.37, 133.71(b), 133.74 and 133.75 to reflect the proper nomenclature of the new agency organization and structure.

(17) Part 135, regarding measurement of vessels, is amended by revising the citation of authority and by revising §§ 135.443, 135.483, 135.484, 135.486 and 135.511 to reflect the proper nomenclature of the new agency organization and structure.

Accordingly, it is proposed to amend Subchapter C of Chapter I of Title 35, Code of Federal Regulations as follows:

(1) Part 101 heading is revised as follows:

PART 101—ARRIVING AND DEPARTING VESSELS: VARIOUS COMMUNICATION, DOCUMENTATION, SANITATION AND ADMEASUREMENT REQUIREMENTS

(2) Part 101 Table of contents is revised as follows:

Sec.
101.1 Signal stations at the Canal entrances.
101.2 Boarding of arriving vessels.
101.3 Definition and functions of the boarding officer.
101.4 Measurement of vessel making maiden transit.
101.8 Merchant vessel and small craft anchorages.
101.9 Papers required by boarding officer.
101.10 Same; list.
101.13 Entry and depature of vessels.
101.14 Panama Canal waters; definition.

(3) Authority citation is revised as follows:

Authority: Issued under authority vested in the President by sec. 1801, Pub. L. 96-70, 93 Stat. 492; EO 12215, 45 FR 36043.

(4) Section 101.1 is revised as follows:

§ 101.1 Signal stations at the Canal entrances.

The Panama Canal Commission maintains established signal stations at both the Atlantic and Pacific entrances of the Canal. A vessel arriving at the Canal must communicate with the signal station which is located at the entrance of the Canal at which that vessel arrives. Vessels required to be equipped with a radiotelephone pursuant to Part 123 of this subchpater must, upon arrival, communicate with the appropriate signal station on Channel 12, 156.000 MHz. All other vessels may use International Code and flashing light. Such stations are also utilized to assist in control of traffic within Panama Canal waters.

(5) Cross reference is revised as follows:

Cross Reference: See Part 123 for provisions respecting radio communication by vessels prior to arrival and while they are in Panama Canal waters.

(6) Section 101.2 is revised as follows:

§ 101.2 Boarding of arriving vessels.

(a) Unless otherwise directed, all arriving vessels will anchor in designated anchorages to await boarding officers. No person other than boarding officers of the Panama Canal Commission and the Republic of Panama may go on board or leave any vessel until such vessel has been entered by the Commission and, where applicable, by the Republic of Panama.

(b) Arriving vessels that are subject to inspection for compliance with Panama Canal shipping and navigation regulations will be boarded upon arrival. The boarding will occur inside the breakwater at the Atlantic entrance of the Canal or off the seaward end of the dredged, marked channel at the Pacific entrance. It will be performed by a Commission boarding officer in accordance with the procedures established under this Part. When such vessels are not boarded immediately upon arrival, they shall anchor in a designated anchorage area and await the boarding officer.

(c) Admeasurement functions shall be performed on arriving vessels either while at anchor or during transit.

(7) Section 101.3 is revised as follows:

§ 101.3 Definitions and functions of the boarding officer.

(a) Boarding officer means any official or employee of the Panama Canal Commission who is duly assigned the functions of a boarding officer, including admeasurement and sanitation.

(b) The Commission boarding officer shall perform the functions of admeasurer for the purpose of determining Panama Canal tolls and shall make inspection for the purpose of insuring compliance with Panama Canal shipping, navigation and sanitation regulations.

(8) Section 101.5 is removed as follows:

§ 101.5 [Removed]

(9) Section 101.6 is removed as follows:

§ 101.6 [Removed]

(10) Section 101.7 is removed as follows:

§ 101.7 [Removed]

(11) Section 101.8(e) is revised as follows:

§ 101.8 Merchant vessel and small craft anchorages.

* * * * *

(e) If there are any discrepancies between the designated anchorage areas as described in this section and the anchorage areas as described in paragraph 4 of Annex A of the Agreement in Implementation of Article III of the Panama Canal Treaty of 1977 and the attachments thereto, the description in the treaty documents shall govern.

(12) Section 101.9 is revised as follows:

§ 101.9 Papers required by boarding officer.

On arrival, there shall be ready for immediate inspection or delivery, as the case may be, to the boarding officer the required number of copies of papers concerning tonnage of vessel, cargo, and such other matters upon which information is necessary, as are prescribed by § 101.10. The required manifests, lists and statements shall be sworn to by the Master or agent of the vessel. Vessels will not be permitted to transit until properly cleared by the boarding officer. Failure to present the required papers to boarding officers

could result in loss of the vessel's relative position in the movement schedule and delay in granting the necessary permission to depart.

(13) Section 101.10 is revised as follows:

§ 101.10 Same; list.

(a) *Documents for Commission boarding officer.* All documents listed below shall be ready for immediate delivery to the boarding officer when he boards the vessel upon each arrival of the vessel at the Canal.

Documents required and number of sets

(1) Ship's information (Panama Canal Form 4398)—1
(2) Clearance from last port—1[1]
(3) 11 certificates of a sanitary nature—1[1]
(4) Store list—1
(5) Cargo declaration (Panama Canal Form 4363)—1[2]
(6) Panama Canal tonnage certificate—1
(7) National Register—1[1]
(8) General arrangement and engine room plans—1[3]
(9) Report of structural alterations and of changes in use of tanks or other spaces since last transit—1
(10) Declaration by all vessels except ships of war of all arms and munitions of war aboard other than explosives declared separately—2[2,4]
(11) Declaration as to vessel's port(s) of departure, destination, and ports of call, within the last three months, with the corresponding actual or approximate dates—1[2]
(12) Crew and passenger lists—2

(b) *Crew list.* For purposes of additional identification of crew members, all copies of the crew list required by this section shall include for each seaman the serial number of his certificate of identification, continuous discharge book, passport or other satisfactory identifying documentation. In addition, the given name and middle initial, as well as the family name, shall be shown for all seamen.

(c) *Passenger list.* All copies of the passenger list required by this section shall be accurate and legible and shall be delivered to the boarding officer. The list shall show passengers in alphabetical order.

(14) Section 101.11 is removed as follows:

[1] For examination and possible retention.
[2] Not required of vessels of war or auxiliary vessels as those terms are defined in the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal (September 7, 1977).
[3] Not required unless ship transits Canal.
[4] Not required unless such cargo is carried.

§ 101.11 [Removed]

(15) Section 101.13 is revised as follows:

§ 101.13 Entry and departure of vessels.

(a) An arriving vessel shall be entered at either the Pacific or Atlantic entrance. A vessel is entered by the Canal Commission authorities upon the report of the boarding officer and it is not necessary for the Master to come ashore for that purpose. At the discretion of the Marine Director, a vessel may be denied entry for failure to comply with Panama Canal regulations. In certain cases vessels may be provisionally entered. When provisional entry is granted, vessels may remain in Canal waters only under the conditions set forth in the provisional entry. Permission to enter port waters will be given by the Republic of Panama.

(b) Any vessel that has entered or has provisionally entered the Canal shall, prior to its departure therefrom, obtain permission from the Chief, Navigation Division or his designee. Permission to depart shall be issued only after the Chief, Navigation Division has satisfied himself that:

(1) All documents and statistical data required for entry or provisional entry by the Canal authorities, respecting the vessel and its cargo have been furnished; and

(2) Tolls and other charges for services or supplies furnished by the Panama Canal Commission have been paid or the payment secured.

(16) Section 101.14 is added as follows:

§ 101.14 Panama Canal waters; definition.

As used in this Subchapter, the term "Panama Canal waters" or "Canal waters" refers to all waters lying within the Canal operating area described in Annex A of the Agreement in Implementation of Article III of the Panama Canal Treaty of 1977 between the United States of America and the Republic of Panama and depicted in attachments thereto.

Part 103 is amended as follows:

PART 103—GENERAL PROVISIONS GOVERNING VESSELS

(17) Part 103 Table of Contents is revised as follows:

Sec.
103.1 Regulations to be kept abroad.
103.2 Denial of passage to dangerous vessel.
103.3 Discovery of defect in vessel during transit or while underway.
103.4 Load and trim.
103.5 Deck load.
103.6 Size and draft limitations of vessels.
103.7 Temporary holding of vessels.
103.8 Order of transiting of vessels.
103.9 Passenger steamers given preference in transiting.
103.10 Vessels required to be equipped with certain indicators.
103.11 Vessels without mechanical signal system to engine room subject to delay in transiting.
103.12 Discharge of firearms.
103.13 Firing of salutes.
103.14 Colors and house flags.
103.15 Boarding vessels at anchor or underway.
103.16 Meals to be furnished by vesel in certain cases.
103.17 Boat for handling lines.
103.18 Pilot ladders, hoists and side ports.
103.19 Requirements for pilot platforms.
103.20 Disabling of engines.
103.21 Precautions against emission of sparks, smoke or noxious gases.
103.25 Fishing or placing of nets or other obstructions prohibited.
103.26 Obstructions not to be placed across channels or anchorages.
103.27 Clear view forward from the bridge and steering light requirement for certain vessels.
103.28 Towing of certain vessels required.
103.29 Anchoring in Panama Canal waters.
103.30 Requirements for all dead tows.
103.32 Engine orders to be recorded.
103.33 Navigation in Gaillard Cut.
103.34 Same; Control by Chief, Navigation division.
103.39 Arrow signals; locks.
103.40 Transit schedules; pennants.
103.41 Ships to display schedule number.
103.42 Maneuvering characteristics; data required.

(18) Authority citation is revised as follows:

Authority: Issued under authority vested in the President by sec. 1801, Pub. L. 96-70, 93 Stat. 492; EO 12215, FR 36043.

(19) Section 103.3 is revised as follows:

§ 103.3 Discovery of defect in vessel during transit or while underway.

Upon the discovery during transit of the Canal, or at any time while underway, of any defect in a vessel of such serious nature that it might interfere with further passage or with her safe navigation, the vessel shall stop and, if practicable, be anchored or moored at the first available place. A full report shall be made immediately to the Chief, Navigation Division or his designee by radio or by the best means available.

(20) Section 103.4(b) and (c) are revised as follows:

§ 103.4 Load and Trim.

* * * * *

(b) A vessel having a list of between 3 degrees and 10 degrees, or which is so loaded or so trimmed as to adversely affect her manuverability, may be permitted to transit at the discretion of the Chief, Navigation Division of his designee. If such vessel is allowed to

transit, however, it may do so only at its own risk and, to the extent and in the proportion that such failure to meet the requirements of this section proximately causes or contributes to a casualty and resulting damages, the Master of such vessel on behalf of said vessel, her owners, operators, or any other persons having any interest in her, and for himself, will be considered to have released the Panama Canal Commission and the United States from, and to have indemnified them against, any loss, damage, or liability incurred by the Commission, or the United States under or in respect to:

(1) Sections 1411 through 1416, inclusive, of Pub. L. 96–70, 93 Stat. 485–87.

(2) Property of the Panama Canal Commission or the United States; and

(3) Panama Canal Commission employees under the Federal Employees' Compensation Act, 5 U.S.C. 8101, *et seq.*, or any other employee compensation system. The Master of the vessel that fails to meet the requirements of this section may be required to execute, in the presence of a Commission official, a form undertaking to release the Panama Canal Commission and the United States from liability in case of an accident and to indemnify the Commission and the United States for any damages sustained. The failure of the Master of a vessel to sign such a form, however, will not relieve the vessel, her owners, or any other person having an interest in her from liability incurred as a result of the vessel's failure to meet the requirements of this section.

(c) Nothing shall be done, or permitted to be done, by the Master or any member of the crew, which would alter the trim or draft of a vessel while it is transiting the Canal, without the prior, express approval of the pilot.

(21) Section 103.5 is revised as follows:

§ 103.5 Deck load.

(a) A vessel carrying a deck load shall have it so stowed as to be sufficiently clear to provide safe working space around all chocks, bitts, and other gear used in transiting and so arranged as to not obstruct any direct lead from chocks to bitts.

(b) Vessels may transit with deck cargo protruding over one side not to exceed 15.0 feet if the maximum beam, including protrusions, does not exceed 85.0 feet. Pursuant to section 1411 of Pub. L. 96–70, 93 Stat. 485, however, the Commission may not consider any claim for damages on account of any injury to such cargo which might be sustained while the vessel is passing through the locks of the Canal.

(22) Section 103.6 is revised as follows:

§ 103.6 Size and draft limitations of vessels.

(a) *Definitions as used in this section:*

(1) "TFW" means Tropical Fresh Water of Gatun Lake, density .9954 gms/cc at 85°F. (Transition to fresh water frequently alters the trim of large vessels 3" to 4" by the head.)

(2) "Published TFW maximum draft" means the deepest point of immersion in Gatun Lake waters as promulgated by the Marine Director, taking into account the water level of Gatun Lake and other limitations deemed necessary because of restrictions in the Canal.

(3) "Maximum authorized transit draft;; means the deepest point of immersion in TFW of a particular vessel authorized at anytime, Gatun Lake level and Canal restrictions permitting.

(4) "Commercial vessel" means a self-propelled vessel, other than a naval, military or other public vessel.

(5) "Integrated tug-barge combination" means a barge that is specifically configured to receive a tugboat and with the tug, becomes, in effect, a single self-propelled unit.

(6) "Non-self-propelled vessel" means a vessel which either does not have an installed means of propulsion, or has an installed means of propulsion which is not functioning during transit.

(7) "Barge" means a flat-bottomed vessel of full body and heavy construction without installed means of propulsion.

(b) Maximum authorized transit draft of vessels with draft in excess of 35 feet, six inches.

(1) Prior to the initial transit of a vessel whose transit draft will exceed 35 feet, six inches, owners, operators, or agents must supply in full the information required in subparagraph (b)(2) of this section and request the maximum authorized transit draft for the vessel (deepest point of immersion TFW) from the Chief, Navigation Division or his designee, no later than two weeks prior to loading of the vessel. This request will be returned with the approved maximum authorized transit draft stamped thereon.

(2) The information required by subparagraph (b)(1) of this section shall be submitted in the following format:

Information Needed Prior to Initial Transit Through the Panama Canal

Bilge Information

Name of vessel _____ Date _____

Authorized Tropical Fresh Water Load Line _____

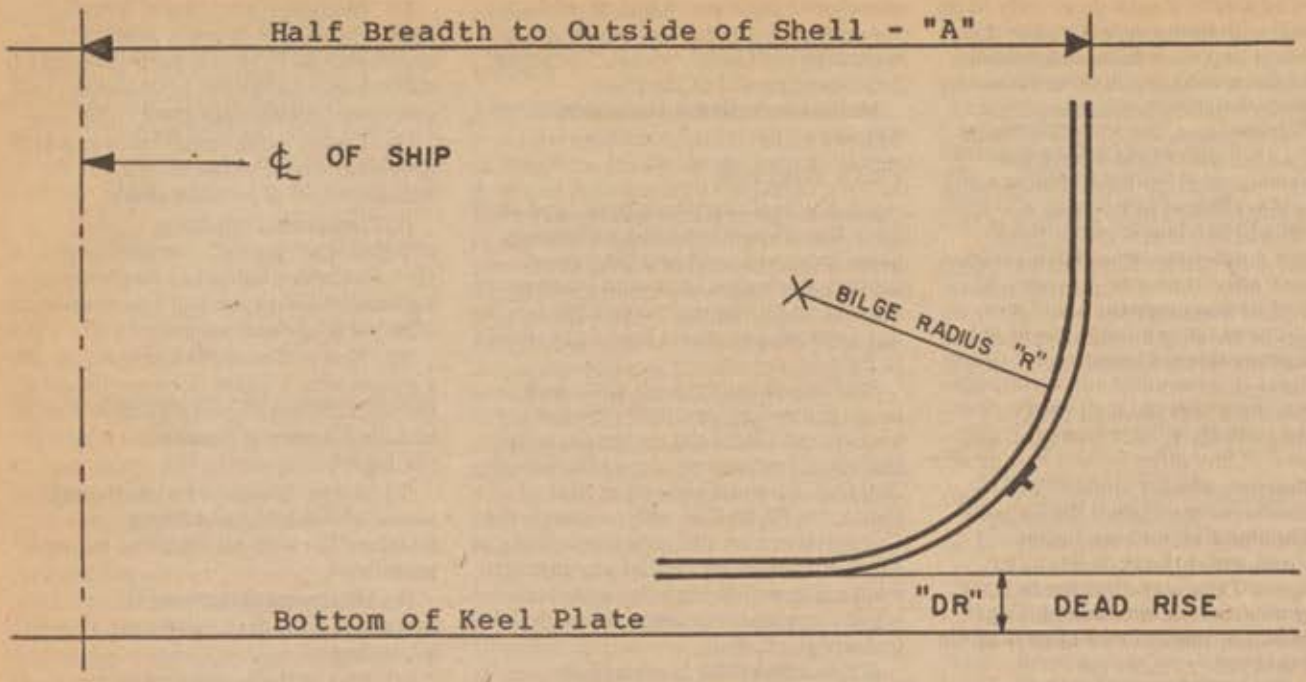
Admeasurer _____ Certified as Correct _____

Master-Owners Agents

(1) "A"—Half breadth of vessel to the outside of shell

(2) "R"—Radius of turn of bilge (Feet & Inches)

(3) "DR"—Dead rise at side of vessel (Inches)



Note.—On an off-center lockage with the vessel touching the lock wall, the turn of the bilge will clear the lock-wall batters at the most critical point as shown in the Table of Limiting Drafts, subparagraph (d)(3) of this section.

(c) *Draft during initial transit.* The initial transit is permitted at the maximum authorized transit draft. After the initial transit, unless the vessel's agent or owner is notified of any restrictions imposed by Canal authorities, this maximum authorized transit draft will remain in effect.

(d) *Minimum transit drafts, measured in salt water.*

(1) All vessels transiting the Canal must have sufficient ballast to permit safe handling during transit. The following are minimum salt water drafts (TSW) for ships anticipating transit:

Length	Minumum drafts
Up to 425'	Trimmed so pilot can see the rangefs over the forecastle from center of navigation bridge.
Over 425' but not more than 475.0'.	8' forward, 14' aft, TSW.
Over 475' but not more than 525.0'.	18' forward, 20' aft, TSW.
Over 525' but not more than 580.0'.	20' forward, 22' aft, TSW.
Over 580' but not more than 625.0'.	22' forward, 24' aft, TSW.
Over 625'	24' forward, 26' aft, TSW.

(2) The vessel's drag must not adversely affect maneuverability.

(3) The following table provides the limiting drafts due to bilge radius:

TABLE OF LIMITING DRAFTS DUE TO BILGE RADIUS CONTACTING CHAMBER BATTERS

[Allows for 8-inch thick rubber fenders on lock walls at batter locations]

	Radius of turn of bilge (feet)				
	1'	2'	3'	4'	5'
0"	35'8"	36'8"	37'4"	38'2"	39'0"
1"	35'9"	35'7"	37'5"	38'3"	39'1"
2"	35'10"	36'8"	37'6"	36'4"	39'2"
3"	35'10"	36'8"	37'6"	38'5"	39'3"
4"	35'11"	36'9"	37'7"	38'5"	39'3"
5"	36'0"	36'10"	37'8"	38'6"	39'4"
6"	36'1"	36'11"	37'9"	38'7"	39'5"
7"	36'2"	37'0"	37'10"	38'8"	39'6"
8"	36'3"	37'1"	37'11"	38'10"	
9"	36'3"	37'1"	38'0"	38'10"	
10"	36'4"	37'2"	38'0"	38'10"	
11"	36'5"	37'3"	38'1"	38'11"	

Example: To find draft of ship having a radius-of-turn-of-bilge of 4'4" read across top of table to column headed 4' thence down column opposite 4 inches—Read 38'5".

Note: *Dead Rise* not included in above tabulations and must be aded to above readings.

(e) *Maximum length.*

(1) The maximum length overall, including bulbous bow, for a commercial vessel acceptable for regular transit is 900.0 feet, except passenger and container ships which may be 950.0 feet in overall length.

(2) The maximum length for integrated tug-barge combination acceptable for regular transit is 900.0 feet overall, including the tug. A tug-barge combination must transit together as one unit, with the tug supplying the propelling power.

(3) The maximum aggregate overall length for non-self-propelled vessels acceptable for transit is 850.0 feet, including accompanying tugs. Accompanying tugs must lock through with the non-self-propelled vessel.

(f) *Maximum beam.*

(1) The maximum extreme beam for a commercial vessel and the integrated tug-barge combination acceptable for regular transit is 106.0 feet.

(2) In the discretion of the Chief, Navigation Division or his designee, commercial vessels, including integrated tug-barge combinations, having an extreme beam of between 106.0 and 107.0 feet may be permitted to transit on a one-time basis only if the deepest point of immersion does not exceed 37.0 feet TFW.

(3) The maximum extreme beam for non-self-propelled vessels (other than integrated tug-barge combinations) acceptable for transit is 100.0 feet.

(g) *Previous approvals and one-time transits.* Vessels approved for regular transit prior to December 20, 1976 whose maximum lenght or beam slightly exceed the limits set forth in paragraphs (e) and (f) may continue to transit on a regular basis. After that date, approval

will not be given for transit of other commercial vessels whose extreme beam exceeds 106.0 feet by any amount, except for vessels transiting on a one-time delivery basis.

(h) *Release from Liability.* If a vessel having a draft of less than the minimum authorized draft provided in paragraph (d) of this section or one having a beam in excess of 106.0 feet is permitted to transit on a one-time basis, such vessel may do so only at its own risk and, to the extent and in proportion that such failure to meet the requirements of this section proximately causes or contributes to a casualty and resulting damages, the Master of such vessel, on behalf of said vessel, her owners, operators, or any other person having an interest in her, and for himself, will be considerd to have released the Panama Canal Commission and the United States from, and to have indemnifed them against, any loss, damage or liability incurred by the Panama Canal Commission or the United States under, or in respect to:

(1) Sections 1411 through 1416, inclusive, of Pub. L. 96–70, 93 Stat. 485–87;

(2) Property of the Panama Canal Commission or the United States; and

(3) Panama Canal Commission employees under the Federal Employees' Compensation) Act 5 U.S.C. 8101, *et seq.*, or any other employee compensation system. The Master of the vessel that fails to meet the requirements of this section may be required to execute, in the presence of a Commission official, a form undertaking to release the Panama Canal Commission and the United States from liability in case of an accident and to indemnify the Commission and the United States for any damages sustained. The failure of the Master of a vessel to sign such a form, however, will not relieve the vessel, her owners, or any other person having an interest in her from liability incurred as a result of the vessel's failure to meet the requirements of this section.

(i) *Denial of transit.* A vessel shall not be permitted to transit the Canal under the following circumstances:

(1) When the vessel's maximum point of immersion exceeds its maximum authorized draft;

(2) when the vessels's maximum point of immersion exceeds the published TWF maximum draft then in effect;

(3) when the length overall, including bulbous bow, exceeds that stated in paragraph (e) of this section, unless the vessel was approved for regular transit prior to March 16, 1981; or

(4) When the extreme beam exceeds that stated in paragraph (f) of this section by any amount, unless the vessel was approved for regular transit prior to March 10, 1981.

(j) *General.*

(1) Vessels of 100.0 feet beam and over whose list, trim or handling characteristics are such as to endanger themselves, Panama Canal appurtenances or a third party, may have such further limitations placed on them as Canal authorities deem necessary to insure reasonable safety.

(2) The draft of non-self-propelled barges of 550.0 feet or more in length may be limited when, in the opinion of Canal authorities, such a limit is necessary to insure reasonable safety.

(3) Non-self-propelled vessels, other than integrated tug-barge combinations, will be accepted only on an individual basis; advance permission for initial transit as a non-self-propelled vessel is required. Displacement of these vessels is limited to 35,000 tons and the draft requirements of paragraph (d) of this section are applicable. Riding crews must be provided in sufficient numbers, as required by the Chief, Navigation Division, to safely handle towboat lines and boarding ladders, and to assist in mooring.

(4) The numerous constraints affecting the transit schedules of vessels and tows make it important that information provided in advance of the initial transit of a vessel include a capacity plan, general arrangement plans, engine room plans, and whenever possible, a photostatic copy of national register, load line certificate and Panama Canal tonnage certificate. This advance information will minimize the time spent aboard the vessel by Panama Canal officials before commencement of the initial transit.

(23) Section 103.7 is revised as follows:

§ 103.7 Temporary holding of vessels.

The Canal authorities may hold a vessel for the purpose of investigating a marine accident under Parts 115 or 117 of this chapter. A vessel may also be held until, in the opinion of the Canal authorities, its tenderness, trim, list, cargo, hull, machinery, and equipment have been put into such condition as will make the vessel reasonably safe for her passage through the Canal. No claim for damages shall be allowed or considered because of any such temporary holding of vessels.

(24) Section 103.10(e) is revised as follows:

§103.10 Vessels required to be equipped with certain indicators.

* * * * *

(e) Any vessel which fails to meet the requirements of this section may be denied transit. If the Canal authorities decide that a vessel can be handled without undue danger to equipment or to personnel, notwithstanding her failure to comply with other requirements of this section, and permit her to transit, such vessel may do so only at its own risk and, to the extent and in the proportion that such failure to meet the requirements of this section proximately causes or contributes to a casualty and resulting damages, the Master of such vessel, on behalf of said vessel, her owners, operators or any other persons having any interest in her and for himself, will be considered to have released the Panama Canal Commission and the United States from, and to have indemnified them against, any loss, damage or liability incurred by Panama Canal Commission or the United States under, or in respect to:

(1) Sections 1411 through 1416, inclusive, of Pub. L. 96–70, 93 Stat. 485–87.

(2) Property of the Panama Canal Commission or the United States; and

(3) Panama Canal Commission employees under the Federal Employees' Compensation Act, 5 U.S.C. 8101, *et seq.*, or any other employee compensation system. The Master of the vessel that fails to meet the requirements of this section may be required to execute, in the presence of a Commission official, a form undertaking to release the Panama Canal Commission and the United States from liability in case of an accident and to indemnify the Commission and the United States for damages sustained. The failure of the Master of a vessel to sign such a form, however, will not relieve the vessel, her owners, or any other person having an interest in her from liability incurred as a result of vessel's failure to meet the requirements of this section.

(25) Section 103.12 is revised as follows:

§ 103.12 Discharge of firearms.

No firearms of any kind may be discharged from vessels while in Canal waters, except that authorized salutes by vessels of war will be permitted by prior arrangement with Canal authorities.

(26) Section 103.13 is revised as follows:

§ 103.13 Firing of salutes.

Vessels of war may not fire salutes while at a Commission dock, in the locks, or in Gaillard Cut.

(27) Section 103.14 is revised as follows:

§ 103.14 Colors and house flags.

During daylight, vessels in Canal waters shall display their colors and house flags.

(28) Section 103.15 is revised as follows:

§ 103.15 Boarding vessels at anchor or underway.

Except for members of the Canal boarding party, pilots, Republic of Panama boarding officials, and agents, in the performance of their official duties, and such other persons as may be authorized by Canal authorities, no person, with or without the consent of the Master, may board a vessel at anchor or underway in the Canal waters.

(29) Section 103.16 is revised as follows:

§ 103.16 Meals to be furnished by vessel in certain cases.

Vessels shall furnish meals to Panama Canal pilots without charge during the ship's regular meal hours and shall furnish a meal to the pilot between 2200 hours and 0400 hours if the vessel is transiting the Canal during such hours. In addition, vessels shall provide meals without charge during the ship's regular meal hours to any other Panama Canal Commission personnel, other than linehandlers, whose assignment will require them to be aboard the vessel for four or more hours. If a vessel is unable to furnish such meals, they may be furnished by the Panama Canal Commission at the expense of the vessel.

(30) Section 103.18 is revised as follows:

§ 103.18 Pilot ladders, hoists and side ports.

(a) A vessel shall, weather permitting, have both an accommodation ladder and a pilot ladder rigged and ready for use upon arrival in Canal waters.

(b) The pilot ladder shall be constructed and rigged in accordance with Regulation 17, Chapter V, International Convention for Safety of Life at Sea, 1974, TIAS 9700, except that:

(c) When the distance from the water line to the point of access of the vessel exceeds nine meters or 30 feet, a combination pilot ladder and short brow accomodation ladder must be provided for boarding purposes.

(d) A mechanical pilot hoist may be used for boarding officials and pilots only at their discretion, and provided that the design and construction of the hoist and ancillary equipment are in accordance with Regulation 17, Chapter V, International Convention for Safety of Life at Sea, 1974.

(e) When a mechanical pilot hoist is used, a ring buoy fitted with a lifeline and self-igniting light shall be available and ready for immediate use. The pilot ladder required by § 103.18(a) shall be in close proximity to the pilot hoist, ready for immediate use but lashed up so as not to intefere with the pilot hoist.

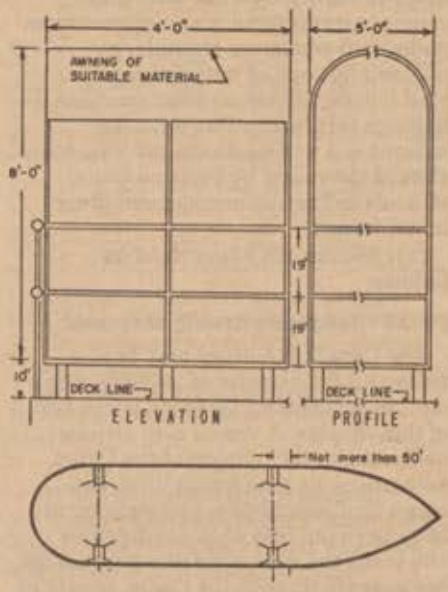
(f) When the side ports are used for boarding, the minimum vertical distance between the waterline and the bottom of the side port at any draft shall be six feet.

(31) Section 103.19 is revised as follows:

§ 103.19 Requirements for pilot platforms.

(a) Any vessel that, in accordance with Panama Canal operation standards, is required to have four pilots aboard, shall provide suitable pilot platforms for the assisting pilots. The purpose for the pilot platforms is to provide shelters from sun and rain for pilots working near the bow or the stern of a vessel and to provide adequate visibility around the Locks in order to reduce the danger of damage.

(b) The following is a sketch of a simplified pilot platform which is acceptable to the Panama Canal Commission:



(c) Each platform is to be erected over the furthest forward point of the extreme beam at the waterline and not more than six inches from the vertical plane of shell plating. For vessels of unorthodox design requiring aft platforms, they shall be erected at a position which is approximately over the aftermost point of extreme beam at the waterline and not more than six inches inboard from the vertical plane of shell plating.

(d) The awning indicated in the sketch in paragraph (b) of this section is to be made of suitable material to provide shelter from sun and rain. The deck of the pilot's platform is to be made of wood or other material with non-skid surface.

(32) Section 103.20 is revised as follows:

§ 103.20 Disabling of engines.

Except when specifically authorized by the Canal authorities, no vessel at any dock or mooring within Canal waters shall have its engines disabled or otherwise rendered inoperative.

(33) Section 103.21 is revised as follows:

§ 103.21 Precautions against emission of sparks, smoke or noxious gases.

Vessels in Canal waters shall take all necessary precautions to avoid the issuance of sparks, excessive smoke, or noxious gases.

(34) Section 103.22 is removed as follows:

§ 103.22 [Removed]

(35) Section 103.23 is removed as follows:

§ 103.23 [Removed]

(36) Section 103.24 is removed as follows:

§ 103.24 [Removed]

(37) Section 103.25 is revised as follows:

§ 103.25 Fishing or placing of nets or other obstructions prohibited.

No fishing nets or other obstructions shall be placed in any of the navigable waters of the Panama Canal. Fishing boats shall not anchor for the purpose of fishing nor haul nets or trawls in the anchorages or navigable channels of the Canal. Fishing from small craft in the anchorages or navigable channels of the Canal is prohibited.

(38) Section 103.26 is revised as follows:

§ 103.26 Obstructions not to be placed across channels or anchorages.

No line, pipe, or other obstruction shall be passed across any channel or anchorage so as to obstruct the passage of vessels.

(39) Section 103.27 (a), (b), (c) and (e) are revised as follows:

§ 103.27 Clear view forward from the bridge and steering light requirement for certain vessels.

(a) A vessel may not be navigated in Canal waters unless there is a clear, unobstructed view from the bridge.

(b) Vessels having a distance from the bridge to the stern of 250 feet or more shall have installed, at or near the stem, a steering range equipped with a fixed blue light which shall be clearly visible from the bridge along the centerline. If said range and light so placed would be partially or completely obstructed, then two such ranges and lights must be installed at an equal distance from the centerline and shall be clearly visible from the bridge along lines parallel to the keel.

(c) Naval or military vessels exempted from the requirements of Part 111 of this chapter shall also be exempt from the requirements of paragraphs (b), (d), and (e) of this section.

* * * * *

(e) The use of this steering light shall be at the discretion of the Panama Canal pilot who has control of the navigation and movement of the vessel.

(40) Section 103.28 is revised as follows:

§ 103.28 Towing of certain vessels required.

A vessel arriving at an entrance to the Canal and having a mean draft in excess of that allowed under the Load Line Regulations for the tropical zone, applicable for the voyage on which the vessel is engaged, as determined by the American Bureau of Shipping, Lloyd's Register or other acceptable certifying agency, is required to take the services of a Panama Canal tug or tugs from the Pacific entrance Channel Buoys 1 and 2 to Gamboa Reach, from the north end of Gatun Locks to Buoy 3 in the Atlantic harbor, and vice versa. However, in the instances where the overdraft is negligable, the assignment of a tug or tugs may be waived at the discretion of the Chief, Navigation Division or his designee. Any vessel without mechanical motive power, or the machinery of which is or becomes disabled, or which steers badly, or which is liable to become unmanageable for any reason, shall be towed through the Canal. The Canal authorities may require any vessel to take a tug or tugs through Gaillard Cut, in the approaches to the locks, or in any other part of the Canal, when in their judgment such action is necessary to insure reasonable safety to the vessel or to the Canal and its appurtenances. The tug service in any of these cases shall be chargeable to the vessel. The Master of a vessel which steers badly, or which is liable to become unmanageable for any reason, shall report such fact and request the services of a tug.

(41) Section 103.29 is revised as follows:

§ 103.29 Anchoring in Panama Canal waters.

No vessel shall anchor within the navigable waters of the Canal in other than a designated anchorage, except in an emergency, and no craft shall tie up to any aid-to-navigation in Canal waters.

(42) Section 103.30 is revised as follows:

§ 103.30 Requirements for all dead tows.

(a) *Preparation for Transit.*

(1) Upon arrival, the tug will break up the tow and secure the bridle so that no part of it extends below the surface of the water.

(2) Tows shall have the capability of anchoring.

(3) Tows will be inspected before being scheduled for transit.

(4) Agents, operators and owners will be responsible for making any required alterations or additions to equipment or stowage.

(5) Boarding facilities will comply with Regulation 17, Chapter V, International Convention for Safety of Life at Sea, 1974, TIAS 9700. There must be a clear passage, free of obstructions, from the boarding facility to all working areas, otherwise, catwalks with handrails and steps must be provided.

(6) The working area near chocks and bitts on all dead tows must be clear of obstructions and fitted with safety rails or lines at the vessel's sides.

(b) *Transit requirements.*

(1) Tows must provide a pilot shelter with a clear view forward, on the center line, approximately midway between the bow and stern. This shelter may be permanent or portable, but must protect the pilot from the elements. All tows with a beam in excess of 79.9 feet shall provide, in addition to the center line shelter, pilot shelters at the extreme beams from which the pilots may readily view the vessel's sides.

(2) Dead tows must be equipped with the chocks and bitts as set forth in § 109.6 of this chapter.

(3) Tows must provide mooring and heaving lines and have mooring arrangements, and bitts or cleats for securing tugs that do not interfeere with those chocks and bitts required for locomotive wires.

(4) All barges will be fitted so that a pusher tug can be secured with its stem held firmly to the center line of the barge. Pushing tugs are to be equipped with wire cable snubbers and springs.

(5) All barges will be required to have portable toilets on board prior to departure for transit.

(43) Section 103.32 (a) and (c) are revised as follows:

§ 103.32 Engine orders to be recorded.

(a) Except as provided in paragraph (b) of this section, every power-driven vessel over 250 feet in length, while navigating in Panama Canal waters under the control of a Panama Canal pilot, shall maintain a bridge bell book and an engine room bell book. The bridge bell book shall consist of a contemporaneous record of each engine order and the time it is transmitted from the bridge to the engine room. The engine room bell book shall consist of a contemporaneous record of each engine order and the time it is received in the engine room.

* * * * *

(c) The bell books and automatic recording referred to in paragraphs (a) and (b) of this section, the record of an automatic course recording device, if one is available, and any log books must be surrendered, upon request, to the pilot or to the Board of Local Inspectors or other Canal authorities for the purpose of inspection and reporduction.

(44) Section 103.34 is revised as follows:

§ 103.34 Same; control by Chief, Navigation Division.

The movement of vessels in Gaillard Cut shall be regulated by th Chief, Navigation Division, through Marine Traffic Control, or by such other persons and through such other stations or facilities as the Canal authorities may designate.

(45) Section 103.35 is removed as follows:

§ 103.35 [Removed]

(46) Section 103.36 is removed as follows:

§ 103.36 [Removed]

(47) Section 103.37 is removed as follows:

§ 103.37 [Removed]

(48) Section 103.38 is removed as follows:

§ 103.38 [Removed]

(49) Section 103.41 is removed as follows:

§ 103.41 Ships to display schedule number.

Each ship shall display throughout her transit, the flag or flags designating the schedule number on which it is running.

(50) Section 103.41a is redesignated as § 103.42 as follows:

§ 103.41a [Redesignated as § 103.42]

PART 105—PILOTAGE

Part 105 is amended as follows:

(51) Part 105 authority citation is revised as follows:

Authority: Issued under authority vested in the President by sec. 1801, Pub. L. 96-70, 93 Stat. 492; EO 12215, 45 FR 36043.

(52) Section 105.1 is revised as follows:

§ 105.1 Pilots required.

(a) Except as provided by §§ 105.2 and 105.3, or by paragraph (c) of this section, no vessel shall pass through, enter or leave the Canal, or maneuver in the Canal or waters adjacent thereto, including the ports of Cristobal and Balboa, without having a Panama Canal pilot on board.

(b) Normally a vessel will, unless advised to the contrary by the Chief, Navigation Division or his designee, be boarded by the Panama Canal pilot inside the breakwater at a point north of the Mole Beacon at the Atlantic entrance and in the Merchant Vessel Anchorage to seaward of Buoys 1 and 2 at the Pacific entrance.

(c) In conformity with past practice, vessels anchored in Anchorage Area C and Anchorage Area F, as shown in the Pilot Handbook, Limon Bay Chart, may proceed to sea without a Panama Canal Pilot on board. All such vessels, prior to getting underway, must obtain permission to depart from the Cristobal Signal Station.

(d) Whenever the Administrator finds there is a critical shortage of certified Panama Canal pilots available for movement of vessels in Canal waters, he may suspend the rule on compulsory pilotage set out in paragraph (a) of this section. The Administrator shall impose such conditions upon the suspension of the rule, with respect to any given vessel, as are reasonable and appropriate to protect human life and property and to safeguard the facilities of the Panama Canal.

(53) Section 105.2 is revised as follows:

§ 105.2 Exemptions from compulsory pilotage.

The following vessels are exempt from compulsory pilotage, except when the Chief, Navigation Division or his designee considers a pilot necessary; nevertheless a pilot will be furnished any such exempted vessel if requested by the commanding officer or Master thereof:

(a) Local craft such as United States Army and United States Navy minesweepers, landing craft, patrol boats and tugs, and Panama Canal Commission tugs and equipment, except as limited by paragraph (c) of this section.

(b) Any vessel that makes frequent calls to Canal waters and whose current officers and crew are, in the opinion of the Chief, Navigation Division or his designee, capable, by reason of such frequent calls and otherwise, of safely navigating within Canal waters and are so certified, except as limited by paragraph (c) of this section.

(c) Vessels and craft enumerated in paragraphs (a) and (b) of this section may be permitted to transit the Canal without a pilot when in the opinion of the Chief, Navigation Division or his designee, the current officers and crew have the necessary experience and ability to make safe transit and such transit is specifically approved. Whenever any such vessel or craft makes transit without a pilot, the Chief, Navigation Division or his designee shall dispatch it with a larger vessel carrying a pilot and it shall lock through with that vessel. The Chief, Navigation Division or his designee shall control the movements of such vessel or craft through Gaillard Cut so as the minimize the danger of its being a navigational hazard to larger vessels.

(d) Any other vessel or craft as and to the extent exempted by the Marine Director.

(54) Section 105.3 is revised as follows:

§ 105.3 Vessels in distress.

A vessel in danger or distress is not prohibited from entering the waters of the Canal any time, but such vessel shall, when practicable, give due notice in advance, by radio or otherwise, and obtain a pilot, if possible. Such vessel shall, except in an emergency, anchor in the designated anchorage area.

(55) Section 105.4 is revised as follows:

§ 105.4 Pilotage charges.

Pilotage for vessels in transit through the canal is free, but whenever any vessel requires a pilot for other than transit, it is liable for the applicable pilotage charge.

PART 107—MANNING OF VESSELS: REQUIREMENTS CONCERNING OFFICERS AND CREW

Part 107 is amended as follows:

(56) Part 107 authority citation is revised as follows:

Authority: Issued under authority vested in the President by sec. 1801, Pub. L. 96-70, 93 Stat. 492; EO 12215, 45 FR 36043.

(57) Section 107.1 is revised as follows:

§107.1 Vessels to be fully manned.

A vessel navigating the waters of the Canal shall be sufficiently manned in officers and crew to permit safe handling of the vessel. The Canal authorities may deny transit of the Canal to any vessel which, in their opinion, is insufficiently manned as to officers and crew.

(58) Section 107.2 is revised as follows:

§ 107.2 Crew on watch.

(a) When underway in Canal waters, a vessel shall keep a full watch on deck and in the engine room. When approaching a lock, moored temporarily to a lock wall or when in a lock chamber, a vessel shall, when so requested by the pilot, have sufficient seamen forward and aft to handle lines expenditiously.

(b) Except as provided in subsection (c), when anchored, moored, or lying at a Panama Canal Commission pier a vessel shall at all times have on board at least one qualified deck officer, one qualified engineer officer familiar with the machinery and layout of the vessel, and sufficient crew to provide for the safety of the vessel.

(c) The manning levels of Commission vessels shall be determined by the Marine Director of his designee.

(59) Section 107.3 (b) is revised and (c) is added as follows:

§ 107.3 When Master and officers must be on bridge or at other regular stations.

* * * * * * *

(b) At all other times when a vessel is moving in Canal waters, the Master of the vessel, or his qualified representative, shall be present on the bridge and shall keep the pilot informed concerning the individual peculiarities in the handling of the vessel so that the pilot may be better able to control the navigation and movement of the vessel. All other officers shall be at their regular stations throughout the maneuvers described herein.

(c) The Master, or his qualified representative, shall ensure at all times that the pilot's orders are promptly and properly carried out by the vessel's personnel.

* * * * *

PART 109—ENTERING AND PREPARING TO ENTER THE LOCKS

Part 109 is amended as follows:

(60) Part 109 authority citation is revised as follows:

Authority: Issued under authority vested in the President by sec. 1801, Pub. L. 96-70, 93 Stat. 492; EO 12215, 45 FR 36043.

(61) Section 109-3 is revised as follows:

§109.3 Same; permits.

Permits for embarking or disembarking at the locks may be issued in the discretion of the Chief, Navigation Division or his designee.

(62) Section 109.6 is revised as follows:

§ 109.6 Construction, number, and location of chocks and bitts.

(a) The Chief, Navigation Division or his designee is responsible for determining if vessels arriving for transit are properly equipped. The Navigation Division is also responsible for the approval of new construction requirements concerning chocks and bitts which are utilized for locomotives and tugs, relay operations, tie-up operations, boarding facilities, and wheelhouse design features, including visability factors.

(b) All chocks for towing wires shall be of heavy closed construction and shall have a convex bearing surface with a radius of not less than seven inches (178 milimeters). The convex surface shall extend to that a wire from the bitt, or from the towing locomotive through the chock, shall be tangent to the seven-inch (178 milimeter) radius at any angle up to 90 degrees with respect to a straight line through the chock.

(c) No part of the vessel which may be contacted by the towing wires, at any angle, shall have less than a seven-inch radius.

(d) Chocks designated as single chocks shall have a throat opening of not less than 100 squire inches (645 square centimeters) in area-preferred dimensions are 12 x 9 inches (305 x 229 milimeters)—and shall be capable of withstanding a strain of 100,000 pounds (43,331 kilograms) on a towing wire from any direction.

(e) Chocks designated as double chocks shall have a throat opening of not less than 140 square inches (903 square centimeters) in area-preferred dimensions are 14 x 10 inches (356 x 254 milimeters)—and shall be capable of withstanding a strain of 140,000 pounds (64,000 kilograms) on the towing wires from any direction.

(f) Use of roller chocks is permissible provided they are not less than 14.94 meters (49 feet) above the waterline at the vessel's maximum Panama Canal draft and provided they are in good condition, meet all of the requirements for solid chocks as specified in paragraphs (a), (b), (c), and (d) of this section, as the case may be, and are so fitted that transition from the rollers to the chock body will prevent damage to towing wires.

(g) Each single chock shall have an accompanying bitt capable of withstanding a strain of 100,000 pounds (45,331 kilograms).

(h) Each double chock located at the stem and at the stern, in accordance with paragraph (h) of this section, shall have two pairs of heavy bitts with each bitt of each pair capable of withstanding a strain of 100,000 pounds (45,331 kilograms). Other double chocks shall have a pair of heavy bitts with each bitt capable of withstanding a strain of 100,000 pounds (45,331 kilograms).

(i) All vessels, except a vessel not requiring locomotives, shall be fitted with a double chock set athwartships right in the stem and another double chock set athwartships right in the stern, except that on vessels of less than 75 feet beam, two single chocks may be substituted for each double chock required by this subsection; on vessels of over 75 feet beam, two double chocks may be substituted for each double chock required by this section. If such substitution is made, the chocks shall be placed port and starboard not more than eight feet abaft the stem or 10 feet forward of the stern, provided that these chocks are not more than 10 feet from the center line of the vessel.

(j) Vessels under 60.06 meters (200 feet) in length and not exceeding 9.14 meters (30 feet) in beam shall have a double chock or two single chocks at the stem and stern. If the vessel is equipped with the two single chocks, they shall be placed, port and starboard, not more than eight feet abaft the stem or 10 feet forward of the stern, and not more than 10 feet off the center line.

(k) Vessels 60.96 to 121.92 meters (200 to 400 feet) in length and not exceeding 22.86 meters (75 feet) in beam shall have a double chock at the stem and at the stern or two single chocks at the bow and stern, port and starboard, not more than eight feet abaft the stem or 10 feet forward of the stern and not more than 10 feet off the center line and shall have two additional single chocks, port and starboard, nine to 16 meters (30 to 50 feet) abaft the stem and nine to 16 meters (30 to 50 feet) forward of the stern.

(l) Vessels 121.92 to 173.74 meters (400 to 570 feet) long and not more than 22.86 meters (75 feet) in beam shall have a double chock at the stem and stern or two single chocks at the bow and stern, port and starboard, and in addition shall have a chock, port and starboard, 12 to 16 meters (40 to 50 feet) abaft the stem, a single chock port and starboard, 24 to 28 meters (80 to 90 feet) abaft the stem, and a single chock, port and starboard, 12 to 16 meters (40 to 50 feet) forward of the stern.

(m) Vessels over 173.74 meters (570 feet) long or 22.86 meters (75 feet) in beam or over shall have a double chock at the stem and stern; a double chock, port and starboard, 24 to 28 meters (80 to 90 feet) abaft the stem; a double chock, port and starboard, 12 to 16 meters (40 to 50 feet) forward of the stern and a single chock, port and starboard, 24 to 28 meters (80 to 90 feet) forward of the stern.

(n) Vessels with large flared bows or unusually high freeboard such as container vessels or vehicle carriers will be required to provide single closed chocks located further aft than those required in paragraph (1) of this section for correct positioning of assisting tugs or may be required to fit recessed tug bollards into the hull so the tugs can work without coming in contact with the bow flare or having extra long lines and/or inefficient leads.

(o) A vessel not requiring locomotives shall have a chock arrangement similar to that described in paragraph (i) of this section, except that the chocks need only be single chocks or, if approved by the Canal authorities, of lesser strength.

(p) Any vessel which fails to meet the requirements of this section may be denied transit. If the Marine Director or his representative decides that such a vessel can be handled without undue danger to equipment or to personnel, notwithstanding her failure to comply with other requirements of this section, and allows it to transit, such vessel may do so only at its own risk and, to the extent and in proportion that such failure to meet the requirements of this section proximately causes or contributes to the casualty and resulting damages, the Master of such vessel, on behalf of said vessel, her owners, operators, or any other persons having any interest in her, and for himself, will be considered to have released the Panama Canal Commission and the United States from, and to have indemnified them against, any loss, damage, or liability incurred by the Commission or the United States under, or in respect to:

(1) Section 1411 through 1416, inclusive, of Pub. L. 96-70, 93 Stat. 485-87;

(2) Property of Panama Canal Commission or the United States; and

(3) Panama Canal Commission employees under the Federal Employees' Compensation Act, 5 U.S.C. 8101, *et seq.*, or any other employee compensation system. The Master of the vessel that fails to meet the requirements of this section may be required to execute, in the presence of a Commission official, a form undertaking to release the Panama Canal Commission and the United States from liability in case of an accident and to indemnify the Commission and the United States for damages sustained. The failure of the Master of a vessel to sign such a form, however, will not relieve the vessel, her owners, or any other person having an interest in her from liability incurred as a result of the vessel's failure to meet the requirements of this section.

PART 111—RULES FOR THE PREVENTION OF COLLISIONS

Part 111 is amended as follows:

(63) Subpart E table of contents is revised as follows:

Subpart E—Miscellaneous

Sec.
111.201 Distress Signals.
111.202 Orders to helmsman.
111.203 Diving operations; industrial and commercial; recreational skin diving; light, flag.
111.204 Water skiing prohibited.
111.205 Operation of small craft and recreation vessels on the Canal waters.
111.206 Lookout.

(64) Part 111 authority citation is revised as follows:

Authority: Issued under authority vested in the President by sec. 1801, Pub. L. 96-70, 93 Stat. 492; EO 12215, 45 FR 36043.

(65) Section 111.1 is revised as follows:

§ 111.1 Application of Part.

The provisions of this Part shall be applicable to vessels and seaplanes upon the navigable waters of the—

(a) Canal operating areas, as the same are described in Annex A of the Agreement in Implementation of Article III of the Panama Canal Treaty of 1977, and as they are depicted on Attachment I to that Annex, between a line connecting the East Breakwater Light and the West Breakwater Light at the Atlantic Entrance to the Canal in Limon Bay and a line passing through Channel Buoys 1 and 2 extended to the Canal boundary lines at the Pacific Entrance in Panama Bay; and

(b) Ports of Balboa and Cristobal. Upon all waters of the Canal to seaward, outside these limits, the International Rules apply. Where any naval or military vessel of special construction as certified by the Secretary of the Navy or the Secretary of Transportation in the case of Coast Guard vessels operating under the Transportation Department, or by a corresponding official of a state, other than the United States, shall by virtue of statute, convention or treaty, be exempted from compliance with the International Rules, such vessel shall similarly be exempted from compliance with any corresponding requirement under the provisions of this Part.

(66) Section 111.58 (d) is revised as follows:

§ 111.58 Lights and shapes; vessel at anchor.

* * * * *

(d) Vessels not more than 65 feet in length when at anchor in any special anchorage designated by the Chief, Navigation Division for such vessels shall not be required to carry or exhibit the white light specified in paragraph (a) of this section, nor the black ball specified by paragraph (c) of this section.

(67) Section 111.150 (a) and (e) are revised as follows:

§ 111.150 Overtaking vessels.

(a) Notwithstanding anything contained in this Part, every vessel overtaking another shall keep out of the way of the overtaken vessel except that within the Canal channel all pleasure vessels and craft, even though they are an overtaken vessel, shall keep out of the way of transiting vessels and Panama Canal Commission floating equipment.

* * * * *

(e) Except as specially authorized by the Chief, Navigation Division, an overtaking power-driven vessel shall not overtake and pass another power-driven vessel in Gaillard Cut, Mamei Curve or Bohio Bend between buoys 38 and 40: *Provided, however,* that this paragraph shall not apply where either the overtaking or the overtaken vessel is less than 150 feet in length or is a Panama Canal Commission power-driven vessel or a U.S. Army or U.S. Navy local tug, with or without a tow.

(68) Section 111.155 is removed as follows:

§ 111.155 [Removed]

(69) Section 111.161 (d) and (e) are revised as follows:

§ 111.161 Speed and maneuvering of vessels in fog, mist, etc.

* * * * *

(d) Except as provided in paragraph (e) of this section, vessels moored or at anchor shall not get underway when, because of atmospheric conditions, visibility is less than 1,000 feet and vessels underway in such conditions shall anchor or moor as soon as practicable and report immediately to the Chief, Navigation Division by radio or other available means.

(e) Vessels specially equipped to navigate under conditions restricting visibility and which have a pilot aboard, and vessels which have a pilot aboard and which are assisted by Panama Canal Commission vessels which are specially equipped to navigate under such conditions, may, at the discretion of the Canal authorities, be navigated when visibility is less than 1,000 feet.

(70) Section 111.162 is amended by revising (b), (c), and (d) as follows:

§ 111.162 Maximum speeds.

* * * * *

(b) A vessel in Panama Canal waters at locations other than those specified in paragraph (a) of this section, including Gatun Anchorage, when rounding Bohio and Darien bends, Miraflores Lake, and in or near the locks, shall not exceed a speed that is safe under the existing circumstances and conditions, except in an emergency.

(c) The Chief, Navigation Division may authorize departures from the maximum speeds established by this section in the case of particular vessels whose handling characteristics are such as to indicate that a higher speed or speeds can be prudently allowed.

(d) This section does not apply to motorboats, as defined in § 111.163(b), or to vessels of the Panama Canal Commission.

(71) Section 111.163(a) is revised as follows:

§ 111.163 Same; motorboats and Panama Canal Commission vessels.

(a) Motorboats and vessels of the Panama Canal Commission when underway shall proceed at a speed which is reasonable under the existing circumstances and conditions and which does not create a hazard to life or property.

* * * * *

(72) Section 111.203 (a) and (b) are revised as follows:

§ 111.203 Diving operations; industrial and commercial; recreational skindiving; light, flag.

(a) When industrial or commercial diving operations are underway in the Canal, or waters adjacent thereto, a revolving red light shall be displayed in all weathers from sunset to sunrise from the diving barge of other craft serving

the diver. The light shall be so mounted and of sufficient intensity as to be visible for not less than 1 mile. A flag of the type described in paragraph (b) of this section shall be displayed from such craft from sunrise to sunset. Vessels approaching or passing an area where diving operations are underway shall reduce speed sufficiently to avoid creating a dangerous wash or wake.

(b) Recreational skindiving in waters of the Canal, including Gaillard Cut and the Channel through Gatun and Miraflores Lake and in the waters of all ship's anchorages is prohibited unless authorized in writing by the Chief, Navigation Division. Authorization shall not be given for skindiving at night. When recreational skindiving activities are underway in the Canal, or waers adjacent thereto, a flag with a hoist or height of not less than 12 inches land a fly or length of not less than 18 inches and having a red background and a 3½ inch diagonal white stripe, running from the upper corner of the staff end of the flag to the lower corner of the outside end of the flag, shall be displayed from the mast of the craft serving the skindiver. Flags larger than the foregoing minimum dimensions shall preserve the same proportions. Vessels approaching an area where such skindiving activities are underway shall reduce speed sufficiently to avoid creating a dangerous wash or wake.

* * * * *

(73) Section 204 is revised as follows:

§ 111.204 Water skiing prohibited.

No person shall operate a motorboat or other vessel in or across the navigable channels or merchant vessel anchorages while towing a person or persons on water skis, or aquaplane or similar device at any time.

(74) Section 111.205 is revised as follows:

§ 111.205 Operations of small craft and recreational vessels on the Canal waters.

(a) For the purpose of this section, a small craft is defined as any vessel which is not required to have the assistance of locomotives when transiting the locks and public vessels not engaged in official business.

(b) A small craft shall not be operated by any person who is intoxicated or who is a habitual user, or under the influence of any narcotic drug or who is under the influence of any other drug to a degree which renders him incapable of safely operating the craft or vessel. The fact that one lawfully is or has been using any drug shall not constitute a defense against a charge of violating this section.

(c) No person shall operate a small craft so close to a transiting or other vessel so as to hamper the safe operation of either vessel; nor shall any person operate a small craft in a negligent manner so as to endanger life or property.

(d) No person shall operate a small craft in the navigation channel of the Canal except when such operation is incidental to movement between points on either side of the navigation channel.

(75) Section 111.206 is revised as follows:

§ 111.206 Lookout.

Every vessel shall at all times while underway in Canal and adjacent waters maintain, at or near the bow, a proper lookout by sight and hearing as well as by all available means appropriated in the prevailing circumstances and conditions so as to make a full appraisal of the situation and the risk of collision. The person acting as lookout shall have no other assigned duties and shall report promptly all relevant and material observations to the person in charge of the navigation of his vessel.

(76) Section 111.207 is removed as follows:

§ 111.207 [Removed.]

(77) Part 113 is revised as follows:

PART 113—DANGEROUS CARGOES

Subpart A—General Provisions.

Sec.

Subpart B—Vessel and cargo requirements

Subchapter C—Cargo Handling in Canal waters

Authority: Issued under authority vested in the President by sec. 1801, Pub. L. 96-70, 93 Stat. 492; EO 12215, 45 FR 36043.

Subpart A—General Provisions

§ 113.1 Definition and classification of dangerous cargoes; reporting requirements.

(a) The definition and classification of dangerous cargoes shall be in accordance with the regulations used by the United States Coast Guard or other national or international regulatory authorities recognized by the United States Coast Guard for that purpose, but in case of doubt as to the explosive nature of any commodity, or in case of conflict as to its classification, determination of the nature and classification of such cargoes shall be made by the Chief, Navigation Division or his designee.

Cross Reference: Title 46 CFR, Chapter I

(b) Dangerous cargoes include all explosives, solid and liquid hazardous materials, all petroleum products in bulk and nuclear materials. Vessels carrying petroleum products having a flashpoint greater than 80°F and classified lower than Grade C under the U.S. system, or having a flashpoint greater than 23°C and classified higher than 3.2 under the Inter-Governmental Maritime Consultative Organization (IMCO) system are not considered to be carrying dangerous cargo for purposes of these restrictions.

(c) Normal operational restrictions will generally apply unless dangerous cargoes are carried in bulk. Liquid is considered to be in bulk unless contained in portable tanks of less than 100 U.S. gallons (or packaged in accordance with 49 CFR or IMCO regulations) which are loaded and discharged with their contents intact. Solids are in bulk form when transported without mark or count which are loaded without containers or wrappers into holds. Explosives are considered in bulk if a vessel is carrying over 5 long tons.

(d) Additional operating restrictions may be imposed by the Chief, Navigation Division or his designee on vessels carrying especially hazardous materials such radioactive material, Class A and B poisons and corrosives in other than bulk amounts.

(e) Vessels carrying dangerous cargo (including liquefied gases) in bulk will anchor in designated explosive anchorages as provided by § 113.3.

(f) Vessels carrying hazardous materials or dangerous cargoes shall send a report at least twenty-four hours prior to transit stating that all hazardous cargo alarms, safety and shutdown devices, including ship's firefighting systems, have been tested and are in

good working order. There will be periodic inspections by Canal authorities to ensure compliance with appropriate United States or IMCO rules and regulations.

§ 113.2 Anchorage areas for ships loaded with dangerous cargoes.

The anchorage areas for ships loaded with explosives or with highly volatile products are designated as follows:

(a) *Atlantic end.* (1) Inside area included in rectangle are thousand yards wide immediately south of West breakwater starting at a point on West breakwater one thousand yards from West Breakwater Light and thence extending westward 2,000 yards along breakwater.

(2) Outside area bounded by a line from Point A at position 9° 23' 53"N, 79° 56' 29"W thence to Point B at position 9° 24' 40"N, 79° 56' 29"W thence to Point C at position 9° 24' 40"N, 79° 57' 00"W thence to Point D at position 9° 23' 53"N, 79° 57' 00"W thence to Point A.

(b) *Pacific end.* Area south of Naos Island bounded on the east by a line drawn south (true) from entrance gas buoy no. 1; on the south by a line drawn east (true) from Tortolita Island, and in the north and west by the curve of 30 foot depth.

§ 113.3 Vessels to anchor and wait instructions.

(a) Vessels carrying dangerous cargoes in bulk or more than 5 tons of explosives as defined by § 113.1(a) or tankers in ballast which are not gas free shall anchor in the outside explosive anchorage on the Atlantic end or the explosive anchorage in Pacific end, as described in §§ 113.2(a)(2) and 113.2(b) respectively. Such vessels will be allowed alongside Commission wharves in Canal waters only as prescribed in § 113.5 and each case will be handled individually by the Chief, Navigation Division, or his designee.

(b) Vessels arriving on the Atlantic side and carrying dangerous cargo in bulk will anchor in the outside anchorage. These vessels shall not enter the breakwater until given orders to do so. Such orders will be issued through the appropriate Commission signal station by the Canal authorities. Orders will be given only after the pilot is standing by to board and has received the assurance from the signal station that there are no outbound vessels. When weather and boarding conditions permit, the pilot may board outside the breakwater. On northbound vessels carrying dangerous cargo bound for sea, the pilot must remain on the bridge until the vessel passes the Mole Buoy. The pilot shall not leave the bridge until he has arranged with Marine Traffic Control and the signal station for one-way traffic outbound through the breakwater.

§ 113.4 Transit restrictions.

To better assure the safe passage of vessels carrying dangerous cargo, the following transit restrictions will apply:

(a) Pilots shall be notified that the letter "B" (BRAVO) will be added to the transit schedule number and flown as part of the schedule number and flown as part of the schedule flag hoist by the ship. It will also be used by pilots and traffic controllers in calling via radio or referring to the vessel.

(b) Such vessels, (hereinafter referred to as "B" vessels) shall have safety towing pendents ready at hand, fore and aft, prior to entering the locks and rigged fore and aft, over the side, when anchoring or mooring in the Canal waters.

(c) "B" vessels and other vessels shall meet at a safe speed and shall, as far as practicable, avoid meeting on turns.

(d) "B" vessels shall not be scheduled to overtake or be overtaken by other vessels. If an overtaking situation occurs between a "B" vessel and another vessel, due care must be exercised by both vessels.

(e) When "B" vessels are required to anchor in Gatun anchorage, they shall be anchored well clear of the channel and as clear of other shipping as conditions permit. "B" vessels shall not be moored at Gamboa without prior approval of Chief, Navigation Division.

(f) Normally, there will be no tandem restrictions on "B" vessels unless the nature of the cargo or the condition of the vessel so indicates. In such instances, the appropriate restrictions will be imposed by competent authority.

(g) Insofar as possible, the Navigation Division will avoid scheduling a "B" vessel to enter a lock chamber where another vessel is clearing, or to clear a lock chamber where another vessel is entering. In case this type of scheduling is unavoidable, the pilot of the entering vessel will hold back to allow the departing vessel adequate maneuvering room.

(h) Tug assistance at the locks and in Gaillard Cut shall be assigned to "B" vessels if, in the judgment of the appropriate Canal authority, or upon request of the pilot, the assignment is required.

(i) Vessels possessing a valid Letter of Compliance from the United States Coast Guard will be accepted for transit within the restrictions outlined in the letter.

§ 113.5 Places for loading and discharging explosives; restrictions.

(a) The explosive dock at Mindi is hereby designated for loading and discharging explosive cargo. Explosive anchorages prescribed in § 113.2 may be used upon approval by the Chief, Navigation Division or his designee.

(b) The Chief, Navigation Division or his designee upon application may grant authority to discharge explosives, whether designated for civilian or military use, at Commission docks and piers within Canal waters in an emergency or when the character or packing of the explosives justifies such discharge.

Subpart B—Vessel and cargo requirements

§ 113.21 Application.

This subpart does not apply to vessels of war or auxiliary vessels, as those terms are defined in the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal (September 7, 1977). It does apply to all other vessels, regardless of character, tonnage, size, service, and whether self-propelled or not, and whether arriving or departing, underway, moored, anchored, aground, transiting or passing through Canal waters.

§ 113.22 Applicable regulations and standards

All vessels within Canal waters carrying dangerous cargo shall be in substantial compliance with U.S. Government regulations applicable to U.S. flag vessels or regulations of other national or international regulatory authorities meeting Inter-Governmental Maritime Consultative Organization (IMCO) standards in effect for the product carried, providing such vessels are acceptable for entering waters over which the U.S. Coast Guard has jurisdiction. This requirement encompasses the construction, maintenance, inspection, certification and classification of the vessel, its safety, equipment, and its cargo handling system; the packaging, stowage, storage, marking, maintenance, handling, inspection and certification of cargo, and the operation of the vessel including crew requirement.

§ 113.23 Irradiated fuel elements and special nuclear materials; shipments originating in, or destined to, a port of the United States

A vessel carrying irradiated fuel elements or special nuclear materials originating in, or destined to, a port of the United States, shall comply with all regulations issued by the United States

Nuclear Regulatory Commission, the United States Department of Transportation and the United States Coast Guard with regard to the packaging, handling, stowage, storage, and movement of such cargo and the precautionary measures to be taken in connection therewith. In addition, the following requirements apply to the carrying of such cargo by such a vessel:

(a) A vessel carrying such cargo must obtain in advance approval from the Panama Canal Commission.

(b) Any cask containing irradiated fuel elements, or special nuclear materials, together with any attachments thereto, may not weigh more than 150 tons.

(c) Upon arrival at the Canal of a vessel carrying such cargo, the Master shall deliver to the boarding officer a loading certificate issued by the United States Coast Guard, or, if no such loading certificate is available, a declaration as follows:

Declaration of Irradiated Fuel Elements or Special Nuclear Materials Carried

I, the undersigned ———————, Master of the ——————— carrying (Irradiated Fuel Elements) (Special Nuclear Materials which are ———————) do hereby declare and certify on behalf of the owners of the vessel that (Irradiated Fuel Elements) (Special Nuclear Materials) were loaded at the port of ———————, and were packed and stowed in accordance with regulations of the U.S. Nuclear Regulatory Commission, the U.S. Department of Transportation and the U.S. Coast Guard.

The materials are in hold(s) ——————— or on deck in the following locations ———————. The packaging and stowing has not been disturbed since leaving the port of ———————.

(Master's signature) ———————

(Date) ———————.

§ 113.24 Irradiated fuel elements and special nuclear materials; shipments not originating in or destined to a port of the United States.

A vessel carrying irradiated fuel elements or special nuclear materials not originating in, or destined to, a port of the United States, may not transit the Canal or enter Canal waters unless prior permission therefore has been obtained from the Canal authorities. Such permission may not be granted without adequate provision for indemnity covering public liability and loss to the United States or any agency thereof, comparable in general scope to the protection afforded under section 170 of the United States Atomic Energy Act of 1954, as amended, 68 Stat. 919, 71 Stat. 576.

§ 113.25 Certification by Commission.

Vessels arriving at the Canal without prior permission of proper documentation attesting to compliance with these regulations may, after inspection by the Chief, Navigation Division or his designee, be issued a certification to enter or transit through the waters of the Canal for one or more trips. Such permission may not be granted without adequate provision for indemnity covering public liability and loss to the United States or any agency thereof, comparable in general scope to the protection afforded under section 170 of the United States Atomic Energy Act of 1954, as amended, 68 Stat. 919, 71 Stat. 576.

Subpart C—Cargo handling in Canal waters

§ 113.41 Explosives.

Explosives shall be handled as prescribed by appropriate Coast Guard regulations and only at the locations designated in § 113.4.

§ 113.42 Other dangerous cargo.

(a) all other dangerous cargo, including petroleum products in bulk, shall only be handled with prior approval of the Chief, Navigation Division or his designee and only at the locations approved by the Chief, Navigation Division or his designee. When handling these products, such handling will be done in strict compliance with the appropriate U.S. Coast Guard regulations.

(b) Certain dangerous cargoes indentified by 49 CFR 172.101 and prohibited from being transported over water are also not permitted aboard vessels in Panama Canal waters. In addition, the following substances, including Class A poisons, when carried in bulk, shall not be carried aboard vessels in Panama Canal waters:

1. Acrolein.
2. Chlorine.
3. Ethylenemine.
4. Hydrofluroic Acid.
5. Hydrogen.
6. Hydrogen Chloride.
7. Hydrogen Fluoride.
8. Hydrogen Peroxide Solution.
9. Nitric Acid (Greater than 70 Percent).
10. Nitrogen Peroxide Tetroxide.
11. Phosphous Trichloride.
12. Beta Propiolactone.
13. Oxygen.
14. Methyl Cyclopentadien (YL).
15. Meganese Tricabonyl.

PART 115—BOARD OF LOCAL INSPECTORS: COMPOSITION AND FUNCTIONS

Part 115 is amended as follows:

(78) Part 115 authority citation is revised as follows:

Authority: Issued under authority vested in the President by sec. 1418, Pub. L. 96-70, 93 Stat. 492; EO 12215, 45 FR 36043.

(79) Section 115.1 is revised as follows:

§ 115.1 Board of local inspectors; supervising inspector.

(a) There is hereby continued the Board of Local Inspectors of the Panama Canal Commission, constituted as provided in § 115.2, which shall perform, conduct and execute, under the supervision of the Supervising Inspector:

(1) The investigations called for by § 1417, Pub. L. 96-70, 93 Stat. 487;

(2) The functions and responsibilities with which it is vested by this Part and by Parts 117, 119 and 121 of this chapter; and

(3) Such other duties in matters of a marine character as it may be assigned to it from time to time by the Administrator.

(b) The Marine Director of the Panama Canal Commission shall serve, ex officio, as Supervising Inspector of the Commission except when he is designated to serve as Chairman of the Board in accordance with § 115.2(c). When the Marine Director is so designated, the Deputy Administrator or such other official as the Administrator may designate in his stead, shall serve as Supervising Inspector.

(80) Section 115.2 (a), (b), and (c) are revised as follows:

§ 115.2 Compostion of the board.

(a) The Board of Local Inspectors, referred to in this Part as "the Board," shall, except as otherwise provided in paragraphs (b) and (c) of this section, consist of the following officials who shall serve in the capacities stated:

(1) Chairman, Board of Local Inspectors.

(2) Chief, Navigation Division, as member.

(3) Senior Canal Port Captain, as member.

(b) Where the subject matter of circumstances of a particular accident warrant such action, the Supervising Inspector may designate the Chief, Industrial Division to serve, ex officio, as member of the Board in place of the members listed in paragraph (a)(2) or (3) of this section. In the absence of the Chairman, the Supervising Inspector will appoint a member to act as Chairman.

(c) If the Supervising Inspector deems it appropriate in a particular investigation, he may designate an alternate to replace any official regularly serving on the Board. If he himself serves as such an alternate, he shall serve as Chairman of the Board.

* * * * *

PART 117–MARINE ACCIDENTS: INVESTIGATIONS; CONTROL; RESPONSIBILITY

(81) Part 117 table of contents is revised as follows:

Sec.
117.1 Investigation of marine accidents.
117.1a Scheduling of investigations.
117.1b Rights of party in interest.
117.2 Change in physical status or property affected by accident forbidden.
117.3 Reports by Board to the Administrator.
117.4 Reports of accidents by officer in command to Board.
117.5 Control of wrecked, injured, or burning vessels.
117.6 Liability of vessel for injury to Canal structures or equipment.

(82) Part 117 authority citation is revised as follows:

Authority: Issued under authority vested in the President by sec. 1417, 1418, Pub. L. 96–70, 93 Stat. 487; EO 12215, 45 FR 36043.

(83) Section 117.1 is revised as follows:

§ 117.1 Investigation of marine accidents.

(a) Whenever, within Panama Canal waters, including the locks of the Canal, a vessel, or its cargo, crew, or passenger, meets with a serious marine accident, or whenever, within the harbors, anchorages, and areas adjacent thereto, including the ports of Balboa and Cristobal, there is a serious marine accident involving Commission personnel or equipment, the Board of Local Inspectors shall promptly investigate in detail the conditions and circumstances under which such accident occurred.

(b) Any other marine accident occurring in such waters may be investigated by the Board at the discretion of the Supervising Inspector.

(c) The Master of a vessel involved in a marine accident may request an investigation of an accident not considered by the Board to fall within paragraph (a) of this section. The request must be addressed to the Supervising Inspector or the Chairman of the Board, and must be in writing. If the Master does not so request such an investigation in writing, he shall be deemed to have waived all rights to the investigation called for by § 1417, Pub. L. 96–70, 93 Stat. 487, which provides that a claim may not be considered by the Panama Canal Commission, or an action for damages lie thereon, unless, prior to the departure from the Panama Canal of the vessel involved:

(1) The investigation by the competent authorities of the accident or injury giving rise to the claim has been completed; and,

(2) The basis for the claim has been laid before the Commission.

(d) For the purpose of this section, the term "serious marine accident" includes:

(1) Any accident involving substantial damage to any structure, plant, or equipment of the Panama Canal Commission or the United States; and

(2) Any accident (i) involving death or resulting in personal injury that requires admission of a person to a hospital as a bed patient; or (ii) resulting in damages to a vessel which require the making of repairs prior to the vessel's departure from the Canal; *Provided that* the Supervising Inspector or his designee has reason to believe that personnel or equipment of the Panama Canal Comission were then aboard or were assisting the vessel involved in the accident or were situated (aboard another vessel, ashore or otherwise) so as to have been a factor in the accident.

(84) Cross reference is revised as follows:

Cross Reference: Compelling attendance and testimony of witnesses and production of books and papers by Board, see § 1418, Pub. L. 96–70, 93 Stat. 487.

* * * * *

(85) Section 117.1b is revised as follows:

§ 117.1b Rights of party in interest.

Any Panama Canal pilot or other individual who is a party in interest at a marine-accident investigation may obtain counsel of his own choosing, testify in his own behalf, cross-examine witnesses, call witnesses, and introduce any relevant evidence. The Board shall advise all parties in interest of such rights.

(86) Section 117.2 is revised as follows:

§ 117.2 Change in physical status of property affected by accident forbidden.

In the event of a marine accident or casualty affecting any property in Panama Canal waters, or waters adjacent thereto, or any property owned or operated by the Panama Canal Commission or the United States, which imposes on the Board an obligation to investigate, no change in the physical status of the property affected by the accident or casualty may be made or permitted prior to inspection by properly constituted authority, unless such change in status be imperative in order to preserve life or property.

(87) Section 117.3 is revised as follows:

§ 117.3 Reports by Board to the administrator

The Board shall make reports forthwith in detail to the Administrator of all marine-accident investigations conducted by it, setting forth the facts and circumstances surrounding the accident and bearing upon its proximate causation, the nature and extent of the injury and the amount of damages, if any, occasioned by such injury. The reports shall include a transcript of the record of the Board's investigation, together with its findings and opinions respecting the accident. All findings and opinions of the Board shall be rendered by a full Board after a review of the entire transcript, even though the hearing may have been conducted by a single member of the Board or by a two-man Board. Reports to the Administrator shall be forwarded in duplicate through the Supervising Inspector, who may place thereon such endorsement as he may see fit.

(88) Section 117.4 is revised as follows:

§ 117.4 Reports of accidents by officer in command to Board.

The master or other officer in command of a vessel shall, prior to the vessel's departure from Panama Canal waters, report in writing to the Board any accident involving his vessel in Canal waters that resulted in loss of life or serious personal injury or in substantial damage to property.

(89) Section 117.5 is revised as follows:

§ 117.5 Control of wrecked, injured, or burning vessels.

When a vessel in the Panama Canal waters goes aground, or is wrecked, or is so injured that it is liable to become an obstruction in such waters, or is on fire, the Canal authorities shall have the right to supervise and direct, or to take complete charge of and conduct, all operations which may be necessary to float the vessel, to clear the wreckage, to remove the injured vessel to a safe location, or to extinguish the fire, as the case may be. The Canal authorities may, when necessary, take such action without awaiting the permission of the owner or agent of the vessel, and may require the Master of the vessel and all persons under his supervision and control to place the vessel, and all equipment on board, at the disposal of the Canal authorities without costs to the Commission. Unless the Panama

Canal Commission is subsequently found or determined to be responsible for the accident or the condition necessitating action by the Canal authorities, the necessary expenses incurred by the Commission in carrying out the provisions of this section shall be a proper charge against such vessel, her owners and her operators.

(90) Section 117.6 is revised as follows:

§ 117.6 Liability of vessel for injury to Canal structures or equipment.

A vessel, or her owner or operator, shall be held liable for any injury to any structure, plant, or equipment of or pertaining to the Canal, the Panama Canal Commission or the United States when the injury is proximately caused by the negligence or fault of the vessel or its master or crew. No vessel shall make fast, or run any line, to any marker, buoy, beacon, or other aid to navigation; and a vessel shall so navigate as not to strike such aids in passing.

PART 119—LICENSING OF OFFICERS

(91) Part 119 table of contents is revised as follows:

(92) Part 119 authority citation is revised as follows:

Authority: Issued under authority vested in the President by sec. 1801, Pub. L. 96–70, 93 Stat. 492, EO 12215, 45 FR 36043.

(93) Section 119–1 is revised as follows:

§ 119.1 License defined; classification and licensing of Masters, mates, engineers, pilots, and motorboat operators.

(a) The word *license* when used in this Part means a Panama Canal Commission license unless specifically identified as one from another issuing authority.

(b) The Board of Local Inspectors shall recommend the classification of Masters, mates and engineers of steam and motor vessels owned and operated by the Panama Canal Commission, and of operators of U.S. Government motorboats operating in Panama Canal waters, excluding pleasure craft, and of Panama Canal pilots, and upon such recommendation licenses may be issued by the Supervising Inspector, or by such other officer as he may designate. No person shall act or serve as a pilot, Master, mate or engineer, or operate said motorboats, unless he holds a valid license to do so.

(94) Section 119.2 is revised as follows:

§ 119.2 Term of licenses.

Licenses issued to marine personnel of the Panama Canal Commission are granted to such personnel for such periods as they are employed by the Commission in a position requiring such license. Annually, all marine personnel licensed by the Panama Canal Commission shall have a physical examination attesting to their physical condition to perform their assigned work. Such examination shall include an examination of the applicant's acuity of vision and color sense.

(95) Section 119.3 is revised as follows:

§ 119.3 Appeal from action refusing license.

An applicant for a license as Master, mate, engineer, or pilot, for whom the Board of Local Inspectors has refused to recommend such license may appeal to the Supervising Inspector or to such other officer as the Supervising Inspector may designate. The appeal must be entered within 15 days after the final action of the Board. Upon the appeal, the Supervising Inspector or other designated officer has authority either to grant or to deny the license.

(96) Section 119.4 is removed as follows:

§ 119.4 [Removed]

(97) Section 119.6 is revised as follows:

§ 119.6 Employment of licensed officers.

Only persons who are actually employed in, or conditionally eligible for appointment to, a position subject to licensing under this Part, or who can establish that they have a bonafide intention to operate a U.S. Government local craft within Panama Canal waters, may be issued an original license under this part. Renewals may be issued irrespective of the employment requirement if, in the judgment of the Supervising Inspector, the likelihood of return to Canal employment or other circumstances warrant renewal.

(98) Section 119.9 is revised as follows:

§ 119.9 Service records and endorsements.

(a) Applicants for original licenses or raise in grade of license other than motorboat operator, shall present to the Board, to be filed with their applications, letters, discharges, or other official documents, certifying to the amount and character of their experience and names of the vessels on which it was acquired. Certified photostatic copies of the aforementioned documents may be accepted.

(b) The Board shall, when practicable, require an applicant for Master's, mate's, pilot's, or engineer's license to have the written endorsement of the Master or chief engineer of the vessels upon which he has served. Applicants for license as pilot shall have the endorsement of at least two licensed pilots as to their qualifications.

(99) Section 119.10 is revised as follows:

§ 119.10 Age and literacy requirements.

To be eligible for examination for any license an applicant must, except as provided by § 119.183(b), be at least 21 years of age, and have the necessary experience as specified in this Part. In addition, an applicant for license as pilot, Master, mate, or engineer must have a working knowledge of the English language. Proficiency in English will be determined by the Marine Bureau Committee established as the certifying body for English proficiency of mariners. The examination will be given in either English or Spanish, according to the choice of the applicant.

(100) Section 119.12 (a), (f), and (h) are revised as follows:

§ 119.12 Physical and experience requirements.

(a) All applicants for original license must pass a physical examination given by a physician recognized by the Commission, and present a certificate executed by the examining physician to the Board. The certificate shall attest to the applicant's acuity of vision, color sense, and general physical condition.

* * * * *

(f) No original license shall be issued to any person unless 25 percent of the required experience has been obtained within the three years immediately preceding the date of application. Such period shall include, in addition to the three eyars specified, any service in the Armed Forces of the United States or the Republic of Panama that immediately preceded or interrupted the last three years spent by the applicant in a civilian status prior to the date of the application. When an applicant for a license as engineer does not meet the requirement of this paragraph, but is otherwise qualified, the Board may examine him and recommend to the Supervising Inspector that he be licensed. In such cases a license may be issued provided the applicant has satisfactorily completed a 90-day period as trainee aboard applicable equipment of the Panama Canal Commission.

* * * * *

(h) An applicant for a license may not be given a grade of license higher than that in which he has served. However, this paragraph shall not apply to persons qualifying for license under the Panama Canal pilot Master and engineer training programs.

(101) Section 119.13 is revised as follows:

§ 119.13 Burden of establishing qualifications.

Applicants for licenses must establish to the satisfaction of the Board that they possess all of the qualifications necessary, such as age, experience and character before they shall be entitled to be issued licenses.

(102) Section 119.14 is revised as follows:

§ 119.14 Applicant to appear for examination.

(a) Except as provided in paragraph (c) of this section, before an original license or raise in grade is issued to any person to act as Master, mate, pilot, or engineer, he shall personally appear before the Board and pass a written examination, covering such subjects as will demonstrate that the applicant has sufficient knowledge of maritime matters necessary for the license for which he has applied. A list of subjects to be tested may be obtained from the Board.

(b) Applicants will also be required to pass a practical examination.

(c) Upon the recommendation of the Board that he do so, the Supervising Inspector may, in his discretion, issue an original license either without an examination or with an examination covering only subjects of a local nature, to an applicant who possesses a currently valid marine license issued by a competent national authority and who is otherwise eligible under this Part.

(103) Section 119.16 is revised as follows:

§ 119.16 Raise of grade.

(a) Upon the issuance of a license involving a raise of grade, the applicant shall surrender the old license to the Board.

(b) The Board shall, before granting a raise of grade of license, require the applicant to make written application on a prescribed form.

(c) The grade of a license as Master, mate, or pilot may not be raised except upon the certificate of a physician recognized by the Panama Canal Commission, attesting that the color sense of the applicant is normal. Applicants for raise of grade of engineer license are not subject to this requirement. Nothing herein contained shall debar an applicant who has lost the sight of one eye from securing a raise of grade of his license if he is qualified in all other respects and his vision in his one eye passes the test required for the better eye of an applicant having vision in both eyes.

(d) Applicants for raise of grade of license shall present to the Board letters, discharges, or other official documents certifying to the amount and character of their experience and the names of the vessels on which it was acquired.

(e) A raise of grade of license may not be granted to any applicant unless 25 percent of the required sea service shall have been served within the three years immediately preceding the date of application. Service in the armed forces of the United States or Republic of Panama shall not be counted in computing the three years.

(f) Sea service acquired prior to the issuance of the license held may not be accepted as any part of the service required for raise of grade.

(104) Section 119.17 (e) revised and (f) removed as follows:

§ 119.17 Renewal of license.

* * * * *

(e) A license as Master, mate, or pilot may not be renewed except upon the official certificate of a physician recognized by the Commission that the color sense of the applicant is normal. Applicants for renewal of license as engineer are subject to this requirement.

(f) [Removed]

* * * * *

(105) Section 119.18 is revised as follows:

§ 119.18 Sea service as member of armed forces of the United States or the Republic of Panama or on vessels owned by either nation as qualifying experience.

(a) Sea service as a member of the armed forces of the United States or the Republic of Panama will be accepted as qualifying experience for an original, raise of grade, or extension of route of license. Such service will be subject to evaluation to determine its equivalent to the sea service required on merchant-type vessels, and to determine the appropriate grade, class, and limit of license for which the applicant is eligible. An applicant may be permitted to omit the examination for intermediate grades of license if his experience is of such character as to qualify him for a higher, or the highest, grade of license.

(b) if a person who has served in a civilian capacity as commanding officer, Master, mate, engineer, or pilot, etc., of any vessel owned and operated by the United States or the Republic of Panama, in a service in which a license as Master, mate, engineer, or pilot was not required at the time of the service, applies for examination for license, the Board shall evaluate the time or service and allow appropriate credit therefor.

(106) Section 119.22 is removed as follows:

§ 119.22 [Removed]

(107) Section 119.23 is revised as follows:

§ 119.23 Limitations on license.

The Board may limit, as appropriate, the tonnage, length, horsepower, type of vessel(s) and the waters upon which any licensee may act. The Board will note any such limitations on the license.

(108) Section 119.25 is revised as follows:

§119.25 Duplicate license.

If a person to whom a license has been issued loses his license, he shall promptly report the loss to the Board. The Board shall issue a duplicate license after receiving from the person a properly executed affidavit giving satisfactory evidence of the loss. The license shall be issued as a duplicate by the addition of the following written endorsement: "This license replaces License Number—— issued at —— on the above date." The duplicate license shall have the same force and effect as the original, lost license.

(109) Section 119.61 is revised as follows:

§ 119.61 Master, steam and motor vessels; experience required.

In order to be eligible for a Panama Canal license as Master of steam and motor vessels, an applicant must—

(a) Hold a currently valid Panama Canal license as mate of steam and motor vessels, and have served at least 260 eight-hour watches in charge of a deck watch on Panama Canal Commission vessels of 75 feet in length engaged in towing; or

(b) Hold a license as Master or mate of steam and motor vessels issued by an authority outside the Panama Canal, and have served at least 260 eight-hour watches as a licensed officer in charge of a deck watch on steam or motor vessels over 75 feet in length engaged in towing.

(110) Section §119.62 is removed as follows:

§ 119.62 [Removed]

(111) Section 119.63 is revised as follows:

§ 119.63 Master, non-self-propelled floating equipment; experience.

In order to be eligible for examination for the license of Master of non-self-propelled floating equipment, an applicant must have at least 260 eight-hour watches of experience as mate on Panama Canal Commission non-self-propelled floating equipment or such experience on other vessels as the Supervising Inspector determines to be equivalent thereto.

(112) Section 119.64 is removed as follows:

§ 119.64 [Removed]

(113) Section 119.102 is removed as follows:

§119.102 [Removed]

(114) Section 119.103 is revised as follows:

§ 119.103 Mate, steam or motor; experience required.

In order to be eligible for examination for the license of mate of steam or motor vessels an applicant must—

(a) (1) Have graduated from either the Panama Nautical School's program for deck officers, a maritime academy in the United States recognized by the U.S. Coast Guard for licensing purposes, or from another maritime academy located outside the United States which is determined by the Supervising Inspector to have standards substantially equal to United States academies, and (2) be participating in an approved Panama Canal Commission training program for Master, steam and motor vessels; or

(b) Hold a license as mate issued by an authority outside the Panama Canal, and have at least 260 eight-hour watches of experience as a licensed officer in charge of deck watch on steam or motor vessels over 75 feet in length engaged in towing.

(115) Section 119.104 is removed as follows:

§ 119.104 [Removed]

(116) Section 119.141 (a), (b), (c) and (e) are revised as follows:

§ 119.141 Pilot, Panama Canal; qualifications.

(a) An applicant for a license as Pilot, Panama Canal, Of Vessels Not Over 225 Feet in Length Upon All Panama Canal Waters must have been employed by the Panama Canal Commission as Pilot-in-Training for at least 17 weeks and must meet the following minimum requirements:

(1) He must have served at least three years as a licensed deck officer on vessels of 1,000 gross tons or over, one year of which must have been as a chief mate while holding a license issued by the U.S. Coast Guard as Chief Mate Unlimited, or ifs equivalent as determined by the Supervising Inspector; or

(2) He must have served at least three years as a pilot on vessels of 4,000 gross tons or over on the Great Lakes while holding license issued by the U.S. Coast Guard as First Class Pilot, Great Lakes; or

(3) He must have served at least two years as Master of Panama Canal Commission vessels of 1,000 horsepower or over while holding a Panama Canal license as Master of Steam and Motor Vessels; or

(4) He must have completed the Pilot Training Program conducted by the Panama Canal Commission.

(b) An applicant for a license as Pilot, Panama Canal, Of Vessels Not Over 526 Feet in Length Upon All Panama Canal Waters must have been employed by the Panama Canal Commission as pilot of vessels not over 225 feet in length for at least 12 weeks.

(c) An applicant for a license as Pilot, Panama Canal, Of Vessels of Any Tonnage Upon All Panama Canal Waters must have been employed by the Panama Canal Commission as pilot of vessels not over 526 feet in length for at least 52 weeks.

* * * * *

(e) The qualifying periods of employment specified in paragraphs (a), (b) and (c) of this section may be shortened or lengthened by the Administrator, upon recommendation of the Supervising Inspector where the pilot demonstrates more than normal competence.

(117) Section 119.142 is removed as follows:

§ 119.142 [Removed]

(118) Section 119.143 is revised as follows:

§ 119.143 Pilot, United States Government local vessel; employment requirement.

An applicant for pilot, U.S. Government local vessel, must be in the employment of the Panama Canal Commission as Master or mate of a Panama Canal Commission vessel or the employment of the U.S. Army or U.S. Navy as Master or mate of a U.S. Government local vessel, such as a mine sweeper, landing craft, patrol boat or tug, or he must be conditionally eligible for such employment.

(119) Section 119.144 is removed as follows:

§ 119.144 [Removed]

(120) Section 119.183 is revised as follows:

§ 119.183 Motorboat operator; age and job requirements.

(a) The Board may examine and the Supervising Inspector may issue licenses to operate motorboats to qualified applicants. To be eligible for examination, an applicant shall establish that his is conditionally eligible for appointment to a position with the Panama Canal Commission or with another U.S. Government agency operating in Canal waters requiring a

motorboat operator's license. Licenses to operate motorboats will be issued only to the extent, and subject to such conditions and limitations, as the Supervising Inspector determines appropriate.

(b) A person must be 18 years of age or over to be issued a motorboat operator's license.

(121) 119.184 is removed as follows:

§ 119.184 [Removed]

(122) 119.185 is removed as follows:

§ 119.185 [Removed]

(123) 119.186 is removed as follows:

§ 119.186 [Removed]

(124) 119.187 is revised as follows:

§ 119.187 Operating test.

An applicant for motorboat operator's license shall pass a practical demonstration of his ability to operate a motorboat properly and safely, in the presence of an inspector, or submit satisfactory proof of such capability.

(125) Section 119.222 (a), (b) and (d) are revised as follows:

§ 119.222 Chief engineer, steam vessels; experience required.

In order to be eligible for examination for the license of chief engineer of steam vessels, an applicant must—

(a) Hold a valid license as assistant engineer of steam vessels, meet the experience requirements of paragraph (a) or (b) of § 119.224, and have served at least 260 eight-hour watches as assistant engineer on Panama canal Commission steam vessels; or

(b) Hold a valid license as assistant engineer of steam vessels, and have served at least 260 eight-hour watches as a licensed officer in charge of an engine room watch on steam vessels of at least 3,000 horsepower; or

* * * * *

(d) Hold a valid license as chief or assistance engineer of steam vessels issued by an authority outside the Panama Canal and meet the hourly watch requirements of paragraphs (a) (b) or (c) of this section.

(126) Section 119.223 (a) and (c) are revised as follows:

§ 119.223 Chief engineer, motor vessels; experience required.

In order to be eligible for examination for the license of chief engineer of motor vessels, an applicant must—

(a) Hold a valid license as assistant engineer of motor vessels, meet the experience requirements of paragraphs (a) or (b) of § 119.225, and have served at least 260 eight-hour watches as assistant engineer of motor vessels; or—

* * * * *

(c) Hold a valid license as chief or assistant engineer of motor vessels issued by an authority outside the Panama Canal and have served at least 260 eight-hour watches as a licensed officer in charge of an engine room watch on motor vessels of at least 3,000 horsepower.

(127) Section 119.224 (a) and (b) are revised as follows:

§ 119.224 Assistant engineer, steam vessels; experience required.

In order to be eligible for examination for the license of assistant engineer of steam vessels, and application therefor must—

(a) (1) Have graduated from either the Panama Nautical School's program for engineer officers, from a maritime academy in the Untied States recognized by the U.S. Coast Guard for licensing purposes, or from another maritime academy located outside the United States which is determined by the Supervising Inspector to have standards substantially equal to the U.S. Academies, and (2) be participating in an approved Panama Canal Commission training program for chief engineer of steam vessels; or

(b) Have satisfactorily completed an approved Panama Canal Commission training program for chief engineer of steam vessels of at least four years' duration and have completed at least 260 eight-hour watches in the engine room of a Panama Canal Commission steam vessel under the supervision of a licensed engineer.

* * * * *

(128) Section 119.225 is revised as follows:

§ 119.225 Assistant engineer, motor vessels; experience required.

In order to be eligible for examination the license of assistant engineer of motor vessels, an applicant therefor must—

(a) (1) Have graduated from either the Panama Nautical School's program for engineer officers, from a maritime academy in the United States recognized by the U.S. Coast Guard for licensing purposes or from another maritime academy located outside the United States which is determined by the Supervising Inspector to have standards substantially equal to the U.S. Academies, and (2) be participating in an approved Panama Canal Commission training program for chief engineer of motor vessels; or

(b) Have satisfactorily completed an approved Panama Canal Commission training program for chief engineer of motor vessels of at least four years' duration and have completed at least 260 eight-hour watches in engine room of a Panama Canal Commission motor vessel under the supervision of a licensed engineer; or

(c) While holding a license as assistant engineer of steam vessels, have served at least 130 eight-hour watches as observer-assistant engineer on motor vessels.

(129) Section 119.226 is removed as follows:

§ 119.226 [Removed]

PART 121—INSPECTION AND REGISTRATION OF VESSELS

Part 121 is amended as follows:

(130) Part 121 authority citation is revised as follows:

Authority: Issued under authority vested in the Commission by sec. 1813, Pub. L. 96-70, 93 Stat. 493.

(131) Section 121-1 is revised as follows:

§ 121.1 Applicability of part.

Except as otherwise specifically herein provided, the regulations in this Part apply only to vessels, floating equipment and motorboats owned or operated by the Panama Canal Commission or by the United States or any of its agencies operating in Panama Canal waters.

(132) Section 121.2(a) is revised as follows:

§ 121.2 Definitions

* * * * *

(a) "Vessel" means any vessel as defined in § 111.2 other than a motorboat as defined in this section.

(133) Section 121.3 is revised as follows:

§ 121.3 Inspection of vessels merely transiting, on request.

A vessel merely transiting the Canal may be inspected, fully or in part, by the Board of Local Inspectors, upon the request of the owner, agent, or Master of such vessel. Such inspection shall be at the expense of the vessel in accordance with charges established by the Canal authorities.

(134) Section 121.43 is revised as follows:

§ 121.43 Fee for inspection

Before a certificate of inspection may be issued to any transiting vessel, or U.S. Government local craft, the Master or owner of such vessel or other responsible person shall pay to the Treasurer, Panama Canal Commission the fees established by the Canal authorities for inspection and

examination and for the issuance of certificates.

(135) Section 121.89(a) is revised as follows:

§ 121.89 Boiler steam hours.

(a) Boilers on floating equipment of the Panama Canal Commission which are inspected by the Board may not be operated under steam for more than the following prescribed number of hours between boiler washout periods:

* * * * *

(136) Section 121.90 introductory test is revised as follows:

§ 121.90 Annual report of floating craft on hand.

The accountable officials of the Panama Canal Commission shall furnish the Board with an annual report of all vessels and floating craft on hand by January 1st of each year. This report shall show:

* * * * *

(137) Section 121.92 is revised as follows:

§ 121.92 Lifesaving apparatus.

Unless otherwise provided by this Part, lifesaving apparatus for vessels navigating beyond Panama Canal waters, and subject to this Part, shall be in accordance with the requirements of the general rules and regulations for vessel inspection of the United States Coast Guard, or with the requirements of the International Convention for the Safety of Life at Sea.

(138) Section 121–171 is revised as follows:

§ 121.171 Registration and numbering of motorboats.

All motorboats shall be registered, certificated, and assigned numbers by the Board of Local Inspectors, subject to the supervision of the Supervising Inspector.

(139) Section 121.173 is revised as follows:

§ 121.173 Registration and numbering of vessels under 65 feet in length not propelled by machinery.

Vessels not more than 65 feet in length and not propelled in whole or in part by machinery shall be registered and numbered by the Board, under the supervision of the Supervising Inspector.

PART 123—RADIO COMMUNICATION

(140) Part 123 table of contents is revised as follows:

(141) Part 123 Authority citation is revised as follows:

Authority: Issued under authority vested in the President by sec. 1801, Pub. L. 96–70, 93 Stat. 492; EO 12215, 45 FR 36043.

(142) Section 123.2 is revised as follows:

§ 123.2 Control of communications.

The Panama Canal Commission shall, subject to the provisions of this Part, have control of radio communications in the Canal operating areas so far as concerns or affects vessels in Panama Canal waters or the navigation of such waters.

(143) Section 123.3 (a) introductory text (b), (c), (d), and (e) revised as follows:

§ 123.3 Radiotelephones required.

(a) Except for vessels operated by the Panama Canal Commission or another agency of the United States, the following vessels shall comply with the requirements of this section:

(b) A vessel of a type described in paragraph (a) of this section shall be equipped with a radiotelephone which can be operated from the navigation bridge and which can be used to communicate on the following channels in the 156–162 MHz frequency band:

(1) Channel 12, 156.600 MHz;
(2) Channel 13, 156.650 MHz;
(3) Channel 16, 156.800 MHz.

(c) A vessel of a type described in paragraph (a) of this section, which has notified the Chief, Navigation Division or his designee that it is ready to transit or otherwise navigate in Panama Canal waters and requires a Panama Canal pilot, shall, until a pilot boards the vessel, maintain a continuous watch on Channel 12. Channel 12 will be used for notification to vessels of their transit time and for advisory harbor control communication in Limon Bay.

(d) A vessel of a type described in paragraph (a) of this section shall maintain a continuous watch on Channel 13 when underway in Panama Canal waters without a Panama Canal pilot aboard, and shall use Channel 13 only for ship-to-ship or ship-to-coast navigational communications. When such vessels have a Panama Canal pilot aboard, Channel 13 may be used only by the pilot or at his direction for navigational communications.

(e) The signal stations on Flamenco Island and in Cristobal may be called on Channels 12 and 16. Channel 16 may also be used by all vessels for ship-to-coast communications with steamship agents or other commercial businesses.

(144) Section 123.4 (a) is amended and (b) introductory text is revised as follows:

§ 123.4 Advance information required by radio from vessels approaching the Canal.

(a) Vessels approaching the Panama Canal shall communicate by radio to the Navigation Division not less than 48 hours in advance of arrival at the Canal (or earlier if radio communication is practicable at an earlier time), the information required by this section unless this information has been previously communicated to the Canal authorities by other means. Symbols of the phonetic alphabet shall be used to identify each item and the word "NEGAT" shall be used after the items that can be answered "no," "none," or "not applicable." The following items of information shall be provided:

* * * * *

Delta—Any changes in the vessel's name, country of registry, structure or use of tanks that have occurred since the vessel last called in Panama Canal waters.

* * * * *

India—Quarantine and immigration information:

(1) Is radio pratique desired?

(2) State the ports at which the vessel has called within 15 days preceeding its arrival at the Canal.

* * * * *

(b) The following additional information shall be transmitted via radio to Transit Operations Division from all vessels as applicable:

* * * * *

(145) Section 123.5 is revised as follows:

§ 123.5 Radio communication between vessels in Canal waters and other vessels or places.

Except for emergency traffic and routine bridge-to-bridge VHF communication, no vessel in transit through the Canal shall communicate by radio with any other vessel or shore station, local or distant. This restriction shall not apply to government vessels of the United States or of the Republic of Panama.

(146) Section 123.6 is removed as follows:

§ 123.6 Removed

(147) Section 123.7 is revised as follows:

§ 123.7 Operator on board during transit.

All vessels equipped with radio shall have a qualified radio operator on board, available to operate the radio installation if necessary, at any time the vessel is underway in Panama Canal waters and at any other time her navigation is under the control of a Panama Canal pilot. Vessels equipped with radio telephones operating on the frequencies designated by the Panama Canal Commission are deemed to meet the requirements of this section provided they have someone aboard capable and qualified to operate such equipment.

(148) Section 123.9 is revised as follows:

§ 123.9 Immediate report of accidents, delays, or casualties.

Vessels within Panama Canal waters shall report by radio to the Canal authorities any accident or anything else that may delay them or require assistance, any sickness or casualties that require medical attendance or any other matter of importance that may arise. If a pilot is on board, such report shall be made by the pilot or under his direction.

(149) Section 123.10 is revised as follows:

§ 123.10 Operation of vessel radios in conformity with treaties.

Except as may be otherwise provided by this Part, while in Panama Canal waters, vessels equipped with radio shall operate such equipment at all times in conformity with the principles and rules stipulated in the treaties or conventions to which the United States is a party.

PART 125—SANITARY REQUIREMENTS: VESSEL WASTES; GARBAGE; BALLAST

Part 125 is amended as follows:

(150) Part 125 authority citation is revised as follows:

Authority: Issued under authority vested in the President by secs. 1701 and 1801, Pub. L. 96-70, 93 Stat. 492; EO 12215, 45 FR 36043.

(151) Section 125.1 is revised as follows:

§ 125.1 Discharging vessel wastes into waters.

(a) Vessels may not discharge or throw into Panama Canal waters any ballast, ashes, cinders, boxes, barrels, straw, paper, or other solid matter; nor discharge heavy slops, engine or fire room bilge water, oil, or any other matter that will tend to deface or make Canal waters unsanitary. This requirement does not apply to the water used in cooking or in cleaning tableware.

(b) Ballast tanks may not be discharged in Canal waters.

(c) Before arrival from sea at either of the terminal ports, vessels should, in a manner consistent with the requirements of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, and all amendments thereto which are currently in force, dispose of all waste forbidden to be discharged in Canal waters.

(152) Section 125.3 is removed as follows:

§ 125.3 [Removed]

(153) Section 125.4 is revised as follows:

§ 125.4 Removing wastes when anchored for considerable time.

A vessel anchored in Panama Canal waters for a considerable length of time may get rid of vessel wastes by requesting Canal authorities to place a garbage scow alongside. This service is chargeable to the vessel.

PART 129—[REMOVED]

(154) Part 129 is removed.

PART 131—NEUTRALITY OF CANAL

(155) Part 131 is revised as follows:

Authority: Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, signed September 7, 1977.

§ 131.1 Applicability of Treaty.

Matters concerning the neutrality of the Panama Canal are governed by the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, signed in Washington, D.C., on September 7, 1977.

PART 133—TOLLS FOR USE OF CANAL

(156) Part 133 Subpart B table of contents is revised as follows:

Subpart B—Levying of Tolls

(157) Part 133 authority citation revised as follows:

Authority: Issued under authority vested in the President by secs. 1601 and 1801, Pub. L. 96-70, 93 Stat. 489; EO 12215, 45 FR 36043.

(158) Section 133.35 is removed as follows:

§ 133.35 [Removed]

(159) Section 133.37 is revised as follows:

§ 133.37 Partial transits by small vessels.

Section 133.36 shall not be interpreted as authorizing vesels less than 65 feet in length, or barges, or rafts of any size not on regular transit schedules and not paying tolls, to navigate the waters of any locks, or of Gaillard Cut to or from Gatun Lake in partial transit of the Canal; specific authority of the Administrator must be obtained through the Marine Director for each such partial transit.

(160) Section 133.71(b) is revised as follows:

§ 133.71 Time of making payment.

* * * * *

(b) All vessel charges shall be paid, or secured as provided by § 133.74, before permission to depart is given a vessel at the port of departure from the Canal: *Provided, however,* That in cases involving emergency or other special circumstances, the requirement of this paragraph may be waived by the Administrator of the Panama Canal Commission.

(161) Section 133.74 is revised as follows:

§ 133.74 Same; exception; payment secured by deposit of cash or bonds.

(a) The payment of tolls and vessel charges may be secured by making cash deposits for that purpose with the Treasurer of the Panama Canal Commission or such United States depository as may be designated by the Panama Canal Commission.

(b) In lieu of payment in cash or a cash deposit, the payment of tolls and vessel charges may be secured by making deposits, pursuant to written agreement with the Panama Canal Commission, of negotiable bonds of the United States Treasury Department as collateral security for the deposit of public moneys. Such bonds shall be under the full control of the Panama Canal Commission; shall be deposited with the Treasurer of the Panama Canal Commission or such United States depository as may be designated by the Panama Canal Commission and shall be subject to sale or other disposition by the Panama Canal Commission upon

any failure in prompt payment of any bill for tolls or vessel charges for which the said bonds are deposited as security.

(162) Section 133.75 is revised as follows:

§ 133.75 To whom payment is to be made.

Payment for tolls and vessel charges shall be made to the Treasurer, Panama Canal Commission.

PART 135—RULES FOR MEASUREMENT OF VESSELS

Part 135 is amended as follows:

(163) Part 135 authority citation is revised as follows:

Authority: Issued under authority vested in the President by sec. 1601, Pub. L. 96-70, 93 Stat. 489; EO 12215, 45 FR 36043.

(164) Section 135.443 is revised as follows:

§ 135.443 Substance and form of tonnage certificates; blank certificates.

The Panama Canal tonnage certificates issued by the measurement authorities of the United States and the several foreign countries shall correspond in substance and form to the (prescribed) sample certificate (available on request from the Board of Admeasurement, Panama Canal Commission, APO Miami, Florida 34011. Blank certificates will be furnished by the Secretary of the Army or Administrator of the Panama Canal Commission upon request of measurement authorities of foreign countries. The measurement of authorities of any foreign country may also provide themselves with Panama Canal measurement certificates printed in English or in the language of the foreign country: *Provided,* That such certificates strictly correspond in substance and form to the sample certificate; *And provided further,* That if it is desired to have a certificate in the language of the foreign country, there must also be a corresponding certificate issued to the vessel in English.

(165) Section 135.483 is revised as follows:

§ 135.483 Anchoring of warships to facilities ascertainment of draft.

Every warship, other than army and navy transports, colliers, supply ships, and hospital ships (as defined in §§ 135.1–135.3) upon applying for passage through the Panama Canal shall, in order to facilitate the ascertainment of its mean draft, be anchored or placed at such station or location as shall be designated by the Administrator of the Panama Canal Commission or by the officials authorized to act for him.

(166) Section 135.484 is revised as follows:

§ 135.484 Commander of warship to exhibit vessel's displacement scale and curves.

The commander of every warship, other than army and navy transports, colliers, supply ships, and hospital ships (as defined in §§ 135.1–135.3), applying for passage through the Panama Canal, shall exhibit for examination by the Administrator of the Panama Canal Commission, or by the officials authorized to act for the Administrator, an official document containing the vessel's curve of displacement for change of trim, and a scale so arranged that the displacement at any given mean draft is shown. Such document or documents shall be issued and be certified as correct by competent authorities of the government to which the vessel belongs.

(167) Section 135.486 is revised as follows:

§ 135.486 Determining displacement of warship not supplied with displacement scale and curves.

Should any warship, other than army and navy transports, colliers, supply ships, and hospital ships (as described in §§ 135.1–135.3), apply for passage through the Panama Canal and for reasons satisfactory to the Administrator of the Panama Canal Commission, not have on board the duly certified document or documents specified in § 135.484, the Administrator, or the officials authorized to act for him, shall then determine the displacement of the vessel, using such reliable data as may be available, or by taking such dimensions of the vessel and using such approximately methods as may be considered necessary and practicable. The displacement tonnage so determined shall be considered to be the displacement of the vessel.

(168) Section 135.511 is revised as follows:

§ 135.511 Administration of rules.

The rules of measurement provided in this Part shall be administered by the Administrator of the Panama Canal Commission.

Dated: November 19, 1981.

D. P. McAuliffe,

Administrator.

[FR Doc. 81-34065 Filed 11-23-81; 8:45 am]

BILLING CODE 3640-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 73-34; Notice No. 05]

Motor Vehicle Safety Standards; School Bus Body Joint Strength

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes an amendment to the agency's school bus body joint strength standard to require most maintenance access panels in school buses to comply with the standard. This action is being taken as a result of current production practices that are resulting in the manufacture of school buses with loosely attached maintenance access panels that might cause injury or death in school bus accidents.

DATE: Comment closing date: January 26, 1982.

Proposed effective date: 6 months after publication as a final rule.

ADDRESS: Comments should refer to the docket number and be submitted to: Docket Section, Room 5108, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (Docket hours: 8:00 a.m. to 4:00 p.m.).

FOR FURTHER INFORMATION CONTACT: Mr. Robert Williams, Crashworthiness Division, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202-426-2264).

SUPPLEMENTARY INFORMATION: In 1974, the Congress enacted Pub. L. 93-492 which, in part, directed NHTSA to issue safety standards applicable to vehicles transporting school children to or from school or related events. In light of that Congressional mandate, the agency issued several safety standards, one of which is Standard No. 221, *School Bus Body Joint Strength.* Standard No. 221 resulted from a particular Congressional directive telling the agency to strengthen school bus bodies so that body panels would not loosen and become cutting edges that could seriously injure children riding in buses during an accident.

Standard No. 221 has substantially corrected the previous safety problem involving body panels that became easily detached in accidents. However, in recent tests and inspections, the agency has become concerned that manufacturers are circumventing the

joint strength standard to a limited extent by the excessive use of maintenance access panels.

Maintenance access panels were exempted from the joint strength requirements when the standard was initially published. At that time, it was determined that the areas of a vehicle requiring frequent maintenance should be easily accessible. Although no definition was given for maintenance access panels, the agency originally intended that they be limited to areas requiring routine maintenance. As the standard became effective, many manufacturers wrote to the agency describing a variety of panels in their buses that they thought should be considered maintenance access panels. Based upon information supplied to the agency about the need to access certain bus areas, the agency agreed that some panels could be considered maintenance access panels. Among those panels determined to be maintenance access panels, were panels covering wiring and wiring harnesses.

Upon inspection of buses being constructed today, the agency has learned that most manufacturers have created maintenance access panels that extend the entire length of the bus and that are located above the window area. These panels range from a few inches up to 12 inches in width. In addition, nearly the entire rear wall of some buses has been made into maintenance access panels. This excessive use of access panels is not what the agency intended nor is it in the interest of safety.

In testing some of these panels, the agency has learned that they are usually loosely attached and cannot withstand much force before they detach from the bus body. In visual inspection of some buses that comply with Standard No. 221 and which have been involved in accidents, the agency has observed that panels joined in compliance with the standard perform very well and rarely detach from the bus body. The remarkable performance of properly attached panels has been exhibited even in cases where buses have been hit by trains and have sustained impact forces far higher than those normally sustained by buses in accidents. In the same accidents, however, maintenance access panels which were not securely attached have come loose and may continue to pose a safety problem.

The agency has discussed the maintenance access panel problem with most school bus manufacturers to alert them to our concerns and to discover whether access to wiring is needed on a regular basis. The manufacturers have taken some small steps to reduce the size of the panels but for the most part they have not eliminated any of them. When asked for the data relating to the frequency of removal of these panels for maintenance, no manufacturer could provide the agency with any information that was specific. The impression given to the agency was that the removal of the panels was occasional and was not necessary on a routine basis.

NHTSA tentatively concludes that these panels that are loosely attached and many of which are located in the area of the bus most likely to impact children's heads are a potential safety hazard that should be corrected. The benefits of Standard No. 221 might be sacrificed if a few panels are so loosely connected that they can come loose in an accident and cause deaths or injuries that are easily preventable by making those panels comply with the standard.

The agency realizes that access to some areas beneath current access panels may be necessary on an occasional basis to replace a wire or to reconnect a loose connection. NHTSA does not intend by this proposal to make these areas inaccessible. However, manufacturers can easily construct these panels so that they can be removed and also comply with the standard. Normally manufacturers construct their joints using rivets or a combination of rivets and cement. Obviously, such a joint could not easily be disconnected for maintenance purposes. However, a joint made entirely of screws can comply with the standard. In fact, existing access panels can be made to comply simply by adding more screws to them. While this will create an inconvenience for the mechanic that must remove all of the screws to remove the panels, that inconvenience is minor compared to safety consequences that can occur when an existing panel comes loose causing death or permanent disfigurement.

To accomplish the agency's objective in eliminating the maintenance access panel exemption from the standard, the agency proposes two amendments to the standard. The first proposed amendment would redefine "bus body" in a way that would exclude areas forward of the bus restraining barrier and below the windshield. The purpose of this amendment is to make it unnecessary for the instrument panel to comply with the joint strength standard. The agency tentatively concludes that this area is far enough forward in a bus such that it is not a major influence in accident injuries.

The second amendment would redefine "bus panel joint" to include all joints except those involving maintenance access panels that provide access to the engine or transmission. The effect of this amendment would be to remove most of the existing maintenance access panels from the list of joints that are not required to comply with the standard.

To effect these changes, the following amendments are proposed to Volume 49 Code of Federal regulations Part 571.221, *School Bus Body Joint Strength*. Section S4, Definitions, would be amended to delete the existing definitions for "Bus body" and "Body panel joint" and to replace them with the following two definitions:

"Bus Body" means the portion of a bus that encloses the bus's occupant space, exclusive of the bumpers, the chassis frame, interior bus structure below the windshield mounting and forward of the forwardmost point of the restraining barrier, and exterior structure forward of the forwardmost point of the windshield mounting.

"Body Panel Joint" means the area of contact between the edges of a body panel and another body component, and excluding doors, windows, heating and cooling vents, and service and maintenance access panels necessary for servicing and maintaining the engine and transmission.

The agency has considered the economic and other effects of this proposal and has determined that the proposed rule is not a major rule within the meaning of Executive Order No. 12291. The agency has further determined that the proposal is not significant within the meaning of the Department of Transportation's regulatory procedures. The basis for those determinations is that, while the proposed rule would affect most school buses, the requirement can be easily met by adding additional screws or other fasteners to current maintenance access panels. The agency believes that the cost impact of those changes is minimal.

The agency has also considered the effect of this proposal in relation to the Regulatory Flexibility Act and has determined that the proposal would not have a significant effect on a substantial number of small entities. As explained above, the effect of the proposal is to require bus manufacturers to use additional screws to attach securely maintenance access panels. It does not require manufacturers to change their designs to eliminate or reposition their panels.

The proposal will not have a significant effect on a substantial number of small government jurisdictions and small organizations. Those entities are affected because they are purchasers of school buses. As

discussed above, the agency believes that the cost impact of adding additional screws to the buses to meet the proposed requriement should be minimal. Accordingly, no initial regulatory flexibility analysis has been prepared. However, data are specifically requested from commenters on any significant cost impacts that might result if this proposal were implemented.

Finally, the agency has analyzed this proposal for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action would not have any significant effect on the human environment.

The rule would become effective 6 months after publication in the Federal Register.

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, NHTAS, 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 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 principal authors of this notice are Mr. Robert Williams of the Crashworthiness Division and Mr. Roger Tilton of the Office of Chief Counsel.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); Section 202, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1392); delegations of authority at 49 CFR 1.50 and 501.8.)

Issued on November 19, 1981.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 81-33961 Filed 11-25-81; 8:45 am]

BILLING CODE 4910-59-M

Notices

Federal Register
Vol. 46, No. 228
Friday, November 27, 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

Agricultural Stabilization and Conservation Service

Burley Tobacco; 1982 National Marketing Quota

AGENCY: Agricultural Stabilization and Conservation Service.

ACTION: Notice of proposed determination of 1982–83 marketing quota.

SUMMARY: The Secretary of Agriculture is required by the Agricultural Adjustment Act of 1938, as amended, to determine and announce by February 1, 1982, the amount of the national marketing quota for burley tobacco for the 1982–83 marketing year. The public is invited to comment on the amount of the national marketing quota, the reserve supply level, and the amount of the national reserve, as set forth in this notice.

DATE: Comments must be received on or before January 13, 1982 to be assured of consideration.

ADDRESS: Send comments to the Director, Analysis Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013, (202) 447–5187.

FOR FURTHER INFORMATION CONTACT: Robert Tarczy, Program Specialist, Analysis Division, ASCS, USDA, Room 3736-South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447–5187. The Preliminary Regulatory Impact Analysis describing the options considered in developing this notice and the impact of implementing each option is available on request from Robert L. Tarczy.

SUPPLEMENTARY INFORMATION: This notice has been reviewed in conformity with Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified as "not major." This action has been classified as "not major" since implementation of these determinations will have an annual affect on the economy of less than $100 million.

The title and number of the Federal Assistance Program that this notice applies to is: Title—Commodity Loan and Purchases; Number—10.051, as set forth in the Catalog of Federal Domestic Assistance. This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action. It has been determined that the Regulatory Flexibility Act is not applicable to this notice since the Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

The Agricultural Adjustment Act of 1938, as amended (hereinafter referred to as the "Act"), requires the Secretary to determine and announce by February 1, 1982, the amount of the national marketing quota for burley tobacco for the 1982–83 marketing year. The 1982–83 marketing year is the third of three consecutive years for which marketing quotas, which were approved by producers in a national referendum, will be in effect for burley tobacco.

Section 301(b)(14)(B) of the Act defines "reserve supply level" as the normal supply, plus 5 percent thereof, to insure a supply adequate to meet domestic consumption and export needs in years of drought, flood, or other adverse conditions, as well as in years of plenty. The phrase "normal supply" is defined in section 301(b)(10)(B) of the Act as a normal year's domestic consumption and exports, plus 175 percent of a normal year's domestic consumption and 65 percent of a normal year's exports as an allowance for a normal year's carryover. A "normal year's domestic consumption" is defined in section 301(b)(11)(B) of the Act as the average quantity of burley tobacco produced and consumed in the United States during the ten marketing years immediately preceding the marketing year in which such consumption is determined (1981–82), adjusted for current trends in such consumption.

A "normal year's exports" is defined in section 301(b)(12) of the Act as the yearly average quantity produced in and exported from the United States during the ten marketing years immediately preceding the marketing year in which such exports are determined (1981–82), adjusted for current trends in such exports.

The reserve supply level for the 1981–82 marketing year was determined to be 1,678 million pounds. This was based on a normal year's domestic consumption of 500 million pounds and a normal year's exports of 135 million pounds (46 FR 11235). The proposed reserve supply level for the 1982–83 marketing year is also 1,678 million pounds. This was based on a normal year's domestic consumption of 500 million pounds and a normal year's exports of 135 million pounds.

Section 301 (b)(16)(B) of the Act defines "total supply" as the carryover at the beginning of the marketing year (October 1) plus the estimated production in the United States during the calendar year in which the marketing year begins. The total supply for the 1981–82 marketing year is 1,720 million pounds based on carryover of 1,004 million pounds and estimated production of 716 million pounds.

Section 319(c) of the Act defines "national marketing quota" for burley tobacco for a marketing year as the amount of that kind of tobacco produced in the United States which the Secretary estimates will be used domestically and will be exported during the marketing year, adjusted upward or downward in such amount as the Secretary, in his discretion, determines is desirable for the purpose of maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level. The maximum downward adjustment is 5 percent of estimated domestic use and exports.

The amount of burley tobacco produced and utilized domestically during the 1980–81 marketing year is estimated to be 475 million pounds, and the amount exported is estimated to be 105 million pounds, farm sales weight basis. The amount of the national marketing quota for the 1981–82 marketing year is 661 million pounds, based upon estimated domestic utilization of 500 million pounds and exports of 132 million pounds with an upward adjustment of 29 million pounds to maintain adequate supplies (46 FR 11235). For the 1982–83 marketing year,

utilization in the United States is estimated to be about 500 million pounds and exports are estimated to be about 150 million pounds. The total supply for the 1981–82 marketing year is 42 million pounds more than the proposed reserve supply level, but the amount of the adjustment desirable for maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level is still being considered. However, the national marketing quota is proposed to be within the range of 628 to 700 million pounds for the 1982–83 marketing year.

For each marketing year for which marketing quotas are in effect under this section, the Secretary in his discretion may establish a reserve (hereinafter referred to as the "national reserve") from the national marketing quota in an amount not in excess of 1 per centum of the national marketing quota to be available for making corrections and adjusting inequities in farm marketing quotas, and for establishing marketing quotas for new farms (that is, farms for which farm marketing quotas have not been otherwise established). A reserve of 500,000 pounds was established for the 1981–82 marketing year (46 FR 11235). It is proposed that a national reserve be established for the 1982–83 marketing year.

Section 319(e) of the Act provides, in part, that each farm marketing quota shall be determined by multiplying the previous year's farm marketing quota by a national factor obtained by dividing the national marketing quota determined under subsection 319(c) (less the national reserve) by the sum of the farm marketing quotas for the immediately preceding year for all farms for which burley tobacco marketing quotas will be determined to such succeeding marketing year: *Provided*, that such national factor shall not be less than 95 per centum. The national factor for the 1981–82 marketing year was 1.075 (46 FR 11235). Section 319(h) of the Act provides that effective with the marketing year beginning October 1, 1976, no marketing quota, other than a new farm marketing quota, shall be established for a farm on which no burley tobacco was planted or considered planted in any of the five years immediately preceding the year for which farm marketing quotas are being established.

Proposed Determinations

Accordingly, Secretary of Agriculture proposes to determine and announce with respect to burley tobacco for the 1982–83 marketing year:

1. A national marketing quota with the range of 628 to 700 million pounds.

2. A reserve supply level in the amount of 1,678 million pounds.

3. A national reserve within the range of 500,000 to 1,000,000 pounds.

Comments are not requested with respect to the national factor for the 1982–83 marketing year since the national factor is determined as the result of a mathematical computation in accordance with the formula prescribed in section 319(e) of the Act and does not involve administrative decisionmaking.

All written submissions will be made available for public inspection from 8:15 a.m. to 4:45 p.m. Monday through Friday, in Room 3741–South Building, 14th and Independence Avenue SW., Washington, D.C.

Signed at Washington, D.C. on November 19, 1981.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 81-33943 Filed 11-20-81; 9:58 am]

BILLING CODE 3410-05-M

Rural Electrification Administration

Approval of Agreement for Electric Service Between Salmon River Electric Cooperative, Inc., and Cyprus Mines Crop.; Finding of No Significant Impact

The Rural Electrification Administration (REA) has made a Finding of No Significant Impact with respect to the approval of an agreement for electric service between Salmon River Electric Cooperative, Inc., (SREC) and the Cyprus Mines Corporation. The service will require the construction of 88.5 km (55 mi) of 230 kV transmission line from Moore to Antelope Flat, 19.2 km (12 mi) of 230 kV transmission line from Antelope Flat to Round Valley, 40.2 km (25 mi) of 230 kV transmission line from Antelope Flat to South Butte and 21.7 km (13 mi) of 69 kV transmission line from South Butte to the Cyprus mine site. The required facilities will include a 230/69 kV switching station at Antelope Flat, 230/69 kV substations at Round Valley and Butte, and a 69/24.9 substation at the Cyprus mine site. All facilities will be within Custer and Butte Counties, Idaho. In addition, REA's financing assistance has been requested by SERC to pay for a part of the cost of the Round Valley Substation. The rest of the proposed facilities will be paid for by Cyprus Mines Corporation.

An Environmental Assessment (EA) has been prepared by the Bureau of Land Management (BLM), Salmon District, Salmon, Idaho, which declared a Finding of No Significant Impact (FONSI) for all of the proposed 230/69 kV facilities. The 21.7 km (13.5 mi) section of 69 kV transmission line and the Cyprus Substation were studied for environmental impacts in an Environmental Impact Statement (EIS) prepared by the U.S. Forest Service, Challis National Forest, Challis, Idaho, which declared in a Record of Decision (ROD) that the proposed transmission facilities, which are included in the Forest Service's adopted alternative, would have minimal environmental impacts. REA has reviewed both the EA and EIS from BLM and the Forest Service along with pertinent information from other sources and it has prepared its own EA concerning the proposed project and its environmental impacts. A copy of REA's EA is attached to, and made a part of, this Finding of No Significant Impact.

REA has determined that the proposed project does not involve prime farmland, floodplains, wetlands, or threatened or endangered species, and it will have no significant impact on cultural resources, wild and scenic rivers, wilderness study areas, or grazing lands. It is REA's independent evaluation that construction of the proposed project does not constitute a major Federal action resulting in a significant effect to the quality of the human environment.

Four alternatives were considered in addition to the proposed plan including: no action, underground construction and two alternate transmission line routes.

REA's Finding of No Significant Impact, EA and EIS from BLM and the Forest Service, respectively, may be reviewed in, or requested from, the Office of the Director, Distribution Systems Division, Room 3304, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250, telephone: (202) 382–8848, or at the office of SREC, P.O. Box 384, Challis, Idaho 83226, telephone: (208) 879–2283.

This Program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loans Guarantees.

Dated at Washington, D.C., this 19th Day of November 1981.

Harold V. Hunter,

Administrator.

[FR Doc. 81-33990 Filed 11-25-81; 8:45 am]

BILLING CODE 3410-15-M

West Plains Electric Cooperative, Inc.; Finding of No Significant Impact

Notice is hereby given that the Rural Electrification Administration (REA) has

mad a Finding of No Significant Impact (FONSI) in connection with the proposed financing assistance to West Plains Electric Cooperative, Inc., (WPEC) of Dickinson, North Dakota.

The proposed project is to construct a 115 kV transmission line from Charlie Creek to the proposed Four Eyes Substation. The line will start at Charlie Creek and travel 27.4 km (17.0 mi) in a southwesterly direction to the proposed substation. All work will be performed in Billings County, North Dakota. The alternatives considered for this project were no action, underground construction and alternative routes. The selected alternative is described above.

A Borrower's Environmental Report (BER) was prepared by WPEC on the proposed project and REA prepared an Environmental Assessment (EA) on the proposed project.

After an independent evaluation of the EA, and information from other sources, REA has concluded that the proposed project will not have a significant impact on the quality of the human environment and prepared a FONSI. The FONSI, EA and BER may be reviewed in the office of the Director, Distribution Systems Division, Rural Electrification Administration, Room 3304, South Agriculture Building, Washington, D.C. 20250, telephone (202) 382–8848 or the office of the cooperative, West Plains Electric Cooperative, Inc., 1260 West Villard, (P.O. Box 1038), Dickinson, North Dakota 58601, telephone (701) 225–5111.

This Program is listed in the catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 19th day of November 1981.

Harold V. Hunter,

Administrator, Rural Electrification Administration.

[FR Doc. 33989 Filed 11–25–81; 8:45 am]

BILLING CODE 3410–15–M

Valley Electric Membership Corp.; Finding of No Significant Impact

Notice is hereby given that the Rural Electrification Administration (REA) has made a Finding of No Significant Impact with respect to proposed financing assistance to Valley Electric Membership Corporation (VEMCO) of Natchitoches, Louisiana, for the construction of 69 kV transmission facilities in Natchitoches and Sabine Parishes, Louisiana. New transmission lines will be built between the following end points: Many-Noble, 24.3 km (15.2 mi); Many-Negreet, 18.7 km (11.7 mi); Many Marthaville, 19.8 km (12.4 mi); Many-Provencal, 29.1 km (18.2 mi); Provencal-Cane River, 15.5 km (9.7 mi); Cane River-Grand Ecore, 10.9 km (6.8 mi); Grand Ecore-Clarence, 8.0 km (5.0 mi); Clarence-Campti 11.7 km (7.3 mi); Campti-Creston, 11.0 km (6.9 mi); and Clarence-Verda, 20.0 km (12.5 mi). New substations are proposed for Campti, Cane River, Creston, Many, Marthaville, Noble and Provencal. New bulk points will be built at Many and Clarence.

REA reviewed a BER submitted by VEMCO and determined that it represents an accurate assessment of the environmental impact of the project. Based upon the BER, VEMCO's 1981–1982 Annual Work Plan and maps, REA prepared an Environmental Assessment concerning the proposed project and its impacts. REA concluded that the proposed financing assistance would not be a major Federal action significantly affecting the quality of the human environment.

The BER and EA adequately consider potential impacts of the proposed project on resources, including threatened and endangered species, important farmlands, cultural resources, wetlands and floodplains. Some pole structures will be located in floodplains and cross prime farmlands, and may be located on wetlands. The facilities at Campti, Cane River, Many and Noble will be on designated prime farmlands, but these locations are already dedicated to non-agricultural uses. The environmental effects will be minimal.

Alternatives examined include refusing service to new customers, continuing service with only existing facilities, and alternative line routing and substation sitings. After reviewing these alternatives, REA determined that the proposed project is the preferred alternative because it best meets VEMCO's needs with the minimum of adverse impacts.

REA's Finding of No Significant Impact and Environmental Assessment and VEMCO's BER may be reviewed in or requested from the Office of the Director, Distribution Systems Division, Room 3304, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250, telephone: (202) 382–8848, or at the office of Valley Electric Membership Corporation, (Mr. John Reed, Manager), P.O. Box 659, Natchitoches, Louisiana 71457, telephone: (318) 352–3601.

This Program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 19th day of November 1981.

Harold V. Hunter,

Administrator.

[FR Doc. 81-33988 filed 11–25–81; 8:45 am]

BILLING CODE 3410–15–M

Soil Conservation Service

Eastern Hill Country R.C. & D. Area; Fredericksburg Independent School District Critical Area Treatment Measure

AGENCY: Soil Conservation Service, Agriculture.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: George C. Marks, State Conservationist, Soil Conservation Service, P.O. Box 648, Temple, Texas 76503, telephone 817–774–1214.

NOTICE: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service, Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Fredericksburg Independent School District Critical Area Treatment R.C. & D. Measure, Gillespie 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, 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 treatment of about 8.4 acres of critical erosion on two campuses and includes shaping or smoothing of eroded areas, seedbed preparation, vegetation, topsoiling, fertilizer, construction of earthen diversion terraces and concrete lined ditches, sprinkler systems, and covering of heavy use area with pea gravel.

The Notice of 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 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 December 28, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and project is applicable)

Dated: November 17, 1981.

George C. Marks,

State Conservationist.

[FR Doc. 34000 Filed 11-25-81; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

International Trade Administration

Amoxicillin Trihydrate and Its Salts From Spain; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: Department of Commerce, International Trade Administration.

ACTION: Notice of preliminary results of administrative review of countervailing duty order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on amoxicillin trihydrate and its salts from Spain. The review covers the period January 1, 1980 through December 31, 1980. As a result of this review, the Department has preliminarily determined to instruct the Customs Service to collect countervailing duties equal to the calculated value of the net subsidy, 3.66 percent of the f.o.b. invoice price of the merchandise. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: November 27, 1981.

FOR FURTHER INFORMATION CONTACT: Ms. Claire A. Rickard, Office of Compliance, Room 2802, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-1487).

SUPPLEMENTARY INFORMATION:

Procedural Background

On July 27, 1979, a notice of "Final Countervailing Duty Determination" on Amoxicillin trihydrate and its salts from Spain, T.D. 79-211, was published in the **Federal Register** (44 FR 44154). The notice stated that the Department of the Treasury had determined that the Government of Spain had given bounties or grants on the manufacture, production or exportation of amoxicillin trihydrate and its salts, within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303) ("the Tariff Act").

On January 1, 1980, the provisions of title I of the Trade Agreements Act of 1979 ("the TAA") became effective. On January 2, 1980, the authority for administering the countervailing duty law was transferred from the Department of the Treasury to the Department of Commerce ("the Department"). The Department published in the **Federal Register** of May 13, 1980 (45 FR 32455) a notice of intent to conduct administrative reviews of all outstanding countervailing duty orders. As required by section 751 of the Tariff Act, the Department has conducted an administrative review of the order on amoxicillin trihydrate and its salts from Spain.

Scope of the Review

The merchandise covered by this review is amoxicillin trihydrate and its salts, an antibiotic which is a semi-synthetic penicillin, imported directly or indirectly from Spain. These imports are currently classifiable under item number 411.74 of the Tariff Schedules of the United States (TSUS). The review covers the period January 1, 1980 through December 31, 1980. The Department reviewed the two programs which had been found countervailable in this and other investigations: an overrebate upon exportation of indirect taxes (the Desgravacion Fiscal a la Exportacion) and a working capital loans program. The only known exporter of this merchandise to the United States is Antibioticos, S.A.

Analysis of Programs

(1) Desgracion Fiscal a la Exportacion

Spain employs a cascading tax system, that is, a turnover tax based upon the total value of inputs at each transaction level, rather than upon the value added at each level. Under this system, the indirect taxes paid include both taxes levied at the final stage of production and prior stage taxes incorporated in the input costs of raw materials, energy, and services used in the final stage of production. The Spanish government studies the incidence of prior stage taxes on inputs in various sectors of the economy in order to determine more precisely the cumulative indirect tax incidence on the exported product, in this case, amoxicillin trihydrate and its salts. Then, under the Desgravacion Fiscal a la Exportacion program, the government rebated upon exportation to total indirect taxes calculated to be borne by the final product.

Although the Spanish government rebates upon exportation all indirect taxes paid under the cascading tax system, the Tariff Act allows the rebate of only the following: (1) taxes borne by inputs which are physically incorporated in the exported product (see Annex 1.1 of part 355 of the Commerce Regulations) and (2) indirect taxes levied at the final stage. If the tax rebate upon export exceeds the total amount of allowable indirect taxes described above, the Department considers the difference to be an overrebate of indirect taxes and, therefore, a subsidy.

Physical incorporation is a question of fact to be determined for each product in each case. In this case, the physically incorporated inputs are raw materials previously allowed by the Treasury Department. Based upon our review of the Spanish government study of tax incidence and upon our analysis and allowance of physically incorporated inputs and certain parafiscal taxes on the final product, we determine that an overrebate upon export of indirect taxes existed in 1980 in an amount equal to 3.27 percent of the f.o.b. invoice price of the product.

As of January 1, 1981, the Spanish government increased the IGTE (turnover tax) on business turnovers by 58 percent, while maintaining the previous rate for the export tax rebate. The change in tax incidence has eliminated the overrebate; therefore, we will lower the duty deposit rate for this program to zero for future entries, pending the results of the next annual administrative review.

(2) Working Capital Loans

The Spanish government requires banks to set aside funds to provide short-term (less than one year's duration) operating capital loans. These loans are made at an 8 percent interest rate which is 1.5 percent below the commercially available rate of 9.5 percent for such loans in 1980. The maximum loan principal available to a given exporter is determined as a percentage of the firm's previous year's exports and this amount may be increased by 10 percent if the firm has a government-issued Exporter's Card, which Antibioticos, S.A. has. Antibioticos, S.A. reported utilization of this program. For 1980, the subsidy conferred under this program is equal to 0.39 percent of the f.o.b. invoice price of the merchandise.

Verification

We verified the submission of the Spanish government through access to

company books and records. Documents examined included cost structure records, production and export records, and company financial statements.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the total net subsidies conferred in 1980 under the two programs cited above are 3.27 percent and 0.39 percent *ad valorem* respectively. Accordingly, the Department intends to instruct the Customs Service to assess countervailing duties of 3.66 percent of the f.o.b. invoice price on shipments entered, or withdrawn from warehouse, for consumption from January 1, 1980 through December 31, 1980.

The provisions of T.D. 79–211 and section 303(a)(5) of the Tariff Act, prior to the enactment of the TAA, apply to all entries made prior to January 1, 1980. Accordingly, the Customs Service shall assess countervailing duties of 0.62 percent *ad valorem*, the amount set forth in T.D. 79–211, on unliquidated entries of amoxicillin trihydrate and its salts which were entered, or withdrawn from warehouse, for consumption prior to January 1, 1980.

Due to the change in the Spanish tax law effective January 1, 1981, the only subsidy remaining is that conferred under the operating capital loans program, which we calculate to be 0.39 percent, which is *de minimis*. Therefore, the Department estimates countervailing duties to be zero for calendar year 1981, and intends to instruct the Customs Service not to collect a cash deposit of estimated countervailing duties on any shipments entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. This waiver of deposit shall remain in effect until publication of the final results of the next administrative review.

Pending publication of the final results of the present review, the existing deposit of estimated duties, at the 0.62 percent *ad valorem* rate set forth in T.D. 79–211, shall continue to be required on each entry, or withdrawal from warehouse, for consumption of this merchandise, and liquidation shall continue to be suspended.

Interested parties may submit written comments on these preliminary results on or before December 28, 1981 and may request disclosure and/or a hearing within 15 days of the date of publication. Any request for an administrative protective order must be made within 5 days from the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of any such comments or hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Melinda L. Carmen,

Acting Deputy Assistant Secretary for Import Administration.

November 20, 1981.

[FR Doc. 81-34155 Filed 11-25-81; 8:45 am]

BILLING CODE 3510-25-M

Ampicillin Trihydrate and its Salts From Spain; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: U.S. Department of Commerce, International Trade Administration.

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on ampicillin trihydrate and its salts from Spain. The review covers the period January 1, 1980 through December 31, 1980. As a result of this review, the Department has preliminarily determined to instruct the Customs Service to collect countervailing duties equal to calculated value of the net subsidy, 3.66 percent of the f.o.b. invoice price of the merchandise. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: November 27, 1981.

FOR FURTHER INFORMATION CONTACT: Ms. Claire A. Rickard, Office of Compliance, Room 2802, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–1487).

SUPPLEMENTARY INFORMATION:

Procedural Background

On March 22, 1979, a notice of "Final Countervailing Duty Determination" on ampicillin trihydrate and its salts from Spain, T.D. 79–90, was published in the **Federal Register** (44 FR 17484). The notice stated that the Department of the Treasury had determined that the Government of Spain had given bounties or grants on the manufacture, production or exportation of ampicillin trihydrate and its salts, within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303) ("the Tariff Act").

On January 1, 1980, the provisions of title I of the Trade Agreements Act of 1979 ("the TAA") became effective. On January 2, 1980, the authority for administering the countervailing duty law was transferred from the Department of the Treasury to the Department of Commerce ("the Department"). The Department published in the **Federal Register** of May 13, 1980 (45 FR 32455) a notice of intent to conduct administrative reviews of all outstanding countervailing duty orders. As required by section 751 of the Tariff Act, the Department has conducted an administrative review of the order on ampicillin trihydrate and its salts from Spain.

Scope of the Review

The merchandise covered by this review is ampicillin trihydrate and its salts, an antibiotic which is a semi-synthetic penicillin, imported directly or indirectly from Spain. These imports are currently classified under item number 411.60 of the Tariff Schedules of the United States (TSUS). The review covers the period January 1, 1980 through December 31, 1980. The Department reviewed the two progams which had been found countervailable in this and other investigations: an overrebate upon exportation of indirect taxes (the Desgravacion Fiscal a la Exportacion) and a working capital loans program. The only known exporter of this merchandise to the United States is Antibioticos, S.A.

Analysis of Programs

(1) Desgravacion Fiscal a la Exportacion

Spain employs a cascading tax system, that is, a turnover tax based upon the total value of inputs at each transaction level, rather than upon the value added at each level. Under this system, the indirect taxes paid include both taxes levied at the final stage of production and prior stage taxes incorporated in the input costs of raw materials, energy, and services used in the final stage of production. The Spanish government studied the incidence of prior stage taxes on inputs in various sectors of the economy in order to determine more precisely the cumulative indirect tax incidence on the exported product, in this case, ampicillin trihydrate and its salts. Then, under the Desgravacion Fiscal a la Exportacion program, the government rebated upon exportation the total indirect taxes calculated to be borne by the final product.

Although the Spanish government rebates upon exportation all indirect taxes paid under the cascading tax system, the Tariff Act allows the rebate

of only the following: (1) Taxes borne by inputs which are physically incorporated in the exported product (see Annex 1.1 of part 355 of the Commerce Regulations) and (2) indirect taxes levied at the final stage. If the tax rebate upon export exceeds the total amount of allowable indirect taxes described above, the Department considers the difference to be an overrebate of indirect taxes and, therefore, a subsidy.

Physical incorporation is a question of fact to be determined for each product in each case. In this case, the physically incorporated inputs are raw materials previously allowed by the Treasury Department. Based upon our review of the Spanish government study of tax incidence and upon our analysis and allowance of physically incorporated inputs and certain parafiscal taxes on the final product, we determine that an overrebate upon export of indirect taxes existed in 1980 in an amount equal to 3.31 percent of the f.o.b. invoice price of the product.

As of January 1, 1981, the Spanish government increased the IGTE (turnover tax) on business turnovers by 58 percent, while maintaining the previous rate for the export tax rebate. The change in tax incidence has eliminated the overrebate; therefore, we will lower the duty deposit rate for this rate for this program to zero for future entries, pending the results of the next annual administrative review.

(2) Working Capital Loans

The Spanish government requires banks to set aside funds to provide short-term (less than one year's duration) operating capital loans. These loans are made at an 8 percent interest rate which is 1.5 percent below the commercially available rate of 9.5 percent for such loans in 1980. The maximum loan principal available to a given exporter is determined as a percentage of the firm's previous year's exports and this amount may be increased by 10 percent if the firm has a government-issued Exporter's Card, which Antibioticos, S.A. has. Antibioticos, S.A. reported utilization of this program in 1980. For 1980, the subsidy conferred under this program is equal to 0.35 percent of the f.o.b. invoice price of the merchandise.

Verification

We verified the submission of the Spanish government through access to company books and records. Documents examined included cost structure records, production and export records, and company financial statements.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the total net subsidies conferred in 1980 under the two programs cited above are 3.31 percent and 0.35 percent ad valorem respectively. Accordingly, the Department intends to instruct the Customs Service to assess countervailing duties of 3.66 percent of the f.o.b. invoice price on shipments entered, or withdrawn from warehouse, for consumption from January 1, 1980 through December 31, 1980.

The provisions of T.D. 79-90 and section 303(a)(5) of the Tariff Act, prior to the enactment of the TAA, apply to all entries made prior to January 1, 1980. Accordingly, the Customs Service shall assess countervailing duties of 2.21 percent ad valorem, the amount set forth in T.D. 79-90, on all unliquidated entries of ampicillin trihydrate and its salts which were entered, or withdrawn from warehouse, for consumption prior to January 1, 1980.

Due to the change in the Spanish tax law effective January 1, 1981, the only subsidy remaining is that conferred under the operating capital loans program, which we calculate to be 0.35 percent, which is de minimis. Therefore, the Department estimates countervailing duties to be zero for calendar year 1981, and intends to instruct the Customs Service not to collect a cash deposit of estimated countervailing duties on any shipments entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. This waiver of deposit shall remain in effect until publication of the final results of the next administrative review.

Pending publication of the final results of the present review, the existing deposit of estimated duties, at the 2.21 percent ad valorem rate set forth in T.D. 79-90, shall continue to be required on each entry, or withdrawal from warehouse, for consumption of this merchandise, and liquidation shall continue to be suspended.

Interested parties may submit written comments on these preliminary results on or before December 28, 1981 and may request disclosure and/or a hearing within 15 days of the date of publication. Any request for an administrative protective order must be made within 5 days from the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of any such comments or hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675 (a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

November 20, 1981.

Melinda L. Carmen,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 81-34154 Filed 11-25-81; 8:45 am]

BILLING CODE 3510-25-M

Unwrought Zinc From Spain; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: Department of Commerce, International Trade Administration.

ACTION: Notice of preliminary results of administrative review of countervailing duty order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on unwrought zinc from Spain. The review covers the period January 1, 1980 through December 31, 1980. As a result of this review, the Department has preliminarily determined to instruct the Customs Service to collect countervailing duties equal to the calculated value of the net subsidy, 2.05 percent of the f.o.b. invoice price of the merchandise. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: November 27, 1981.

FOR FURTHER INFORMATION CONTACT: Ms. Claire A. Rickard, Office of Compliance, Room 2802, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-1487).

SUPPLEMENTARY INFORMATION:

Procedural Background

On April 8, 1977, a notice of "Final Countervailing Duty Determination" on unwrought zinc from Spain, T.D. 77-103, was published in the Federal Register (41 FR 18587). The notice stated that the Department of the Treasury had determined that the Government of Spain had given bounties or grants on the manufacture, production or exportation of unwrought zinc, within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303) ("the Tariff Act").

On January 1, 1980, the provisions of title I of the Trade Agreements Act of 1979 ("the TAA") became effective. On January 2, 1980, the authority for administering the countervailing duty law was transferred from the Department of the Treasury to the Department of Commerce ("the

Department"). The Department published in the Federal Register of May 13, 1980 (45 FR 32455) a notice of intent to conduct administrative reviews of all outstanding countervailing duty orders. As required by section 751 of the Tariff Act, the Department has conducted an administrative review of the order on unwrought zinc from Spain.

Scope of the Review

The merchandise covered by this review is unwrought zinc, other than alloys of zinc, imported directly or indirectly from Spain. These imports are currently classifiable under item number 626.02 of the Tariff Schedules of the United States (TSUS). The review covers the period January 1, 1980 through December 31, 1980. The Department reviewed the two programs which had been found countervailable in this and other investigations: an overrebate upon exportation of indirect taxes (the Desgravacion Fiscal a la Exportacion) and a working capital loans program. The only two known exporters of this merchandise to the United States are Asturiana del Zinc, S.A. and Espanola del Zinc, S.A.

Analysis of Programs

(1) Desgravacion Fiscal a la Exportacion

Spain employs a cascading tax system, that is, a turnover tax based upon the total value of inputs at each transaction level, rather than upon the value added at each level. Under this system, the indirect taxes paid include both taxes levied at the final stage of production and prior stage taxes incorporated in the input costs of raw materials, energy and services used in the final stage of production. The Spanish government studied the incidence of prior stage taxes on inputs in various sectors of the economy, including the zinc industry, in order to determine more precisely the cumulative indirect tax incidence on the exported product, in this case, unwrought zinc. Then, under the Desgravacion Fiscal a la Exportacion program, the government rebated upon exportation the total indirect taxes calculated to be borne by the final product.

Although the Spanish government rebates upon exportation all indirect taxes paid under the cascading tax system, the Tariff Act allows the rebate of only the following: (1) taxes borne by inputs which are physically incorporated in the exported product (see Annex 1.1 of part 355 of the Commerce Regulations) and (2) indirect taxes levied at the final stage. If the tax rebate upon export exceeds the total amount of allowable indirect taxes described above, the Department considers the difference to be an overrebate of indirect taxes and, therefore, a subsidy.

Physical incorporation is a question of fact to be determined for each product in each case. In this case, the physcially incorported inputs are raw materials, including certain reactives previously allowed by the Treasury Department and the theoretical minimum amount of electricity chemically necessary to form the number of metric tons of unwrought zinc produced by the firms and certain parafiscal taxes on the final product. The Spanish producers use an electrolytic process whereby electricity is passed through a zinc bath in order to reduce zinc sulfate. We consider electricity physically incorporated in the final product because the zinc atoms have acquired electrons from the electric current and these electrons remain with the zinc atoms after the zinc separates from the zinc sulfate. We believe it is reasonable to allow as physically incorporated this amount of electricity. Based upon our review of the Spanish govenrment study of tax incidence and upon our analysis and allowance of physically incorporated inputs and certain parafiscal taxes on the final product, we determine that an overrebate upon export of indirect taxes existed in 1980 in an amount equal to 1.6 percent of the f.o.b. invoice price of the product.

As of January 1, 1981, the Spanish government increased the IGTE (turnover tax) on business turnovers by 58 percent, while maintaining the previous rate for the export tax rebate. The change in tax incidence has eliminated the overrebate; therefore, we will lower the duty deposit rate for this program to zero for future entries, pending the results of the next annual administrative review.

(2) Working Capital Loans

The Spanish government requires banks to set aside funds to provide short-term (less than one year's duration) operating capital loans. These loans are made at an 8 percent interest rate which is 1.5 percent below the commercially available rate of 9.5 percent for such loans in 1980. The maximum loan principal available to a given exporter is determined as a percentage of the firm's previous year's exports and this amount may be increased by 10 percent if the firm has a government-issued Exporter's Card. Both zinc firms have such cards. For 1980, the subsidy conferred under this program is equal to 0.45 percent of the f.o.b. invoice price of the merchandise.

Verification

We verified the submission of the Spanish government through access to company books and records. Documents examined included production and export records, company financial statements and cost structure records.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the total net subsidies conferred in 1980 under the two programs cited above are 1.6 percent and 0.45 percent *ad valorem* respectively. Accordingly, the Department intends to instruct the Customs Service to assess countervailing duties of 2.05 percent of the f.o.b. invoice price on shipments entered, or withdrawn from warehouse, for consumption from January 1, 1980 through December 31, 1980.

The provisions of T.D. 78–166 or T.D. 79–21 and section 303(a) (5) of the Tariff Act, prior to the enactment of the TAA, apply to all entries made prior to January 1, 1980. Accordingly, the Customs Service shall assess countervailing duties on unliquidated entries of unwrought zinc which were entered, or withdrawn from warehouse, for consumption prior to January 1, 1980, at the applicable rates set forth in T.D. 78–166 or T.D. 79–21.

Due to the change in the Spanish tax law effective January 1, 1981, the only subsidy remaining is that conferred under the operating capital loans program, which we calculate to be 0.45 percent. The Department considers this to be *de minimis*. Therefore, the Department estimates countervailing duties to be zero for calendar year 1981, and intends to instruct the Customs Service not to collect a cash deposit of estimated countervailing duties on any shipments entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. This deposit rate shall remain in effect until publication of the final results of the next administrative review.

Pending publication of the final results of the present review, the existing deposit of estimated duties, at the 2.64 percent *ad valorem* rate set forth in T.D. 79–21, shall continue to be required on each entry, or withdrawal from warehouse, for consumption of this merchandise, and liquidation shall continue to be suspended.

Interested parties may submit written comments on these preliminary results on or before December 28, 1981 and may request disclosure and/or a hearing within 15 days of the date of

publication. Any request for an administrative protective order must be made within 5 days from the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of any such comments or hearing.

This administrative review and notice are in accordance with section 751(a) (1) of the Tariff Act (19 U.S.C. 1675 (a) (1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Melinda L. Carmen,

Acting Deputy Assistant Secretary for Import Administration.

November 20, 1981.

[FR Doc. 81-34153 Filed 11-25-81; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF ENERGY

Energy Information Administration

Revision of Alternative Fuel Price Ceilings and Incremental Price Threshold for High Cost Natural Gas

The Energy Information Administration (EIA) published in the November 20, 1981 **Federal Register** (46 FR 57124) on behalf of the Federal Energy Regulatory Commission (FERC) alternative fuel price ceilings to be effective December 1, 1981. Subsequent to the publication of these price ceilings, the EIA was notified by a respondent that his original submission was in error. This error resulted in the published price ceilings for five States being too high. Revised price ceilings for these five States have been calculated based on the resubmitted data, and are listed below.

State	Dollars per million BTU's
Arkansas [1]	3.13
Louisiana	3.07
New Mexico [1]	3.13
Oklahoma [1]	3.13
Texas [1]	3.13

[1] Region based price as required by FERC Interim Rule issued on March 2, 1981, in Docket No. Rm 79-21.

These ceiling prices were calculated according to the methodology described in the November 20, 1981 **Federal Register** and are to be effective December 1, 1981. For further information contact: Leroy Brown Jr., Energy Information Administration, Federal Building, Room 4121, Washington, D.C. 20461, (202) 633-9710.

Issued in Washington, D.C., November 24, 1981.

Albert H. Linden Jr.,

Deputy Administrator, Energy Information Administration.

[FR Doc. 81-34281 Filed 11-25-81; 9:28 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-1994-8]

Availability of Environmental Impact Statements

Responsible Agency: USEPA, Office of Federal Activities.

Information Contact: Ms. Kathi Wilson (202) 245-3006.

EISs Filed: November 16-20, 1981.

Comment Due Dates: Drafts—January 11, 1982. Finals—December 28, 1981.

Corps of Engineers (COE):Draft Supplement—Tennessee-Tombigee Waterway, Alabama and Mississippi; Extended Review 1/14/82 (EPA EIS #810945).

COE:Report—Pamlico Sound and Beaufort Harbor, Carteret County, North Carolina (EPA EIS #810947).

COE:Final—Big and Little Sallisaw Creeks Navigation Project, Sequoyah County, Oklahoma (EPA EIS #810949).

DOI:Bureau of Land Management:Final—1982 OCS Oil and Gas Lease Sale No. 68, Pacific Ocean and California (EPA EIS #810951).

DOT:Federal Highway Administration (FHWA):Draft—NJ-24 Freeway Completion, Morris County, New Jersey (EPA EIS #810944).

DOT:FHWA:Final—I-579/Crosstown Boulevard Construction, Allegheny County, Pennsylvania (EPA EIS #810942).

DOT:FHWA:Final—State College Bypass System/US 322 Construction, Centre County, Pennsylvania (EPA EIS #810943).

DOT:FHWA:Final—I-690/Lake Onondaga West Shore Development Northwest Arterial Connection, Onondaga County, New York (EPA EIS #810950).

Department of Housing and Urban Development (HUD):Draft—Crestview Estates Housing Development, Campbell County, Wyoming (EPA EIS #810946).

HUD:104H:Final—Federal Office Building Site Acquisition, CDBG, Boston, Suffolk County, Massachusetts: Notice of Adoption—HUD officially adopts the GSA final EIS (#800508)-30 day review period terminates on December 16, 1981 (EPA EIS #810938).

HUD:104H:Draft—City of Yonkers Waterfront Development, UDAG, Westchester County, New York (EPA EIS #810953).

HUD:Final—Applewood Village, Mortgage Insurance, Lehigh County, Pennsylvania (EPA EIS #810952).

USDA:Forest Service (FS):Draft—Washaki Wilderness Oil and Gas Exploration and Leasing, Shoshone National Forest, Hot Springs, Fremont and Park Counties, Wyoming; Extended Review 1/22/81 (EPA EIS #810939).

USDA:FS:Draft—Nebraska National Forest Land and Resource Management Plan, Nebraska and South Dakota; Extended Review 2/12/82 (EPA EIS #810941).

USDA:Soil Conservation Service:Final—Elm Creek-Watershed, Runnels and Taylor Counties, Texas (EPA EIS #810948).

Veterans Administration:Draft Supplement—San Francisco Medical Center Nursing Home Care Unit and Parking Structure, San Francisco County, California (EPA EIS #810940).

Dated: November 24, 1981.

Paul C. Cahill,

Director, Office of Federal Activities.

[FR Doc. 81-34134 Filed 11-25-81; 8:45 am]

BILLING CODE 6560-37-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[Docket No. FEMA-REP-4-SC-2]

The South Carolina Radiological Emergency Response Plan For the V. C. Summer Nuclear Power Plant

AGENCY: Federal Emergency Management Agency.

ACTION: Certification of Federal Emergency Management Agency findings and determination.

In accordance with FEMA Rule 44 CFR 350 (proposed), on June 4, 1980, the State of South Carolina submitted its emergency response plans relating to the V. C. Summer Nuclear Power Plant to the Regional Director who forwarded his evaluations to the Acting Associate Director of State and Local Programs and Support, in accordance with § 350.11 of the proposed rule. The evaluations considered the contiguous State and local plans involved in the 10- and 50-mile emergency planning zones (EPZs), a critique of the exercise conducted on May 1, 1981, in accordance with § 350.9, and a report of the public meeting held on April 30, 1981, to discuss the site specific aspects of the State and local plans in accordance with § 350.10 of the proposed rule.

Based on a review of the Region's evaluation by FEMA Headquarters, the Acting Associate Director finds and determines that subject to the condition stated below the State plans and preparedness including local plans and preparedness for the V. C. Summer plant are adequate to protect the health and safety of the public living in the vicinity of the plant. There is reasonable assurance that appropriate protective measures can and will be taken offsite in the event of a radiological emergency. The condition for the above approval is that prior to full power operation the public alerting and notification system must meet FEMA/Nuclear Regulatory Commission (NRC) joint criteria as stated in NUREG–0654/FEMA–REP–1, Rev. 1. These findings and determination have been communicated to the NRC and to the Governor of South Carolina.

FEMA will continue to review the status of preparedness of the State and its local jurisdictions associated with the Summer plant in accordance with § 350.13 of the proposed rule.

For further details with respect to the action, refer to Docket File FEMA–REP–4–SC–2 for Summer maintained by the FEMA Regional Director at 1375 Peachtree Street, NE, Atlanta, Georgia 30309.

Dated: November 13, 1981.

For the Federal Emergency Management Agency.

John E. Dickey,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 81-33457 Filed 11-25-81; 8:45 am]

BILLING CODE 6718-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Environment and Energy

[Docket No. NI-86]

Intended Environmental Impact Statement; Highland Springs Village II, Riverside County (Near City of Beaumont), California

The Department of Housing and Urban Development gives notice than an Environmental Impact Statement (EIS) is intended to be prepared for the following project under HUD programs as described in the appendix to this Notice: Highland Springs Village II, County of Riverside, California. This Notice is required by the Council on Environmental Quality under its rules (40 CFR Part 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning the project to the specific person or address indicated in the appropriate part of the appendix.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, issues and data which the EIS should consider, recommended mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

Each Notice shall be effective for one year. If one year after the publication of a Notice in the **Federal Register** a Draft EIS has not been filed on a project, then the Notice for that project shall be cancelled. If a Draft EIS is expected more than one year after the publication of the Notice in the **Federal Register**, then a new and updated Notice of Intent will be published.

Issued at Washington, D.C., November 16, 1981.

Richard H. Broun,

Acting Director, Office of Environment and Energy.

Appendix—EIS on the Highland Springs Village II, Riverside County (Near City of Beaumont), California

The Department of Housing and Urban Development (HUD), Los Angeles, California Area Office intends to prepare an EIS on the project described below. The Department hereby solicits comments and information for consideration in the EIS.

Description: The Highland Springs Village II housing development is a proposed land development by the Ramos-Jensen Co. of 188 acres and 521 manufactured homes. An additional 481 such homes may be constructed on an adjacent area of 100 acres. The proposed development includes open space and recreational uses. HUD's participation is under Title X of the Housing and Community Development Act, mortgage insurance.

The project is located northeast of the City of Beaumont, California, within 3 miles. The boundaries of the project are Brookside Avenue on the south, Bellflower Road on the west, High Street and Grand Avenue extended on the north, and Hillside Place on the west.

Need: An EIS is proposed due to HUD threshold requirements in accordance with housing program environmental regulations and probably impact on: topography, soils, water resources, vegetation, archeological sites, endangered species, public services and utilities, and traffic volumes.

Alternatives: At this time, the HUD alternatives are: accept the proposed development as submitted, accept the proposed development with modifications, or reject the proposed development.

Scoping: HUD will hold a scoping meeting open to all persons, groups, organizations, Federal, State and local agencies. HUD wishes to identify all significant issues. The meeting will be held in the Council Chambers of City Hall in Beaumont, California on December 7, 1981 at 2:30 p.m. For further information, please contact William Shortall, Environmental Protection Specialist of the HUD Los Angeles Area Office. His telephone number is 213–688–5899.

Comments: Comments and questions regarding this proposal should be sent on or before December 24, 1981 to John J. Tuite, Area Manager, Attn: William Shortall, Environmental Protection Specialist, Department of Housing and Urban Development, Los Angeles Area Office, 2500 Wilshire Boulevard, Los Angeles, California 90037. The Area Office phone number is 213–688–5974.

[FR Doc. 81-34168 Filed 11-25-81; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. NI-85]

Intended Environmental Impact Statement; Millender Center Project

The Department of Housing and Urban Development gives notice that an Environmental Impact Statement (EIS) is intended to be prepared by the City of Detroit, Michigan, for the following project under HUD programs as described in the appendix to this Notice: Millender Center Project. This Notice is required by the Council on Environmental Quality under its rules (40 CFR 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning the project to the specific person or address indicated in the appropriate part of the appendix.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, issues and data which the EIS should consider, recommended mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

Each Notice shall be effective for one year. If one year after the publication of a Notice in the **Federal Register** a Draft EIS has not been filed on a project, then the Notice for that project shall be cancelled. If a Draft EIS is expected more than one year after the publication of the Notice in the **Federal Register**, then a new and updated Notice of Intent will be published.

Issued at Washingon, D.C., November 19, 1981.

Richard N. Broun,

Director, Office of Environment and Energy.

Appendix—EIS on the Millender Center Project

The City of Detroit, Michigan intends to prepare an Environmental Impact Statement on the project described below and solicits information and comments for consideration in the EIS.

Description: The proposed project, known as the Millender Center, is a multi-use structure to consist of a 2,000 car parking garage, a 315 unit apartment tower, a 250 room hotel, and approximately 40,000 square feet of commercial space. The project will be located in Downtown Detroit, Michigan in the area bounded on the north by East Congress Street, on the east by Brush Street, on the south by East Jefferson and on the west by Randolph Street. The estimated cost of the project is $72,600,000. The project may additionally include a Downtown People Mover Station and skyway links to the Renaissance Center and the City-County Building. The proposed project may be assisted under the following Federal Programs: Department of Housing and Urban Development's Community Development Block Grant and/or Urban Development Action Grant and Department of Transportation's UMTA and FAUS programs.

Need: The City of Detroit determined to prepare an EIS due to the large-scale nature of the project in a dense urban setting and the possible impact on traffic and air quality due to the large parking garage.

Alternatives: Alternatives to be considered are: Accept project as proposed; parking garage only; accept project minus parking garage; and no project.

Scoping: The City of Detroit plans to hold a scoping meeting with concerned Federal agencies, service organizations and other interested persons. Responses to this Notice will be used to help determine significant environmental issues, identify data which should be used in the EIS, and identify agencies, groups, and individuals that will participate in the EIS process. The scoping meeting will be held: 10:00 a.m., December 21, 1981, City of Detroit Planning Department, 3400 Cadillac Tower Building, Detroit, Michigan 48226.

Comments: Comments should be sent prior to the scoping meeting to: Thomas P. Andrews, City of Detroit Planning Department, 3400 Cadillac Tower Building, Detroit, Michigan 48226 (or call 313/224-3468).

[FR Doc 81-34167 Filed 11-25-81; 8:45 am]

BILLING CODE 4210-01-M

Office of the Secretary

[Docket No. N-81-1101]

Membership of the Performance Review Board

AGENCY: Office of the Secretary, (HUD).

ACTION: Notice.

SUMMARY: The Department of Housing and Urban Development announces the names of individuals selected to serve on the Departmental Performance Review Board established under the Civil Service Reform Act of 1978.

The function of the Performance Review Board is to review initial senior executive ratings and appraisals and to make recommendations to respective appointing authority concerning performance ratings and performance awards of senior executives in the Department.

ADDRESSES: The names, titles, and addresses of the individuals appointed to serve on HUD's Performance Review Board and alternates are:

1. *S. Leigh Curry,* Deputy General Counsel (Operations), Office of the General Counsel, Department of Housing and Urban Development, Washington, D.C. 20410
2. *George O. Hipps, Jr.,* Associate General Deputy Assistant Secretary for Housing, Office of Housing, Department of Housing and Urban Development, Washington, D.C. 20410
3. *Daniel M. Hughes,* Deputy Under Secretary for Field Coordination, Office of the Secretary, Department of Housing and Urban Development, Washington, D.C. 20410
4. *Roosevelt Jones,* Director, Office of Field Operations and Monitoring, Office of Community Planning and Development, Department of Housing and Urban Development, Washington, D.C. 20410
5. *Albert J. Kliman,* Director, Office of Budget, Office of Administration, Department of Housing and Urban Development, Washington D.C. 20410
6. *R. Carter Sanders,* Associate General Deputy Assistant Secretary for Housing and Field Coordination, Office of Housing, Department of Housing and Urban Development, Washington, D.C. 20410
7. *Judith L. Tardy,* Chairperson, Assistant Secretary for Administration, Office of Administration, Department of Housing and Urban Development, Washington, D.C. 20410
8. *Harold G. Thompson,* Alternate, Deputy Regional Administrator, Region I, Department of Housing and Urban Development, Boston, Massachusetts 02203
9. *C. Everett Wallace,* Alternate, General Deputy Assistant Secretary, Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, Washington, D.C. 20410

FOR FURTHER INFORMATION CONTACT: Persons desiring any further information about the Performance Review Board and its members may contact Robert F. Fagin, Acting Director of Personnel, Department of Housing and Urban Development, Washington, D.C., 20410, telephone (202) 755-5500.

Issued at Washington, D.C., November 16, 1981.

Samuel R. Pierce, Jr.,

Secretary, Department of Housing and Urban Development.

[FR Doc. 81-34166 Filed 11-25-81; 8:45 am]

BILLING CODE 4210-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Reports, Recommendations, Responses; Availability

Aircraft Accident Report: *Northeast Jet Company, Gates Learjet 25D, N125NE, Gulf of Mexico, May 19, 1980 (NTSB-AAR-81-15).*—Related recommendation *A-81-103* to National Oceanic and Atmospheric Administration, Sept. 24: techniques to improve clear air turbulence forecasts.

Special Investigation Report: *Aircraft Separation Incidents at Hartsfield Atlanta International Airport, Atlanta, Ga., Oct. 7, 1980 (NTSB-SIR-81-6).*—Related recommendations *A-81-132 through -138* to Federal Aviation Administration, Oct. 6: radar training and testing, simulation at terminal facilities; periodic demonstration of controllers' proficiency, aircraft simulators; low altitude/conflict alert at ARTS III facilities, audio, visual; altitude separation until longitudinal separation is assured; sectors' control positions to optimize space utilization for direct communication; playback capability of automated radar display for training.

Aircraft Accident Reports: *Brief Format, U.S. Civil Aviation, Issue No. 10, 1980 Accidents (NTSB-BA-81-11).*

Recommendation Responses from—

Association of American Railroads, Oct. 30, re I–81–7: humpyard procedures for tank cars loaded with hazardous materials.

Brotherhood of Locomotive Engineers, Nov. 3, re H–81–80: railroad/highway grade crossing accidents, Operation Lifesaver.

Illinois Central Gulf Railroad, Nov. 3, re R–81–77 and –78, H–81–32: on-scene emergency service operation; enforcement company operating rules, blocking railroad/highway grade crossings beyond established time limits; implementation Operation Lifesaver program, grade-crossing safety.

Urban Mass Transportation Administration, Nov. 5, re R–71–18, R–74–20 and–21, R–79–54, R–79–62 and –63, R–80–48: separation of passengers from tracks, underground, above-grade stations; crashworthiness of rail rapid transit cars; design requirements, procedures for operator's escape during impending crashes; fire safety standards; modification car uncoupling circuitry, evacuation of passengers; adequacy mutual emergency notification procedures.

Note.—Single copies of reports, recommendation letters and responses are free on written request, identified by recommendation or report number, to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. (Multiple copies of reports are available from National Technical Information Service U.S. Department of Commerce, Springfield, Va. 22161)

Margaret L. Fisher,

Federal Register Liaison Officer.

November 20, 1981.

[FR Doc. 81–33994 Filed 11–25–81; 8:45 am]

BILLING CODE 4910–58–M

EXECUTIVE OFFICE OF THE PRESIDENT

The President's Economic Policy Advisory Board

November 23, 1981.

The President's Economic Policy Advisory Board will meet on December 10, 1981 at the White House, Washington, D.C. from 10:00 a.m. to 3:30 p.m. The purpose of the meeting is to review and discuss:

1) Revised economic forecasts

2) United States-Canada economic relations

3) Monetary policy

All agenda items concern matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraphs (1), (4), (8) and (9) thereof, and will be closed to the public.

For further information, please contact the Office of Policy Development, the White House, at (202) 456–6515.

Martin Anderson,

Assistant to the President for Policy Development.

[FR Doc. 34172 Filed 11–25–81; 8:45 am]

BILLING CODE 3115–01–M

SMALL BUSINESS ADMINISTRATION

[SBLC No. 05/B–0011]

Associates Commercial Corporation of Delaware; Issuance of Small Business Lending Company Participation Certificate

On October 8, 1980, a Notice was published in the **Federal Register** (45 FR 66939) stating that an Application had been filed with the Small Business Administration pursuant to § 120.4(b) of the Regulations governing Small Business Lending Companies (13 CFR 120.4(b)) by Associates Commercial Corporation of Delaware, 55 East Monroe Street, Chicago, Illinois 60603.

Interested parties were given until the close of business on October 23, 1980, to submit their comments on the Applicant and/or its management. Only two comments were received and they were reviewed and considered.

Notice is hereby given that after review of the Application and all other pertinent information, SBA issued Small Business Lending Company Participation Certificate No. SBLC–05/B–0011 to Associates Commercial Corporation of Delaware to operate as an SBLC, on this date.

Dated: November 19, 1981.

(Catalog of Federal Domestic Programs No. 59.012, Small Business Loans)

Michael Cardenas,

Administrator.

[FR Doc. 81–34170 Filed 11–25–81; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 81–ASW–7AC]

Mitsubishi Model MU–300 Aircraft; Certification and Availability of Documents

The formal type certification process of the Mitsubishi Aircraft International, Inc., Model MU–300 has been completed. Airplane Type Certificate No. A14SW has been issued for the Model MU–300.

The Director of the FAA Southwest Region has conducted a review of the issues involved in the Model MU–300 type certification program and the findings of the FAA certification team. He has also reviewed and discussed with his staff a document entitled "Decision Basis for Type Certification of the Mitsubishi Model MU–300 Airplane." Based on this review, the Director approved the issuance of type Certificate No. A14SW for the Model MU–300.

A copy of the "Decision Basis for Type Certification of the Mitsubishi Model MU–300 Airplane" is on file in the FAA Rules Docket. The bulk of the "Decision Basis" reviews the purpose, structure, conduct, and significant highlights of the certification program wherein the manufacturer demonstrated compliance with the certification basis for the Model MU–300. It provides a brief overview of the type inspection test results and a compliance checklist showing the means of compliance with each paragraph of the certification basis. Other appendixes and attachments pertaining to the Model MU–300 type certification program are also included in the document. The document is available for examination and copying at the Rules Docket and may be obtained from the Office of the Regional Director, FAA Southwest Region, P.O. Box 1689, Fort Worth, Texas 76101.

Issued in Fort Worth, Texas on November 10, 1981.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 81–33830 Filed 11–25–81; 8:45 am]

BILLING CODE 4910–13–M

[AC No. 21–ZZ]

Advisory Circular for Carriage of Cargo in Restricted Category Aircraft and Other Special Purpose Operations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Draft advisory circular (AC) and request for comments.

SUMMARY: This proposed AC is to notify the public that the carriage of cargo in restricted category aircraft is considered a special purpose operation, and provides procedures for designating other special purpose operations under Federal Aviation Regulation (FAR) § 21.25(b)(7).

DATE: Comments must identify the AC No. 21–ZZ and be received on or before February 1,. 1982.

ADDRESS: Send all comments on the draft AC to: Federal Aviation Administration, Attention: Aircraft

Manufacturing Division (AWS-200), 800 Independence Avenue, SW. Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

George J. Pour, Chief, Aircraft Manufacturing Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, Telephone (202) 426-8361.

Comments received on the draft AC may be inspected in Room 313, FAA Headquarters Building (FOB-10A), 800 Independence Avenue, SW., Washington, D.C. 20591, between the hours of 8:30 and 5:00 p.m.

SUPPLEMENTAL INFORMATION

Comments Invited

Comments are invited from all interested persons on the proposed designation of special purpose operation, as well as the use of the FAA AC System and publication in the Federal Register or any future proposed restricted category special purpose.

Discussion of Draft Advisory Circular

Federal Aviation Regulations (FAR) Part 21, § 21.25 provides for issuance of type certificates approving specific special purpose operations for aircraft in the restricted category. Such type certificates are prerequiste to issuance of restricted airworthiness certificates that allow the special purpose operations. Examples of special purpose operations for which restricted category type and airworthiness certificates may be issued are listed in FAR §§ 21.25(b)(1) through 21.25(b)(6). Authority to specifiy any other special purpose operation is reserved by the FAA Administrator in FAR § 21.25(b)(7).

In the past, applications for establishment of new special purpose operations under FAR § 21.25(b)(7) were evaluated administratively on a case by case basis without public notice. To give an opportunity for comment by interested persons, this draft AC is the first to publicly propose designation of a special purpose operation under FAR § 21.25(b)(7). All comments received will be evaluated against the criteria that safety will not be compromised, and that permitting the proposed operations would be in the public interest.

The carriage of cargo in restricted category aircraft has been permitted on an individual basis for many years, usually following a determination that standard category aircraft were not available, or, because standard category aircraft could not accommodate certain "unique" cargo. A reassessment of these factors has led to the conclusion that they are not relevant to the safety of the operation. Since restricted category aircraft need not comply with all of the airworthiness requirements applicable to standard category aircraft, and equivalent level of public safety is achieved through the severe operating limitations set forth in FAR Part 91, Section 91.39. For example, FAR 91.39 limits carriage of passengers; prohibits carriage of persons or property for compensation or hire; and does not allow restricted category aircraft to operate over densely populated areas, in congested airways, or near busy airports where passenger transport operations are conducted.

This AC proposes to make the carriage of cargo a special purpose operation on a blanket basis, in light of the very limited use for such aircraft under the operating limitations imposed, to reduce the burden on both the applicant and the FAA that previously required evaluation of specific need and purpose on a case by case basis. Safety will be preserved through strict enforcement of the operating limitations in FAR § 91.39.

Any applications for restricted category type certificates under existing agency directives for the special purpose of carrying cargo will be held in abeyance pending final action on this proposed advisory circular. All restricted category/special purpose operation type certificates previously issued for cargo-carrying operations will be reexamined and appropriate action taken as necessary to assure consistency with the final action taken on this proposal.

Issued in Washington, D.C. on November 19, 1981.

M. C. Beard,

Director of Airworthiness.

AC 21-ZZ—Advisory Circular

FAR Guidance Material

Subject: Carriage of cargo in restricted category aircraft and other special purpose operations.

1. *Purpose.* This advisory circular (AC) is to advise that the carriage of cargo is considered a restricted category special purpose operation and provides procedures for designating other special purpose operations under Federal Aviation Regulation (FAR) § 21.25(b)(7).

2. *Information.* Examples of restricted category special purpose operations are listed in FAR § 21.25, which also provides in FAR § 21.25(b)(7) for other special purpose operations as specified by the FAA Administrator. The carriage of cargo in restricted category aircraft has been authorized on a case by case basis in the past. However, the procedures related to issuance of the type certificates and airworthiness certificates for that purpose have never been published in the AC system. This AC is, therefore, intended to establish carriage of cargo as a special purpose operation under FAR § 21.25(b)(7) and to provide guidance for issuance of type and airworthiness certificates for that purpse, and any other special purpose proposed by an applicant.

3. *General.*

a. A person who applies for a restricted category type certificate for any special purpose operation should be aware that the operating limitations imposed on restricted category aircraft by FAR § 91.39, among other things, prohibit the carrige of persons or property for compensation or hire, and restrict the areas and airports where restricted category aircraft may be operated. It should be recognized, therefore, that the strict limitations imposed on restricted category aircraft severely limit their practical usage, especially for the special purpose of carrying cargo.

b. Propsals for establishing new special purpose operations under FAR 21.25(b)(7) should be submitted to the FAA, 800 Independence Avenue, S.W., Washington, D.C. 20591, Attention: Aircraft Manufacturing Division, AWS-200, and should include information, views, and arguments to substantiate that permitting the proposed operation would be in the public interest and safety would not be compromised. The proposal will be published in the Federal Register and final action will be dependent upon evaluation of comments received.

4. *Procedure.*

a. *Type Certification.* A restricted category type certificate is a prerequisite to issuance of a restricted airworthiness certificate for an individual aircraft. Application for a type certificate should be made on FAA Form 8110-2, Application for Type Certificate, Production Certificate, or Supplemental Type Certificate, and submitted to the Engineering Division or Branch in the FAA Regional Office of the region in which the applicant is located.

(1) An aircraft previously type certificated in one of the standard categories would be type certificated in the restricted category under FAR § 21.25(a)(1), even though the applicant's aircraft may meet all of the requirements for a type certificate in another category, and no modifications to the aircraft are needed to accomplish the special purpose. When modifications to the aircraft are required for the special purpose, the certification basis for approval of the modifications would be the CAR/FAR applicable to the original type certification of the aircraft, except that the FAA certificating office may waive such of the basic airworthiness requirements considered inappropriate for the special purpose. The waiving of any of the basic airworthiness requirements is judged on the basis that operation of the aircraft under the limitations of FAR § 91.39, plus any other operating limitations the certificating office deems appropriate, will provide a level of public safety equivalent to that of an aircraft operating under an airworthiness certificate for an aircraft in the standard category.

(2) Surplus aircraft of the U.S. Armed Forces would be type certificated in the

restricted category under FAR § 21.25(a)(2), which would include an FAA evaluation of the military safety record of the aircraft model. An aircraft that may have been declared unairworthy by the military is not eligible for certification in any category. The certification basis for approval of modifications to a military surplus aircraft that was never type certificated in any category would be the FAR applicable to the size of the aircraft (i.e., FAR 23 or FAR 25) considered against a showing by the applicant in accordance with FAR § 21.25(a) that no feature or characteristics of the aircraft makes it unsafe when it is operated under the limitations prescribed for its intended use.

(3) In addition to the applicable airworthiness requirements, the FAA certificating office may also consider the hazardous materials regulations in CFR 49, Part 175, and in particular § 175.320 "Cargo-only Aircraft; only means of transportation" when processing an application for the special purpose of carriage of cargo. If the applicant cannot specify that he may not be carrying hazardous materials in his cargo operations, and the applicability of Part 175 with respect to modifications that may be required is not evaluated during the type certification process, the certificating office would include the following limitation in the type certificate: "Carriage of hazardous materials is prohibited unless compliance is shown with applicable regulations in Code of Federal Regulations Title 49, Part 175."

b. *Airworthiness Certification.* An application for an airworthiness certificate for an aircraft that has been type certificated in the restricted category is made on FAA Form 8130-6, Application for Airworthiness Certificate, which may be submitted to any FAA field office. In processing an application for a restricted airworthiness certificate for the special purpose of carriage of cargo, the FAA certificating inspector will place emphasis in the following areas:

(1) An aircraft issued a restricted category type certificate under FAR § 21.25(a)(1) must conform to the type design approved under the category for which the aircraft was previously certificated, and to the type design for the restricted category modifications made to the aircraft. If no modifications had been made to the aircraft, and the aircraft was previously certificated in the standard category, it must be shown by the applicant to be in condition for safe operation and to conform to the type design for the standard category, unless the restricted category type design data specifies those airworthiness requirements that have been found inappropriate for the special purpose.

(2) For a surplus military aircraft, FAR § 21.185(b) requires the FAA to make a finding that the aircraft is in a good state of preservation and repair and in condition for safe operation. In making this finding, the certificating inspector will require any degree of tear-down for inspection, or search of aircraft records that is found necessary to establish the condition of the aircraft and the aircraft systems that are subject to deterioration over a long period of storage. The inspection of the aircraft may be accomplished in conjunction with the type certification process.

(3) In the case of an aircraft that was previously type certificated in the standard category, and is to be returned to the standard category after operation in the restricted category, the certificating inspector will ensure that appropriate inspection requirements are included in the instructions for conversion of the aircraft back to standard configuration. The nature of cargo that may have been carried, the areas where the operations had been conducted, the surface conditions of the airports that had been used in remote areas, and whether the aircraft had been operated at weights over those approved for the standard category would all be factors to consider in developing an inspection program that would determine whether structural damage or damage due to corrosion caused by the kind of cargo carried or areas of operation had occurred. Engineering assistance may be required and requested if deemed necessary by the certificating inspector.

(4) A restricted category aircraft may not be operated over any foreign country without the special permission of that country, since such aircraft may not meet the International Civil Aviation Organization Airworthiness Code, Annex 8. To ensure that foreign civil air authorities are aware of the status of restricted category aircraft exported to their countries, the following note will be placed under "exceptions" on all Export Certificates of Airworthiness, FAA Form 8130-4, issued for restricted category aircraft: "This Aircraft is type certificated in the restricted category and may not meet the applicable airworthiness code as provided by Annex 8 to the Convention on International Civil Aviation."

c. *Operations.* The operating limitations in FAR 91.39(d) may be waived following evaluation of the proposed operations by the FAA. Application for a waiver is made on FAA Form 7711-2, APPLICATION FOR CERTIFICATE OF WAIVER OR AUTHORIZATION, which may be submitted to the FAA region having jurisdiction over the area in which the applicant plans to conduct the operations requiring a waiver. Each application for a waiver will be evaluated and processed on an individual basis by the appropriate FAA office, to determine that public safety will not be jeopardized, and that it is in the public interest to allow restricted catergory operations in the prohibited areas. The region may, based on individual circumstances, prescribe additional operating limitations and establish a date of expiration for the waiver consistent with completion of the special purpose operation.

d. *Maintenance.* Restricted category aircraft are not excluded from meeting any applicable maintenance requirements of Far Parts 43 and 91, including the accomplishment of Airworthiness Directives. The FAA region in which a restricted category aircraft is being operated may take appropriate administrative or legal enforcement action whenever a deviation from these requirements is discovered.

[FR Doc. 81-34169 Filed 11-25-81; 8:45 am]

BILLING CODE 4910-13-M

Maritime Administration

[Docket No. S-706]

Application for Permission; Moore-McCormack Lines, Inc. Moore-McCormack Bulk Transport, Inc. and Lachmar

Notice is hereby given that by application of November 13, 1981, Moore-McCormack Lines, Inc. (Mormac) and Moore-McCormack Bulk Transport, Inc. (Mormac Bulk), applied for written permission under section 805(a) of the Act for affiliated companies to own and operate the 125,000 m^3 LNG tanker, LOUISIANA, on one voyage in the domestic trade. Notice is also given that by application of November 13, 1981, Lachmar—owner of the LOUISIANA, a vessel built with construction-differential subsidy (CDS)—applied for written permission under section 506 of the Act for the temporary employment of the LOUISIANA in the domestic trade. Lachmar requests permission for the LOUISIANA to make a single voyage from Everett, Massachusetts, to Elba Island, Savannah, Georgia, carrying appoximately 115,000 m^3 of LNG, with loading scheduled to take place as soon as possible to satisfy fuel needs for this winter heating season.

Morgas, Inc., one of the partners of Lachmar, and Gastrans, LNG Transport, Inc., which, in turn, is a subsidiary of Moore-McCormack Resources, Inc. (Resources). Mormac and Mormac Bulk, holders of long-term operating-differential subsidy contracts, also are subsidiaries of Resources. It is Lachmar's belief that no non-CDS vessel of suitable capacity to perform the voyage is available to load during December.

Although publication of a Notice with respect to Lachmar's request for permission under section 506 is not required, the Maritime Administration believes that it is appropriate to provide an opportunity for interested parties to comment on Lachmar's application.

Any person, firm or corporation having any interest in the application for sections 805(a) and 506 permission and desiring to submit comments concerning the application must file written comments in triplicate with the Secretary, Maritime Administration, Room 7300, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590, by close of business on December 4, 1981. If such comments deal with section 805(a) issues, they should be accompanied by a petition for leave to intervene. The petition shall state clearly and concisely the ground of interest and the alleged facts relied on for relief.

If no petitions for leave to intervene on section 805(a) issues are received within the specified time, or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operations (a) could result in unfair competition to any person, firm or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program Nos. 11.504 Operating-Differential Subsidies (ODS) and 11.500 Construction-Differential Subsidies (CDS))

Dated: November 20, 1981.

By Order of the Acting Maritime Administrator.

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 81-34006 Filed 11-25-81; 8:45 am]

BILLING CODE 4910-81-M

Approval of Applicant as Trustee; Allied Bank of Texas

Notice is hereby given that Allied Bank of Texas, with offices at 808 Travis Street, Houston, Texas, has been approved as Trustee pursuant to Pub. L. 89-346 and 46 CFR 221.21-221.30.

Dated: November 19, 1981.

By Order of the Maritime Administrator.

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 81-34007 Filed 11-25-81; 8:45 am]

BILLING CODE 4910-81-M

Approval of Applicant as Trustee; First National Bank of Maryland

Notice is hereby given that The First National Bank of Maryland, with offices at 25 South Charles Street, Baltimore, Maryland, has been approved as Trustee pursuant to Pub. L. 89-346 and 46 CFR 221.21-221.30.

Dated: November 19, 1981.

By Order of the Maritime Administrator.

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 81-33946 Filed 11-25-81; 8:45 am]

BILLING CODE 4910-81-M

Request for Removal, Without Disapproval, From Roster of Approved Trustees

Notice is hereby given, pursuant to Pub. L. 89-346 and 46 CFR 221.21-221.30, that Savings Banks Trust Company, with offices at 200 Park Avenue, New York, New York, has requested removal, without disapproval, from the Roster of Approved Trustees. In its request for removal, Savings Banks Trust Company certified that it is no longer acting or proposing to act as trustee under a vessel or Shipyard Financing Trust pursuant to Pub. L. 89-346 and 46 CFR 221.21-221.30.

Dated: November 19, 1981.

By Order of the Maritime Administrator.

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 81-33947 Filed 11-25-81; 8:45 am]

BILLING CODE 4910-81-M

National Highway Traffic Safety Administration

Rulemaking, Research and Enforcement Programs; Public Meetings

The National Highway Traffic Safety Administration (NHTSA) will hold a meeting on December 9, 1981, to answer questions from the public and industry regarding the Agency's rulemaking, research and enforcement programs. The meeting will begin at 1 p.m., and continue as long as may be required. It will be held in the Conference Room of the Environmental Protection Agency's Laboratory Facility, 2565 Plymouth Road, Ann Arbor, Michigan.

At the December meeting, representatives of DOT will answer questions received from the industry and the public relating to NHTSA's rulemaking, research and enforcement programs (including defects). The purpose of this is to focus on those phases of these NHTSA activities which are technical, interpretative or procedural in nature. (Questions regarding the Agency's fuel economy program will continue to be addressed at the EPA's meetings on vehicle emissions).

Questions for the December 9 meeting should be submitted in writing by December 2 to Michael M. Finkelstein, Associate Administrator for Rulemaking, Room 5401, 400 Seventh Street SW., Washington, D.C. 20590. Every effort will be made to answer appropriate questions received. Questions received after the December 2 date may be answered at the meeting, if sufficient time is available. The individual, group, or company submitting a question does not have to be present for the question to be answered. A consolidated list of the questions submitted by December 2 and the issues to be discussed will be mailed to interested persons on or before December 4, 1981, and will be available at the meeting. This list will serve as the agenda.

A transcript of the meeting will be available for public inspection in the NHTSA Technical Reference Section in Washington, D.C., within four weeks after the meeting. Copies of the transcript will then be available at twenty-five cents for the first page and five cents for each additional page (length has varied from 100 to 150 pages) upon receipt to NHTSA, Technical Reference Section, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590.

Issued in Washington, D.C. on: November 20, 1981.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 81-34135 Filed 11-25-81; 8:45 am]

BILLING CODE 4910-59-M

Office of the Secretary

Minority Business Resource Center Advisory Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; (5 U.S.C. App. I)), notice is hereby given of a meeting of the Minority Business Resource Center Advisory Committee to be held December 14, 1981, at 9:00 a.m. until 1:00 p.m. in Room 580 at 2 Embarcadero Center, San Francisco, CA 94111. The agenda for the meeting is as follows:

—DOT Membership on MESBIC Boards.
—Discussion on Surety Bonding Company.

Attendence 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, Minority Business Resource Center, 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 November 18, 1981.

Melvin Humphrey,

Director, Office of Small and Disadvantaged Business Utilization.

[FR Doc. 81-33952 Filed 11-25-81; 8:45 am]

BILLING CODE 4910-62-M

Research and Special Programs Administration

Technical Hazardous-Liquid Pipeline Safety Standards Committee; Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of a meeting of the Technical Hazardous-Liquid Pipeline Safety Standards Committee on December 17-18, 1981, at 9 a.m. in Room 2230, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

The purpose of the meeting is to:

I. Provide for the Committee's Consideration

(A) Docket PS-66, Notice 1, ANPRM on "Placing Longitudinal Weld Seams in Upper Half of Pipe" (45 FR 20142; March 27, 1980);

(B) Draft Notice of Proposed Rulemaking—Retention of radiographic film of nondestructive weld tests (49 CFR 195.234(g)); and

(C) Draft Notice of Proposed Rulemaking—Repair and removal of weld defects (49 CFR 195.230 and 195.232).

II. Brief the Committee and Solicit Its Views on the Following

Regulatory matters in the reissuance of Part 195 under the Hazardous Liquid Pipeline Safety Act of 1979 (Docket PS-70, Amendment 195-22; 46 FR 38357, July 27, 1981) with emphasis on:

(A) Regulation of storage other than "breakout tanks."

(B) Definitions:

(1) "Breakout tanks"

(2) In-Plant piping

(3) Petroleum products

(4) Other hazardous liquids

(C) The role of States in regulation of intrastate hazardous liquid pipelines.

Attendance is open to the public, but limited to the space available. With approval of the chairman of the Committee, members of the public may present oral statements on any items scheduled for discussion. Due to the limited time available, each person who wants to make an oral statement is requested to notify Toni Reed, Room 8423, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590, telephone 202-426-2392, of the topics to be addressed and the time requested to address each topic. The chairman may deny any request to present an oral statement and may limit the time of any oral presentation. Members of the public may present written statements to the Committee before or after any session of the meeting.

The opportunity for public participation at the meeting is intended to provide information for the Committee to consider in formulating its recommendations to the Materials Transportation Bureau. It is not to be construed as an extension of the respective times for public comment already provided in the rulemaking proceedings listed.

Dated: November 17, 1981.

Melvin A. Judah,

Acting Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

[FR Doc. 81-33792 Filed 11-25-81; 8:45 am]

BILLING CODE 4910-60-M

Sunshine Act Meetings

Federal Register
Vol. 46, No. 228
Friday, November 27, 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

1

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, December 4, 1981.

PLACE: 2033 K Street, N.W., Washington, D.C., Eight floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1773-81 Filed 11-24-81; 12:41 pm]

BILLING CODE 6351-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 9:00 a.m. on Monday, November 30, 1981, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for consent to purchase assets and assume liabilities and to establish two branches:

Plymouth Guaranty Savings Bank, Plymouth, New Hampshire, for consent to acquire the assets of and assume the liability to pay deposits made in Granite State Trust Company, Lincoln, New Hampshire; and for consent to establish the two offices of Granite State Trust Company as branches of Plymouth Guaranty Savings Bank.

Application for consent to merge, establish thirteen branches and a public accommodation office, and redesignate the main office:

The Tremont Savings and Loan Association, New York (Bronx), New York, a State-chartered Federally-insured savings and loan association, for consent to merge, after having converted to a mutual savings bank, with The Lincoln Savings Bank, New York (Brooklyn), New York, under the charter of a newly-formed savings bank, "The Tremont Savings Bank," and with the title "The Lincoln Savings Bank"; to establish the fourteen offices of The Lincoln Savings Bank as offices of the resultant institution; and to designate the main office of The Lincoln Savings Bank as the main office of the resultant institution.

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,928-L—The Drovers' National Bank of Chicago, Chicago, Illinois

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: November 23, 1981.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1763-81 Filed 11-24-81; 11:15 am]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 9:30 a.m. on Monday, November 30, 1981, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b (c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Requests for relief from adjustment for violations of Regulation Z:

Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8) and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents, or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for inforation concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: November 23, 1981.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1764-81 Filed 11-24-81; 11:15 am]

BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes 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, November 23, 1981, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director Charles E. Lord (Acting Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Memorandum and resolution re: Policy statement regarding the use of independent data processing centers.

The Board further determined, by the same majority vote, that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Memorandum and resolution re: Amendments to Part 329 of the Corporation's rules and regulations, entitled "Interest on Deposits," which would permit insured nonmember banks to operate international banking facilities (IBFs) in the same manner as other depository institutions.

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable.

Dated: November 23, 1981.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1771-81 Filed 11-24-81; 12:21 pm]

BILLING CODE 6714-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes 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 closed meeting held at 2:30 p.m. on Monday, November 23, 1981, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director Charles E. Lord (Acting 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 the following matters:

Application of Berkshire County Savings Bank, Pittsfield, Massachusetts, an operating noninsured bank, for Federal deposit insurance

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,987–L—The Mission State Bank and Trust Company, Mission, Kansas

Memorandum and Resolution re: General Procedure for Real Estate Foreclosure Bids

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsection (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10).

Dated: November 23, 1981.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1772-81 Filed 11-24-81; 12:21 pm]

BILLING CODE 6714-01-M

6

FEDERAL ELECTION COMMISSION

DATE AND TIME: Monday, November 23, 1981, at 2:20 p.m.

PLACE: 1325 K Street, NW., Washington, D.C. (fifth floor).

STATUS: This meeting was open to the public.

MATTERS CONSIDERED:

Due to extraordinary circumstances, the Commission held an emergency meeting to plan what measures should be taken to shut down the Commission due to the expiration of the continuing resolution for its appropriations.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer; Telephone: 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission.

[S-1770-81 Filed 11-24-81; 12:18 pm]

BILLING CODE 6715-01-M

7

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, December 1, 1981 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Compliance. Litigation. Audits. Personnel.

* * * * *

DATE AND TIME: Wednesday, December 2, 1981 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C. (fifth floor).

STATUS: SPECIAL OPEN MEETING OPEN TO THE PUBLIC.

MATTERS TO BE CONSIDERED: Amendments to Section 114 of the Regulations.

* * * * *

DATE AND TIME: Thursday, December 3, 1981 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C. (fifth floor).

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings correction and approval of minutes

Advisory opinions:

Draft AO 1981–34: Philip J. Harter, National Association of Retired Federal Employees

Draft AO 1981–36: Denise Hansen Miller, Mori and Ota

Draft AO 1981–48: John C. Ruck, Executive Committee of the Muskegan County Republican Party
Draft AO 1981–50: Albert G. Norman, Jr., and F.T. Davis, Jr., Hansell, Post, Brandon & Dorsey
Draft AO 1981–51: William C. Oldaker, Metzenbaum for Senate
Co-ordinated expenditure limits for the Connecticut special general election
Year end management report CFAP Petition for rulemaking
Regs: Joint fundraising (candidates use of property in which spouse has an interest)
Routine administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer; Telephone: 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission.

[S–1774–81 Filed 11–24–81; 3:43 pm]

BILLING CODE 6715–01–M

8

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 46 FR 57417, November 23, 1981.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., November 24, 1981.

CHANGE IN MEETING: The regular Commission meeting has been rescheduled for November 25, 1981, at 10 a.m. The following item has been added:

Item No., Docket No., and Company

CAM–8: RM80–42, Tax Normalization for certain Items Reflecting Timing Differences in the Recognition of Expenses or Revenue for Ratemaking and Income Tax Purposes

Kenneth P. Plumb,

Secretary.

[S–1776–81 Filed 11–24–81; 3:43 pm]

BILLING CODE 6717–01–M

9

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 46 FR 57417, November 23, 1981.

PREVIOUSLY ANNOUNCED DATE OF MEETING: November 24, 1981.

CHANGE IN MEETING: The closed meeting has been rescheduled for November 25, 1981, following the regular Commission meeting.

Kenneth F. Plumb,

Secretary.

[S–1777–81 Filed 11–24–81; 3:43 pm]

BILLING CODE 6717–01–M

10

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 226 FR 57663, Tuesday, November 24, 1981.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: Wednesday, November 25, 1981.

PLACE: 1700 G Street, NW., board room, Sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202–337–6679).

CHANGES IN THE MEETING: The following item has been added to the open portion of the Bank Board meeting scheduled for Wednesday, November 25, 1981.

Revision of Application Requirements.

No. 567, November 24, 1981.

[S–1767–81 Filed 11–24–81; 11:21 am]

BILLING CODE 6720–01–M

11

FEDERAL MARITIME COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 46 FR 5697, November 19, 1981.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9 a.m., November 24, 1981.

CHANGE IN THE MEETING: The meeting scheduled for November 24, 1981, 9 a.m. has been cancelled.

[S–1755–81 Filed 11–24–81; 9:06 am]

BILLING CODE 6730–01–M

12

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., December 2, 1981.

PLACE: Hearing Room One, 1100 L Street, N.W., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Report on Notation Items disposed of during October 1981.
2. Report of the Secretary on times shortened for submitting comments on section 15 agreements pursuant to delegated authority during October 1981.
3. Report of the Secretary on Applications for Admission to Practice approved during October 1981, pursuant to delegated authority.
4. Agreement No. 10270–2: Modification of the Gulf European Freight Association Agreement to extend the term of the basic agreement indefinitely.
5. Agreement No. 9984: Extension of the term of approval of the South Atlantic North Europe Rate Agreement.
6. Agreements Nos. 8770–12 and 9988–13: Modifications of the U.K./U.S.A., Gulf Westbound Rate Agreement and the Continental/U.S. Gulf Freight Association Agreement, respectively, to provide for appointment of resident representatives in the United States.
7. Agreement No. 10416 between Trailer Marine Transportation Corporation and Puerto Rico Maritime Shipping Authority to permit discussion and establishment of uniform tariff rules, and regulations, and charges excluding ocean freight rates.
8. Agreement No. 9745–3: Modification of the Dart Containerline Company Limited consortium to substitute Centennial Shipping Limited for Bristol City Line Limited.
9. Report on compliance with General Order 7, Revised—Self-Policing.
10. Reduction in Volume of Attachments to Agreements' Recommendations.
11. Informal Docket No. 1063(I): Bristol Myers Company V. United States Lines, Inc.—Review of Settlement Officer's Decision.
12. Docket No. 81–19: Eli Lilly International Corporation V. Mitsui O.S.K. Lines Ltd.—Consideration of the record.

Portions closed to the public:

1. Fact Finding Investigation No. 12—Motions to quash subpoenas.
2. Malpractice Target Program.
3. Docket No. 80–63: West Coast of Italy, Sicilian and Adriatic Ports, North Atlantic Range Ports Conference (WINAC) Tariff Rule 26—Compliance with Report and Order of the Commission.
4. Docket No. 80–80: Paulssen & Guice Ltd.—Independent Ocean Freight Forwarder License No. 1166; Paulssen & Guice Midwest, Inc.—Applicant for a License as an Independent Ocean Freight Forwarder—Consideration of request for oral argument and possible consideration of the record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

[S–1775–81 Filed 11–24–81; 3:43 pm]

BILLING CODE 6730–01–M

13

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

November 19, 1981.

TIME AND DATE: 10 a.m., Tuesday, November 24, 1981..

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: In addition to the previously announced items to be considered, the Commission will also consider and act upon the following items:

4. Secretary of Labor, MSHA, on behalf of Bruce Edward Pratt v. River Hurricane Coal Company, Inc., KENT 81–88–D: Petition for Discretionary Review (Issues include whether judge erred in concluding the miner was engaged in protected activity).
5. Secretary of Labor, MSHA, on behalf of Clarence Ball v. B & B Mining Company and

Laurel Mountain Mining Co., VA 80-128-D; Petition for Discretionary Review (Issues include whether award of 6 per cent interest on back pay is appropriate).

It was determined by a unanimous vote of Commissioners that Commission business required that a meeting be held on these items and that no earlier announcement of the items were possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653-5632.

[S-1782-81 Filed 11-24-81; 11:14 am]

BILLING CODE 6820-12-M

14

FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 12 noon, Wednesday, December 2, 1981, following a recess at the conclusion of an open meeting to be held earlier the same day.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: November 24, 1981.

James McAfee,

Assistant Secretary of the Board.

[S-1768-81 Filed 11-24-81; 11:36 am]

BILLING CODE 6210-01-M

15

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10 a.m., Wednesday, December 2, 1981.

PLACE: Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda: Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda.

1. Proposed revision of Regulation 1. (Management Official Interlocks).

Discussion Agenda:

2. Proposed publication of notice of an application by J. P. Morgan & Co., incorporated to act as a futures commission merchant in bullion, foreign exchange, U.S. Government securities, U.S. money market instruments, and Eurodollar certificate of deposit.
3. Consideration of Federal Financial Institutions Examination Council request for broadened definition of bank capital.
4. Consideration of proposal by the Federal Financial Institutions Examination Council regarding accrual accounting requirements for commercial banks and State-chartered mutual savings banks.
5. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: November 24, 1981.

James McAffee

Assistant Secretary of the Board.

[S-1769-81 Filed 11-24-81; 11:46 a.m.]

BILLING CODE 6210-01-M

16

INTERNATIONAL TRADE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Sunshine 1727.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2 p.m., Monday, November 23, 1981.

CHANGES IN THE MEETING: Cancellation of previously scheduled meeting.

Due to the lack of appropriated funds, the Commission meeting scheduled for Monday, November 23, 1981, is hereby cancelled.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

[S-1757-81 Filed 11-23-81; 10:02 am]

BILLING CODE 7020-02-M

17

LEGAL SERVICES CORPORATION

(Board of Directors)

TIME AND DATE: 9 a.m.-5 p.m., Friday, December 4, 1981.

PLACE: Legal Services Corporation, 733 15th Street, N.W., Washington, D.C., eighth floor conference rooms 2 and 3.

STATUS OF MEETING: Open (portion of the meeting will be closed to discuss a personnel matter under 45 CFR 1622.5(a)).

MATTERS TO BE CONSIDERED:

1. Adoption of Agenda.
2. Approval of Minutes of October 2, 1981 Meeting.
3. Report on Congressional Activity on FY 1982 Appropriation and Reauthorization of Legal Services Corporation Act.
4. Acceptance of FY 1981 Audit Report of Legal Services Corporation.
5. Adoption of Consolidated Operating Budget for FY 1982.
6. Adoption of FY 1983 Budget Request.
7. Report on Program Activities by Clint Lyons *et al.*
8. Future Meeting Dates.
9. Other Business.

CONTACT PERSON FOR MORE INFORMATION: Dellanor Khasakhala, Office of the President, (202) 272-4040.

Date issued: November 23, 1981.

[S-1765-81 Filed 11-24-81; 11:16 am]

BILLING CODE 6820-35-M

18

NATIONAL LABOR RELATIONS BOARD MEETING

TIME AND DATE: 10 a.m., Monday, November 30, 1981.

PLACE: Board Conference Room, Sixth Floor, 1717 Pennsylvania Avenue, N.W., Washington, D.C.

STATUS: Closed to public observation pursuant to 5 U.S.C. 552b(c)(2) (internal personal rules and practices) and (c)(6) (personnel information where disclosure would constitute a clearly unwarranted invasion of personal privacy).

MATTERS TO BE BE CONSIDERED: Budget and personnel-related matters.

CONTACT PERSON FOR MORE INFORMATION: John C. Truesdale, Executive Secretary, Washington, D.C. 20570; Telephone: (202) 254-9430.

Dated at Washington, D.C., November 20, 1981.

By direction of the Board.

National Labor Relations Board.

John C. Truesdale,

Executive Secretary.

[S-1756-81 Filed 11-23-81; 11:21 am]

BILLING CODE 7545-01-M

19

NATIONAL MEDIATION BOARD

TIME AND DATE: 2 p.m, Wednesday, December 9, 1981.

PLACE: Board Hearing Room, Eighth floor, 1425 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Ratification of Board actions taken by notation voting during the month of November, 1981.
2. Other priority matters which may come before the Board for which notice will be given at earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Secretary's office following the meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rowland K. Quinn, Jr., Executive Secretary; Tel: (202) 523–5920.

Date of Notice: November 20, 1981.

[S–1786–81 Filed 11–24–81; 11:17 am]

BILLING CODE 7550–01–M

20

NUCLEAR REGULATORY COMMISSION

DATE: Week of November 23, 1981 (revised).

PLACE: Commissioner's Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED: Tuesday, November 24—

10 a.m.:

1. Affirmation/Discussion Session (public meeting) (as announced; items revised)

Items to be affirmed and /or discussed:

a. Interim Amendments to 10 CFR Part 50 Related to Hydrogen Control (postponed from November 19)
b. Proposed Amendments: (A) to 10 CFR 50.54, Implementing the Immediate Notification Requirements Mandated in Section 201 of NRC's FY 1980 Authorization Act, and (B) to 10 CFR 50.72, Revising the Immediate Reporting of Significant Events at Operating Nuclear Power Reactors (postponed from November 19)
c. Request for a Hearing on Big Rock Point (postponed from November 19)
d. Request for a Hearing on Turkey Point (postponed from November 19)
e. Amendments to Part 2 (Express Mail; Oral Responses to Motions to Compel)
f. San Onofre Order

1:30 p.m.:

1. Briefing on Pressurized Thermal Shock (public meeting) (as announced)
2. Discussion of Pending Litigation (closed meeting) (postponed from November 19)

ADDITIONAL INFORMATION: Discussion of Management-Organization and Internal Personnel Matters, scheduled for November 17, was cancelled. The Affirmation/Discussion Session, scheduled for November 19, was cancelled. By a vote of 5–0 on November 18 the Commission determined pursuant to 5 U.S.C. 552b(3) and § 9.107a of the Commission's Rules that Commission business required that Discussion of Diablo Canyon Order (closed), held that day and continued on November 19 (closed and open), be held on less that one week's notice to the public.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

November 23, 1981.

Walter Magee,

Office of the Secretary.

[S–1758–81 Filed 11–24–81; 11:11 am]

BILLING CODE 7590–01–M

21

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10 a.m. on December 3, 1981.

PLACE: Room 1101, 1825 K Street, NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Patricia Bausell (202) 634–4015.

Dated: November 24, 1981.

[S–1759–81 Filed 11–24–81; 11:11 am]

BILLING CODE 7600–01–M

22

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10 a.m. on December 10, 1981.

PLACE: Room 1101, 1825 K Street, NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Patricia Bausell (202) 634–4015.

Dated: November 24, 1981.

[S–1760–81 Filed 11–24–81; 0:45 am]

BILLING CODE 7600–01–M

23

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10 a.m. on December 17, 1981.

PLACE: Room 1101, 1825 K Street, NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Patricia Bausell (202) 634–4015.

Dated: November 24, 1981.

[S–1761–81 Filed 11–24–81; 11:14 am]

BILLING CODE 7600–01–M

24

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of November 30, 1981, in Room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Tuesday, December 1, 1981, at 10:00 a.m. An open meeting will be held on Thursday, December 3, 1981, 10:00 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Chairman Shad and Commissioners Loomis, Evans, Thomas, and Longstreth voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, December 1, 1981, at 10:00 a.m., will be:

Access to investigative files by Federal, State, or Self-Regulatory authorities.
Institution of administrative proceedings of an enforcement nature.
Institution of injunctive actions.
Settlement of administrative proceedings of an enforcement nature.
Regulatory matter regarding financial institution. Freedom of Information Act appeals. Litigation matter.
Regulatory matter bearing enforcement implications.

The subject matter of the open meeting scheduled for Thursday, December 3, 1981, at 10:00 a.m., will be:

1. Consideration of whether to publish a release containing interpretations of the provisions of Item 4 of S–K. The release would provide staff views on issues which have arisen since the most recent amendments of Item 4, which relates to the disclosure of management remuneration in Commission filings. In addition, the release would reiterate prior staff interpretations with continuing validity. For further

information, please contact Ann M. Glickman at (202) 272–2573.

2. Consideration of whether to eliminate annual Schedules II and III of Form X–17A–5, the Financial and Operational Combined Uniform Single ("FOCUS") Report, filed by brokers and dealers. For further information, please contact James G. Moody at (202) 272–2370.

3. Consideration of whether to grant the application of Heizer Corporation ("Heizer"), a business development company within the meaning of Section 2(a)(48) of the Investment Company Act of 1940 ("the Act"), requesting an order pursuant to Section 61(a)(3) of the Act approving the issuance of options to purchase Heizer shares to certain non-employee directors pursuant to an executive compensation plan. The Commission will also consider a recommendation by the Division of Investment Management ("the Division") that the Commission amend Rule 30–5 of the rules relating to general organization to delegate to the Director of the Division the authority to issue notices and orders pursuant to Sections 57(c), 57(j), 57(k), 57(n) and 61(a)(3) of the Act where the applications present no issues not previously settled by the Commission and raise no questions of fact or policy indicating that a hearing need be held. for further information, please contact Barbara G. Fraser at (202) 272–3017.

4. Consideration of whether to adopt three revisions to Forms N–1Q, N–1 and N–2 to, among other things, eliminate the necessity for most management investment companies to file Form N–1Q on a quarterly basis and establish in its place a new requirement to report substantially similar information annually on Form N–1 and N–2. For further information, please contact Anthony A. Vertuno at (202) 272–2107.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Diane Klinke at (202) 272–2178.

November 24, 1981.

[S–1778–81 Filed 11–24–81; 3:43 pm]

BILLING CODE 8010–01–M

25

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

Meeting

TIME AND DATE: 8 a.m., December 11, 1981.

PLACE: Uniformed Services University of the Health Sciences, Room D3–001, 4301 Jones Bridge Road, Bethesda, Maryland 20014.

STATUS: Open.

MATTERS TO THE CONSIDERED:

8:00 a.m.—Meeting—Board of Regents
(1) Approval of Minutes, 15 October 1981; (2) Report on Research/Investigation Program; (3) Faculty Appointments; (4) Report—Admissions; (5) Report—Associate Dean for Operations; (6) Report—Chairman, Board of Regents; (7) Report—President, USUHS—(a) Draft Sabbatical Policy, (b) Membership in Medical Honor Society, (c) USUHS Space Requirements, (d) Collaborative Educational Efforts, (e) Recommendation for Awards
New Business

SCHEDULED MEETINGS: March 12, 1982.

CONTACT PERSON FOR MORE INFORMATION: Frank Reynolds, Executive Secretary of the Board, 202/295–3025.

November 23, 1981.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[S–1754–81 Filed 11–24–81; 9:06 am]

BILLING CODE 3810–01–M

federal register

Friday
November 27, 1981

Part II

Department of Agriculture

Food and Nutrition Service

Child Care Food Program; Interim Rule and Final Rule on Eligibility of Proprietary Title XX Centers

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 226

Child Care Food Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Interim rule

SUMMARY: Pub. L. 97–35, the Omnibus Reconciliation Act of 1981, enacted August 13, 1981, makes a number of substantive changes in the administration and operation of the Program. This interim rule makes several changes in the Child Care Food Program (CCFP) regulations in order to implement nondiscretionary provisions contained in Pub. L. 97–35. Provisions mandated by this statute and contained in this regulation are as follows: A reduction in the upper age limit for children eligible to participate in the Program; a limitation on the number of meal types for which an instituion may be reimbursed; the termination of food service equipment assistance; the elimination of the tiering method of reimbursement; the elimination of the requirement for submission of a State Plan of Program operations by State agencies which administer the Program; a prohibition on participation in the Special Milk Program if an institution is participating in the Child Care Food Program; the reduction of food service payment rates for meals served in day care homes; the implementation of an annual, rather than semiannual, adjustment in Program reimbursement rates, including food service payment rates for day care homes; a change in the rates of reimbursement for supplements served in child care centers and outside-school-hour care centers; modifications in procedures and guidelines to be used in determining the eligibility of enrolled children for free and reduced-price meals in the Program; reimbursement changes for meals served to children of day care home providers; and a prohibition on the administration of the Program in any State by the Food and Nutrition Service (FNS) if FNS has not administered the Program in the State continuously since October 1, 1980.

EFFECTIVE DATE: This rule becomes effective September 1, 1981, except changes to the following sections become effective October 1, 1981: §§ 226.2; 226.3 (b) and (c); 226.7(e); 226.15(i); and former § 226.25. Also, effective January 1, 1982, the changes to the following sections become effective: §§ 226.4(b)(7)–(9); 226.6(b)(3); 226.15(e)(3); and 226.18 (e) and (f). References to tiering formerly included in §§ 226.2 and 226.10 are no longer effective as of January 1, 1981.

Comments must be submitted on or before January 26, 1982.

ADDRESS: Comments should be sent to Child Care and Summer Programs Division, Food and Nutrition Service, United States Department of Agriculture, Washington, D.C. 20250, 202–447–6509.

FOR FURTHER INFORMATION CONTACT: Jordan Benderly, Director, or Beverly Walstrom, Child Care and Summer Programs Division, Food and Nutrition Service, United States Department of Agriculture, Washington, D.C. 20250, 202–447–6509.

SUPPLEMENTARY INFORMATION: (a) The effective dates for implementation of these provisions correspond to those mandated by Pub. L. 97–35.

(b) The following changes are effective September 1, 1981:

(1) The food service payment rates for meals and supplements served in day care homes, specified in § 226.4(c) and § 226.13(c), are in effect from September 1, 1981, through June 30, 1982;

(2) Food service payment rates for meals served in day care homes, administrative payments to day care home sponsoring organizations, and rates for supplements served in child care centers and outside-school-hours care centers shall be adjusted annually, each July 1, in accordance with the provisions of § 226.4(g);

(3) Rates of reimbursement for breakfasts, lunches, and suppers served in child care centers and outside-school-hours care centers shall be the same as the national average payment rates for breakfasts, and lunches in the School Breakfast Program and the National School Lunch Program respectively, in accordance with the provisions of § 226.4(b) and shall be adjusted annually to reflect changes in the Consumer Price Index, beginning July 1, 1982;

(4) Effective September 1, 1981, for centers which charge separately for meals, the charge imposed for reduced-price meals shall be less than the full price of the meal, but in no case shall exceed the amounts specified in the definition of "Reduced-price meal" in § 226.2, as mandated by Pub. L. 97–35, except for the charge for supplements, the rates for which are effective January 1, 1982;

(5) No institution may be reimbursed for more than two meal services and one supplement service per child per day. Accordingly, § 226.17(b)(3), § 226.17(b)(5), § 226.19(b)(5) and § 226.19(b)(6) have been revised to include this limitation; and

(6) Pub. L. 97–35 requires a variety of changes in the procedures used to collect family size and income information and determine the eligibility of enrolled children for free and reduced-price meals. These changes include the use of the Secretary's income standards, the announcement of the Secretary's income standards for free and reduced-price meals by institutions, the collection of social security numbers for all adult members of a household on the application for free and reduced-price meals and the requirement that only the Secretary's standards of eligibility for reduced-price meals be included in the application or any other materials distributed to the parents or guardians of enrolled children. Accordingly, the definition of "income standards" in § 226.2, and §§ 226.6(e)(7), 226.15(e)(2)–(3), § 226.23(c)(1) and § 226.23 (e) and (f) have been revised to reflect these requirements.

(c) The following changes are effective October 1, 1981:

(1) No institution may participate in the Special Milk Program if it is participating in the Child Care Food Program. This prohibition has been included in § 226.15(i);

(2) The revision in the definition of children eligible for participation in the Child Care Food Program, as provided in the definition of "children" in § 226.2;

(3) The termination of food service equipment assistance;

(4) The elimination of the requirement for States to submit a State Plan of Child Care Food Program Operations. However, as provided in § 226.7(e), State agencies which administer the Program are required to submit annually a plan for the use of State administrative expense funds; and

(5) The provisions of § 226.3(b) and 226.3(c), which prohibit the Food and Nutrition Service from administering the Program in any State in which it has not administered the Program continuously since October 1, 1980.

(d) The following changes are effective January 1, 1982:

(1) The elimination of the tiering method of reimbursement and all definitions and references to the tiering method;

(2) The requirement that, as a condition of eligibility for reimbursement for meals served to children of day care home providers, such children must meet the eligibility standards for free or reduced-price meals. Accordingly, revisions have been

made in § 226.6(b)(3), § 226.15(e)(3), § 226.18(e) and § 226.18(f); and

(3) The reimbursement rates for supplements in centers specified in § 226.4(b)(7)–(9), shall be in effect from January 1, 1982 until June 30, 1982.

The Child Care Food Program is authorized by Section 17 of the National School Lunch Act, as amended. Comprehensive final Program regulations were last published on January 22, 1980 (45 FR 4960). Since that time, only two amendments have been published. The first, published on January 2, 1981, implemented the legislatively mandated three-cent reduction in the reimbursement rate for supplements served in child care centers and outside-school-hours care centers; the second, published on January 16, 1981, exempted American Samoa and the Northern Mariana Islands from the general matching requirement for food service equipment assistance funds.

Pub. L. 97–35, enacted on August 13, 1981, alters the Program in a number of ways. Congress passed the CCFP amendments in order to reduce Federal expenditures and to improve Program management. Since many of the legislative changes are nondiscretionary, the Department has no latitude in their implementation. This interim rule includes only those changes that are nondiscretionary. (Additional conforming changes have been made so that the regulations are internally consistent. These changes are purely technical in nature, and do not affect the regulation in a substantive manner.) This regulation is therefore being issued as an interim rule. However, public comments are solicited and a final rule will be published after comments have been received. Public Law 97–35 also makes other Program changes over which the Secretary has some discretion in implementation. Proposed regulations dealing with these discretionary provisions will be issued in the near future.

Comment period: Comments must be submitted on or before January 26, 1982. Written comments should be sent to Beverly Walstrom, at the address given above.

Classification: The interim rule has been reviewed under Executive Order 12291 and has not been classified as major because it will not have an annual effect on the economy of $100 million, will not cause a major increase in costs or prices, and will not have a significant economic impact on competition, employment, investment, productivity, innovation or on the ability of U.S. enterprises to compete. The rule has also been reviewed with regard to the requirements of Pub. L. 96–354. Pursuant to that review, G. William Hoagland, Administrator of the Food and Nutrition Service, has certified that this rule does not have a significant economic impact on a substantial number of small entities.

G. William Hoagland has determined, pursuant to 5 U.S.C. 553 (b) and (d), that good cause exists for making this rule effective earlier than 30 days after publication because Pub. L. 97–35 mandates that provisions included in this rule, effective September 1 and October 1, will be effective earlier than 30 days after publication. The amendments to Part 226 involve the following aspects of the Child Care Food Program:

1. Definition of Children

Section 810(a) of Pub. L. 97–35 amends section 17 of the National School Lunch Act by limiting reimbursement to institutions for meals served to children not over 12 years of age, with exceptions for children not over 15 years of age of migrant families, and handicapped individuals. Therefore, the definition of children in the regulations has been revised in accordance with the provisions of Pub. L. 97–35 to include, as eligible for Program participation, children 12 years of age and under and, in the case of children of migrant workers, those children 15 years of age of less. No change is being made in the eligibility requirement for mentally or physically handicapped persons, as defined by each State. They remain eligible for participation in the Program so long as they are enrolled in an institution which serves a majority of persons 18 years of age and under.

This change in the Program is effective October 1, 1981. Therefore, no institution may be approved for the service of meals to persons over the age limit, as defined herein, after this date.

2. Program Administration

Pub. L. 97–35 prohibits the Department from assuming the administration of the Child Care Food Program in States which are currently administering the Program. Section 817 of the statute prohibits the Secretary from administering the Program in any State in which the Secretary has not administered the Program continuously since October 1, 1980. Accordingly, this rule has been modified to include this restriction, and has eliminated the provision which required FNS to take over the administration of the Program in cases where it was found that a State agency was not operating the Program in accordance with the regulations. These modifications are effective October 1, 1981.

3. Reimbursement for Meals in the Program

a. Section 810(d) of Pub. L. 97–35 mandates that no institution may be reimbursed for the service of more than two meals and one supplement per day per child. Accordingly, appropriate sections in the regulation have been amended to include this limitation, notably § 226.17(b)(3), § 226.17(b)(5), § 226.19(b)(5) and § 226.19(b)(6).

This statutory requirement, however, does not restrict an institution or facility from being approved to serve up to 5 different meal types (breakfast, a.m. supplement, lunch, p.m. supplement or supper), as long as the meal limitation of not more than two meals and one supplement per child per day is not violated.

b. Section 810(d) of Pub. L. 97–35 requires the Secretary to reduce by 10 percent the food service payment rates for day care homes that were in effect on the date of enactment of the law. Accordingly, the 10 percent reduction has been incorporated into this rule. The food service payment rates specified in this rule will be in effect from September 1, 1981, through June 30, 1982. On July 1, 1982, and annually each July 1 thereafter, food service payment rates will be adjusted to the nearest $.0025 based on changes measured over the most recent 12-month period in the series of food away from home of the Consumer Price Index, as provided in § 226.4(g). (A separate notice has been published at 46 FR 42891 on August 25, 1981, announcing new rates for all meals served in centers and homes in all States, and Alaska and Hawaii.)

c. Section 810(c) of Pub. L. 97–35 prescribes national average payment rates for free, reduced-price, and paid supplements served in child care centers and outside-school-hours care centers. These rates have been incorporated into this rulemaking. The legislation mandates that rates for supplements served in centers be adjusted annually each July 1, based on changes measured over the most recent 12-month period in the series of food away from home of the Consumer Price Index. Section 810(c) (1) and (2) of Pub. L. 97–35 requires that the national average payment rates for free, reduced-price and paid breakfast, lunches and suppers in the CCFP be the same as those prescribed for the National School Lunch Program and the School Breakfast Program. Since the statute specifies that the new rates for schools are effective September 1, 1981, the CCFP rates are also effective September 1, 1981. Since supplement rates are not related to school lunch or

breakfast, the rates for free, reduced-price and paid supplements served in centers specified in § 226.4(b)(7)–(9), are effective January 1 as required by Pub. L. 97–35. (A separate notice has been published at 46 FR 42891 on August 25, 1981, announcing new rates for all meals served in centers and homes in all States, and Alaska and Hawaii.)

d. Section 810(d) of Pub. L. 97–35 requires that, as a condition of eligibility for reimbursement for meals served to children of day care home providers, such children must meet the income standards for free or reduced-price meals. In order to ensure that providers' children are eligible for Program participation, modifications have been made to the Program regulations. These include the requirement that day care home sponsoring organizations submit with their application for participation to the State agency information regarding the family size and income of providers' children (§ 226.6(b)(3)) and maintain records concerning the family size and income of the families of such children (§226.15(e)(3)). Other conforming revisions have been made to § 226.18 (e) and (f), day care home requirements.

e. Section 810(d) of Pub. L. 97–35 requires that, effective January 1, 1982, reimbursement to institutions, other than sponsoring organizations of day care homes, be made for the types of meals served to enrolled children based on the eligibility of each child for free, reduced-price, and paid meals. This eliminates the tiering method of reimbursement for centers formerly described under § 226.10 of the regulations. This rule, therefore, deletes all references to the tiering method, including the definitions of tiered institutions included in § 226.2, and all requirements associated with the administration of this method in the Program. State agencies shall make payment for meals served in centers after December 31, 1981, on the basis of the eligibility of enrolled children, in accordance with the reimbursement method (claiming percentage, blended rate, or meal count by eligibility) as described in § 226.9(b), elected for use by the State.

4. Free and Reduced-price Meals

Section 810(c) and Section 803 of Pub. L. 97–35 make a number of important changes in the procedures used for determining the eligibility of children for free and reduced-price meals. The changes involve:

(a) The use of the Secretary's, rather than the State's, guidelines when determining eligibility;

(b) A conforming change in the definition of income standards (§ 226.2);

(c) The requirement that institutions announce the Secretary's guidelines for free and reduced-price meals by including it in the annual news release (§ 226.23(e)). The news release has always been required in the Program;

(d) The distribution of applications for free and reduced-price meals to parents or guardians of enrolled children that include only the income standards for reduced-price meals. The statute prohibits including the income standards for free meals on this application and on any other descriptive materials distributed to parents or guardians of the children. The statute requires that both the applications for free and reduced-price meals and other descriptive materials contain an explanation that indicates that households with incomes less than or equal to the reduced-price standards listed would be eligible for free or reduced-price meals (§ 226.23(f)); and,

(e) The collection, by institutions, of social security numbers for all adult members of a household on the application for free and reduced-price meals (§ 226.15(e)(3)).

These changes in Program requirements have been incorporated in this rule and are effective September 1, 1981.

5. Special Milk Program

Currently, institutions participating in the CCFP may also participate in the Special Milk Program instead of serving supplements to enrolled children under the Program. However, Section 807 of Pub. L. 97–35 prohibits institutions which participate in the Program from being eligible for participation in the Special Milk Program. This prohibition has been included in this rule in § 226.15(i) and is effective October 1, 1981.

6. State Plan of Child Care Food Program Operations

Pub. L. 97–35 eliminates the requirement for State agencies to submit annually a State Plan of Child Care Food Program Operations to FNS. Accordingly, all references to and provisions regarding this plan are deleted from this rule.

In addition, although the statute eliminates the State Plan, it requires State agencies to submit annually a plan for the use of State administrative expense funds to FNS. This requirement, formerly included in the State Plan provision of the regulations, has been added to § 226.7(e). Further guidance on the requirements for the State administrative expense funds plan will be provided to States by the Department. These provisions are effective October 1, 1981.

7. Food Service Equipment Assistance

Section 810(f) of Pub. L. 97–35 repeals the availability of food service equipment assistance funds (FSEA) to institutions participating in the Program. The repeal of FSEA is effective October 1, 1981. Although provisions which prescribed procedures for administrating and distributing FSEA to institutions in the CCFP have been deleted in this final rule, the definition of FSEA and the property management requirements contained in § 226.24 have been retained since the management and disposition of property which has been acquired in whole or in part with FSEA funds must continue to be carried out in accordance with the provisions of § 226.24.

8. Implementation

The effective dates indicated in each of the sections above correspond with those required by section 820 of Pub. L. 97–35. Regional offices and State agencies will be working closely with each other and with institutions to facilitate the timely implementation of these changes in the Program.

9. Other Legislative Provisions

Pub. L. 97–35 also includes a number of other changes in the Program which have not been included in this rule. They are as follows:

(a) Rates of Reimbursement

Rates of reimbursement for breakfasts, lunches and suppers served in child care centers and outside-school-hours care centers shall be the same as the national average payment rates for breakfasts and lunches in the School Breakfast Program and the National School Lunch Program, respectively. These rates are adjusted annually each July 1, as required by Pub. L. 97–35. A separate notice has been published in the **Federal Register** at 46 FR 42891 which announces the new rates for all meals served in centers and homes in all States and in Alaska and Hawaii. These rates are effective September 1, 1981, except for the rates for supplements in centers, which are effective January 1, 1982, as required by the statute.

(b) Administrative reimbursement to sponsoring organizations

The statute requires that administrative payments to sponsoring organizations of day care homes be adjusted in order to achieve a 10 percent reduction in the total amount of

reimbursement provided to sponsoring organizations for administrative expenses. A proposed rule dealing with the adjustment in administrative payments will be issued by the Department shortly.

(c) Commodities

Pub. L. 97–35 provides that the value of donated commodities or cash-in-lieu of commodities provided to institutions in the Program shall be 11 cents. These rates will be adjusted each July 1. A separate notice on commodities and cash-in-lieu of commodities will be issued by FNS.

(d) Title XX Proprietary Child Care Centers

Pub. L. 97–35 extends eligibility for Program participation to private for-profit child care centers which are receiving compensation under Title XX for at least 25 percent of the children for which they provide nonresidential child care services. A proposed rule concerning the eligibility of for-profit child care centers which receive compensation under Title XX had been issued pursuant to Pub. L. 96–499, the Omnibus Reconciliation Act of 1980. However, subsequent to the publication of the proposed regulation, Pub. L. 97–35 was enacted. This statute includes a number of provisions which are in conflict with the proposed rule issued by the Department. Therefore, the Department has prepared final rulemaking which conforms to Pub. L. 97–35. This final rule will be published separately in the **Federal Register**. Sections of this interim rule which will be affected by the final Title XX rule include the following: Section 226.2; § 226.6(b); § 226.10(c); § 226.11(b) and (c); § 226.15(a), (b)(1), (b)(4), and (b)(5); § 226.17(a), (b)(2) and (b)(4); § 226.18(b); and § 226.19(a), (b)(2) and (b)(6). In addition, the following will be added to Part 226 by the Title XX final rule: a definition for "Proprietary Title XX Center" to § 226.2; § 226.6(c)(11); § 226.15(b)6); and § 226.16(k).

(e) Documentation of costs

Pub. L. 97–35 eliminates cost as an element in the reimbursement formula for meals served in centers. The Department will be developing a proposed rule for the CCFP which will include revisions regarding the maintenance of cost records in the Program.

Accordingly, the Department is revising and reissuing 7 CFR Part 226 as follows:

PART 226—CHILD CARE FOOD PROGRAM

Subpart A—General

Subpart B—Assistance to States

Subpart C—State Agency Provisions

Subpart D—Payment Provisions

Subpart E—Operational Provisions

Subpart F—Food Service Equipment Provisions

Subpart G—Other Provisions

Authority: Sec. 810 and 820, Pub. L. 97–35, the Omnibus Reconciliation Act of 1981; sec. 2, Pub. L. 95–627, 92 Stat. 3603 (42 U.S.C. 1766); sec. 10, Pub. L. 89–642, 80 Stat. 889 (42 U.S.C. 1779)

Subpart A—General

§ 226.1 General purpose and scope.

This part announces the regulations under which the Secretary of Agriculture will carry out the Child Care Food Program. Section 17 of the National School Lunch Act, as amended, authorizes assistance to States through grants-in-aid and other means to initiate, maintain, and expand nonprofit food service programs for children in nonresidential institutions which provide child care. The program is intended to enable child care institutions to integrate a nutritious food service with organized child care services for enrolled children. Payments will be made to State agencies or FNS Regional Offices to enable them to reimburse institutions for food service to children.

§ 226.2 Definitions.

"Act" means the National School Lunch Act, as amended.

"Administrative costs" means costs incurred by an institution related to planning, organizing, and managing a food service under the Program, and allowed by the State agency financial management instruction.

"Advanced payments" means financial assistance made available to an institution for its Program costs prior to the month in which such costs will be incurred.

"CCFP child care standards" means the Child Care Food Program child care standards developed by the Department for alternate approval of child care centers, outside-school-hours care centers, and day care homes by the State agency under the provisions of § 226.6(d)(2)–(4).

"Child care center" means any public or private nonprofit organization licensed or approved to provide nonresidential child care services to enrolled children, primarily of preschool age, including but not limited to day care centers, settlement houses, neighborhood centers, Head Start centers and organizations providing day care services for handicapped children. Child care centers may participate in the program as independent centers or under the auspices of a sponsoring organization.

"Child care facility" means a licensed or approved child care center, day care home, or outside-school-hours care center under the auspices of a sponsoring organization.

"Children" means (a) persons 12 years of age and under, (b) children of migrant workers 15 years of age and under, and (c) mentally or physically handicapped persons, as defined by the State, enrolled in an institution or a child care facility serving a majority of persons 18 years of age and under.

"Claiming percentage" means the ratio of the number of enrolled children in an institution in each reimbursement category (free, reduced-price or paid) to the total of enrolled children in the institution.

"Day care home" means an organized nonresidential child care program for children enrolled in a private home, licensed or approved as a family or

group day care home and under the auspices of a sponsoring organization.

"Department" means the U.S. Department of Agriculture.

"Enrolled child" means a child whose parent or guardian has submitted to an institution a signed document which indicates that the child is enrolled for child care.

"Fiscal Year" means a period of 12 calendar months beginning October 1 of any year and ending with September 30 of the following year.

"FNS" means the Food and Nutrition Service of the Department.

"FNSRO" means the appropriate Regional Office of the Food and Nutrition Service.

"Food service equipment assistance" means Federal financial assistance formerly made available to State agencies to assist institutions in the purchase or rental of equipment to enable institutions to establish, maintain or expand food service under the Program.

"Food service management company" means an organization, other than a public or private nonprofit school, with which an institution may contract for preparing and, unless otherwise provided for, delivering meals, with or without milk for use in the Program.

"Free meal" means a meal served under the Program to a child from a family which meets the income standards for free school meals and for which neither the child nor any member of his family pays or is required to work in the food service program.

"Income standards" means the family-size and income standards prescribed annually by the Secretary for determining eligibility for free and reduced-price meals under the National School Lunch Program and the School Breakfast Program.

"Income to the program" means any funds used in an institution's food service program, including, but not limited to all monies, other than Program payments, received from other Federal, State, intermediate, or local government sources; children's payments for meals and food service fees; income from any food sales to adults; and other income, including cash donations or grants from organizations or individuals.

"Independent center" means a child care center or outside-school-hours center which enters into an agreement with the State agency to assume final administrative and financial responsibility for Program operations.

"Infant cereal" means any iron-fortified dry cereal specially formulated for and generally recognized as cereal for infants that is routinely mixed with formula or milk prior to consumption.

"Infant formula" means any iron-fortified infant formula, intended for dietary use as a sole source of food for normal, healthy infants, served in liquid state at manufacturer's recommended dilution.

"Institution" means a sponsoring organization, child care center or outside-school-hours care center which enters into an agreement with the State agency to assume final administrative and financial responsibility for Program operations.

"Meals" means food which is served to enrolled children at an institution or child care facility and which meets the nutritional requirements set forth in this part.

"Milk" meals pasteurized fluid types of unflavored or whole flavored milk, lowfat milk, skim milk, or cultured buttermilk which meet State and local standards for such milk except that, in the meal pattern for infants (8 months up to 1 year of age), "milk" means unflavored whole fluid milk or an equivalent quantity of reconstituted evaporated milk which meets such standards. In Alaska, Hawaii, American Samoa, Guam, Puerto Rico, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and the Virgin Islands if a sufficient supply of such types of fluid milk cannot be obtained, "milk" shall include reconstituted or recombined milk. All milk should contain vitamins A and D at levels specified by the Food and Drug Administration and be consistent with State and local standards for such milk.

"Nonexpendable personal property" means tangible personal property having a useful life of more than one year and an acquisition cost of $300 or more per unit. The State agency may use its own definition of nonexpendable personal property provided that such a definition at least includes all tangible personal property as defined herein.

"Nonresidential" means that the same children are not maintained in care for more than 24 hours on a regular basis.

"OIG" means the Office of the Inspector General of the Department.

"Operating costs" means expenses incurred by an institution in serving meals to children under the Program, and allowed by the State agency financial management instruction.

"Outside-school-hours care center" means a public or private nonprofit organization licensed or approved to provide organized nonresidential child care services to enrolled children outside of school hours. Outside-school-hours care centers may participate in the Program as independent centers or under the auspices of a sponsoring organization.

"Personal property" means property of any kind except real property. It may be tangible—having physical existence—or intangible—having no physical existence such as patents, inventions, and copyrights.

"Program payments" means financial assistance in the form of start-up payments, advance payments, or reimbursement paid or payable to institutions for operating costs and administrative costs.

"Program" means the Child Care Food Program authorized by Section 17 of the National School Lunch Act, as amended.

"Reduced-price meal" means a meal served under the Program to a child from a family which meets the income standards for reduced-price school meals. Any separate charge imposed shall be less than the full price of the meal, but in no case more than 40 cents for a lunch or supper, and 30 cents for a breakfast, and for which neither the child nor any member of his family is required to work in the food service program.

"Reimbursement" means Federal financial assistance paid or payable to institutions for Program costs within the rates assigned by the State agency.

"School year" means a period of 12 calendar months beginning July 1 of any year and ending June 30 of the following year.

"Sponsoring organization" means a public or nonprofit private organization which is entirely responsible for the administration of the food program in: (a) One or more day care homes; (b) a child care center or outside-school-hours care center which is a legally distinct entity from the sponsoring organization; (c) two or more child care centers or outside-school-hours care centers; or (d) any combination of child care centers, day care homes, and outside-school-hours care centers.

"Start-up payments" means financial assistance made available to a sponsoring organization for its administrative expenses associated with developing or expanding a food service program in day care homes and initiating successful Program operations.

"State" means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Island, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

"State agency" means the State educational agency or any other State agency that has been designated by the Governor or other appropriate executive, or by the legislative authority of the State, and has been approved by the Department to administer the

Program within the State or in States in which FNS administers the Program.

"FNSRO" means the Food and Nutrition Service Regional Office.

"Title XX" means Title XX of the Social Security Act.

§ 226.3 Administration.

(a) Within the Department, FNS shall act on behalf of the Department in the administration of the Program.

(b) Within the States, responsibility for the administration of the Program shall be in the State agency, except that if FNS has continuously administered the Program in any State since October 1, 1980, FNS shall continue to administer the Program in that State. A State in which FNS administers the Program may, upon request to FNS, assume administration of the Program.

(c) Each State agency desiring to take part in the Program shall enter into a written agreement with the Department for the administration of the Program in the State in accordance with the provisions of this part. This agreement shall cover the operation of the Program during the period specified therein and may be extended by consent of both parties.

(d) FNSRO shall, in each State in which it administers the Program, have available all funds and assume all responsibilities of a State agency as set forth in this part.

Subpart B—Assistance to States

§ 226.4 Payments to States and use of funds.

(a) *Availability of funds.* For each fiscal year based on funds provided to the Department, FNS shall make funds available to each State agency to reimburse institutions for their costs in connection with food service operations, including administrative expenses, under this part. Funds shall be made available in an amount no less than the sum of the totals obtained under paragraphs (b), (c), (d), (e) and (h) of this section. However, in any fiscal year, the aggregate amount of assistance provided to a State under this part shall not exceed the sum of the Federal funds provided by the State to participating institutions within the State for that fiscal year and any funds used by the State under paragraphs (h) and (j) of this section.

(b) *Center funds.* For meals served to children in child care centers and outside-school-hours care centers, funds shall be made available to each State agency in an amount no less than the sum of the products obtained by multiplying:

(1) The number of breakfasts served in the Program within the State to children from families that do not satisfy the income standards for free and reduced-price school meals enrolled in institutions by the national average payment rate for breakfasts for such children under section 4 of the Child Nutrition Act of 1966;

(2) The number of breakfasts served in the Program within the State to children from families that satisfy the income standards for free school meals enrolled in institutions by the national average payment rate for free breakfasts under section 4 of the Child Nutrition Act of 1966;

(3) The number of breakfasts served to children from families that satisfy the income standard for reduced-price school meals enrolled in institutions by the national average payment rate for reduced-price school breakfasts under section 4 of the Child Nutrition Act of 1966;

(4) The number of lunches and suppers served in the Program within the State by the national average payment rate for lunches under section 4 of the National School Lunch Act. (All lunches and suppers served in the State are funded under this provision);

(5) The number of lunches and suppers served in the Program within the State to children from families that satsify the income standard for free school meals enrolled in institutions by the national average payment rate for free lunches under section 11 of the National School Lunch Act;

(6) The number of lunches and suppers served in the Program within the State to children from families that satisfy the income standard for reduced-price school meals enrolled in institutions by the national average payment rate for reduced-price lunches under section 11 of the National School Lunch Act;

(7) The number of supplements served in the Program within the State to children from families that do not satisfy the income standards for free and reduced-price school meals enrolled in institutions by 2.75 cents;

(8) The number of supplements served in the Program within the State to children from families that satisfy the income standard for free school meals enrolled in institutions by 30 cents;

(9) The number of supplements served in the Program within the State to children from families that satisfy the income standard for reduced-price school meals enrolled in institutions by 15 cents.

(c) *Day care home funds.* For meals served to children in day care homes, funds shall be made available to each State agency in an amount no less than the sum of products obtained by multiplying:

(1) The number of breakfasts served in the Program within the State by 47.75 cents;

(2) The number of lunches and suppers served in the Program within the State by 93.5 cents;

(3) The number of supplements served in the Program within the State by 28 cents;

(d) *Administrative funds.* For administrative payments to day care home sponsoring organizations, funds shall be made available to each State agency in an amount not less than the product obtained each month by multiplying the number of day care homes participating under each sponsoring organization within the State by the applicable rates specified in § 226.12(a)(3).

(e) *Start-up funds.* For start-up payments to eligible sponsoring organizations, funds shall be made available to each State agency in an amount equal to the total amount of start-up payments made in the most recent period for which reports are available for that State or on the basis of estimates by FNS.

(f) *Funding assurance.* FNS shall ensure that, to the extent funds are appropriated, each State has sufficient Program funds available for providing start-up and advance payments in accordance with this part.

(g) *Rate adjustments.* FNS shall publish a notice in the **Federal Register** to announce each rate adjustment. FNS shall adjust the following rates on the specified dates:

(1) The rates for meals served in day care homes shall be adjusted annually, on July 1, on the basis of changes in the series for food away from home of the Consumer Price Index for All Urban Consumers published by the Department of Labor. Such adjustments shall be made to the nearest $.0025 based on changes measured over the most recent twelve-month period for which data are available.

(2) The rate for supplements served in child care centers and outside-school-hours care centers shall be adjusted annually, on July 1, on the basis of changes in the series for food away from home of the Consumer Price Index for All Urban Consumers published by the Department of Labor. Such adjustments shall be made to the nearest $.0025 based on changes measured over the most recent twelve-month period for which data are available.

(3) The rate for administrative payments to day care home sponsoring organizations shall be adjusted

annually, on July 1, on the basis of changes in the series for all items of the Consumer Price Index for All Urban Consumers published by the Department of Labor. Such adjustments shall be made to the nearest dollar based on changes measured over the most recent twelve-month period for which data are available.

(h) *Audit funds.* For the expense of conducting audits and reviews under § 226.8, funds shall be made available to each State agency in an amount equal to two percent of the Program reimbursement provided to institutions within the State during the second fiscal year preceding the fiscal year for which these funds are to be made available. The amount of assistance provided to a State under this paragraph in any fiscal year may not exceed the State's expenditures under § 226.8 during such fiscal year.

(i) *Method of Funding.* This section sets forth FNS methods of authorizing funds for State agencies. (Different procedures will be used to make funds available to FNSRO). These methods minimize the time between the transfer of funds from the United States Treasury to the State agency and their final disbursement to institutions.

(1) The "Letter of Credit" (SF 1193A) is the document by which an official of FNS authorizes a State agency to draw funds from the United States Treasury. This shall be the preferred method of payment for State agencies which receive at least $120,000 per year and which meet the requirements in Attachment J of OMB Circular A–102.

(2) State agencies shall request payment(s) by submitting a Request for Payment on Letter of Credit and Status of Funds Report (Treasury Form SF–183) to the appropriate United States Treasury Regional Disbursing Office with a copy to FNS.

(3) State agencies shall submit requests for funds only at such time and in such amounts as will permit prompt payment of obligations.

(4) State agencies shall use the funds received from such requests without delay for the purpose for which drawn.

(5) State agencies not meeting the requirements for the Letter of Credit method of payment shall be provided funds by Treasury check in accordance with the provisions of Treasury Circular 1075.

(j) *Special Developmental Projects.* The State agency may use in carrying out special developmental projects an amount not to exceed one percent of Program funds used in the second prior fiscal year. Special developmental projects shall conform to FNS guidance and be approved in writing by FNS.

§ 226.5 Donation of commodities.

(a) USDA foods available under section 6 of this Act, section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) or purchased under section 32 of the Act of August 24, 1935 (7 U.S.C. 1431), section 709 of the Food and Agricultural Act of 1965 (7 U.S.C. 1446a–1), or other authority, and donated by the Department shall be made available to each State.

(b) The value of such commodities (or cash-in-lieu of commodities) donated to each State for each school year shall be, at a minimum, the amount obtained by multiplying the number of lunches and suppers served in participating institutions, other than sponsoring organizations for day care homes which are not receiving commodities, in that State during that school year by the rate for commodities or cash-in-lieu thereof established for that school year under the provisions of section 6(e) of this Act.

Subpart C—State Agency Provisions

§ 226.6 State agency administrative responsibilities.

(a) *State agency personnel.* Each State agency shall provide sufficient consultative, technical personnel to administer the Program, provide sufficient training and technical assistance to institutions and monitor performance to facilitate expansion and effective operation of the Program.

(b) *Application approval.* Each State agency shall establish an application procedure to determine the eligibility under this part of applicant institutions, and facilities for which applications are submitted by sponsoring organizations. State agencies, by written consent of the State agency and the institutions, shall renew agreements with institutions not less frequently than annually. A State agency may not execute an agreement to be effective during two fiscal years but may nevertheless establish an ongoing renewal process for the purpose of reviewing and approving applications from participating institutions throughout the fiscal year. As a minimum, such application approval process shall include: (1) Renewal of the Program agreement; (2) for child care centers and outside-school-hours care centers, submission of current family size and income information on enrolled children; (3) for sponsoring organizations of day care homes, submission of the current total number of children enrolled, and an assurance that day care home providers' children enrolled in the Program are eligible for free or reduced-price meals; (4) issuance of a nondiscrimination policy statement and media release; (5) for sponsoring organizations, submission of a management plan; (6) submission of an administrative budget; (7) submission of documentation that all child care centers, outside-school-hours care centers, and day care homes for which application is made are in compliance with Program licensing/approval provisions; (8) statement of institutional preference to receive commodities or cash-in-lieu of commodities; (9) institutional choice to receive all, part, or none of advance payment. Any institution applying for participation in the Program shall be notified of approval or disapproval by the State agency in writing within 30 calendar days of filing a complete and correct application. If an institution submits an incomplete application, the State agency shall notify the institution within 15 calendar days of receipt of the application and shall provide technical assistance, if necessary, to the institution for the purpose of completing its application. Any disapproved applicant shall be notified of its right to appeal under paragraph (j) of this section.

(c) *Denial of applications and termination of institutions.* The State agency shall not enter into an agreement with any applicant institution identifiable through its corporate organization, officers, employees, or otherwise, as an institution which participated in any Federal child nutrition program at any time during the previous three fiscal years, including the fiscal year of its application to the Program, and which was seriously deficient in its operation of any such progam. The State agency shall terminate the Program agreement with any institution which it determines to be seriously deficient. Following such termination, the institution shall not be eligible to participate in the Program during the remainder of the fiscal year of its termination and the subsequent two fiscal years, unless the State agency, with FNS concurrence, determines that the institution has taken appropriate corrective actions to prevent recurrence of the deficiencies that led to a termination from the Program. However, the State agency shall afford an institution every reasonable opportunity to correct problems before terminating the institution for being seriously deficient. Serious deficiencies, which are grounds for disapproval of applications and for termination include, but are not limited to, any of the following:

(1) Noncompliance with the applicable bid procedures and contract

requirements of Federal child nutrition program regulations;

(2) The submission of false information to the State agency;

(3) Failure to return to the State agency any advance payments which exceeded the amount earned for serving eligible meals, or failure to return disallowed start-up payments;

(4) Failure to maintain adequate records;

(5) Failure to adjust meal orders to conform to variations in the number of participating children;

(6) The claiming of Program payments for meals not served to participating children;

(7) Service of a significant number of meals which did not include required quantities of all meal components;

(8) Continued use of food service management companies that are in violation of health codes;

(9) Failure of a sponsoring organization to disburse payments to its facilities in accordance with its management plan;

(10) A history of administrative or financial mismanagement in any Federal child nutrition program.

(d) *Licensing/Approval.* This section prescribes State agency responsibilities to ensure that child care centers, and day care homes meet the licensing/approval criteria set forth in this part. Sponsoring organizations shall submit to the State agency documentation that facilities under their jurisdiction are in compliance with licensing/approval requirements. Independent centers shall submit such documentation to the State agency on their own behalf.

(1) *General.* Each State agency shall establish procedures to annually review information submitted by institutions to ensure that all participating child care centers, day care homes, and outside-school-hours care centers either:

(i) Are licensed or approved by Federal, State, or local authorities; or

(ii) Are complying with applicable procedures to renew licensing or approval in situations where the State agency has no information that licensing or approval will be denied; or

(iii) Receive Title XX funds for providing child care, if licensing or approval is not available; or

(iv) Demonstrate compliance with applicable State or local child care standards to the State agency, if licensing is not available and Title XX funds are not received; or

(v) Demonstrate compliance with CCFP child care standards to the State agency, if licensing or approval is not available and Title XX funds are not received.

(2) *CCFP child care standards.* (i) When licensing or approval is not available, independent child care centers, and sponsoring organizations on behalf of their child care centers or day care homes, may elect to demonstrate compliance, annually, with the following CCFP child care standards or other standards specified in paragraph (d)(3) of this section:

(A) *Staff/Child Ratios.* (*1*) Day care homes provide care for no more than 12 children at any one time. One home caregiver is responsible for no more than 6 children ages 3 and above, or no more than 5 children ages 0 and above. No more than 2 children under the age of 3 are in the care of 1 caregiver. The home provider's own children who are in care and under the age of 14 are counted in the maximum ratios of caregivers to children.

(*2*) Child care centers and outside-school-hours care centers do not fall below the following staff/child ratios:

(*i*) For children under 6 weeks of age—1:1

(*ii*) For children ages 6 weeks up to 3 years—1:4

(*iii*) For children ages 3 years up to 6 years—1:6

(*iv*) For children ages 6 years up to 10 years—1:15

(*v*) For children ages 10 years and above—1:20

(B) *Nondiscrimination.* Day care services are available without discrimination on the basis of race, color, or national origin.

(C) *Safety and Sanitation.* (*1*) A current health/sanitation permit or satisfactory report of an inspection conducted by local authorities within the past 12 months shall be submitted.

(*2*) A current fire/building safety permit or satisfactory report of an inspection conducted by local authorities within the past 12 months shall be submitted

(*3*) Fire drills are held in accordance with local fire/building safety requirements.

(D) *Suitability of Facilities.* (*1*) Ventilation, temperature, and lighting are adequate for children's safety and comfort.

(*2*) Floors and walls are cleaned and maintained in a condition safe for children.

(*3*) Space and equipment, including rest arrangements for preschool age children, are adequate for the number and age range of participating children.

(E) *Social Services.* Independent centers, and sponsoring organizations in coordination with their facilities, have procedures for referring families of children in care to appropriate local health and social service agencies.

(F) *Health Services.* (*1*) Each child is observed daily for indications of difficulties in social adjustment, illness, neglect, and abuse, and appropriate action is initiated.

(*2*) A procedure is established to ensure prompt notification of the parent or guardian in the event of a child's illness or injury, and to ensure prompt medical treatment in case of emergency.

(*3*) Health records, including records of medical examinations and immunizations, are maintained for each enrolled child. (Not applicable to day care homes.)

(*4*) At least one full-time staff member is currently qualified in first aid, including artificial respiration techniques. (Not applicable to day care homes.)

(*5*) First aid supplies are available.

(*6*) Staff members undergo initial and periodic health assessments.

(G) *Staff Training.* The institution provides for orientation and ongoing training in child care for all caregivers.

(H) *Parental Involvement.* Parents are afforded the opportunity to observe their children in day care.

(I) *Self-Evaluation.* The institution has established a procedure for periodic self-evaluation on the basis of CCFP child care standards.

(ii) When licensing or approval is not available, independent outside-school-hours care centers, and sponsoring organizations on behalf of their outside-school-hours care centers, may elect to demonstrate compliance with child care standards developed by the State agency which shall include, as a minimum, information on: (A) Fire/safety, (B) sanitation, (C) organized activities, (D) kitchen and restroom facilities, (E) appropriateness of games and materials, (F) availability of emergency medical care, and (G) child-staff ratios as indicated in § 226.6(d)(2)(i)(A). For items (A) and (B), above, appropriate State or local permits are required.

(3) *Alternate approval procedures.* Each State agency shall establish procedures to review information submitted by institutions for centers or homes for which licensing or approval is not available in order to establish eligibility for the Program. Licensing or approval is not available when (i) no Federal, State, or local licensing/approval standards have been established for child care centers, outside-school-hours care centers, or day care homes; or (ii) no mechanism exists to determine compliance with licensing/approval standards; or (iii) licensing authorities do not make a determination on an application for

licensing/approval within a reasonable period of time (as specified in § 226.6(d)(4)). In these situations, independent centers, and sponsoring organizations on behalf of their facilities, may choose to demonstrate compliance with either CCFP child care standards, applicable State child care standards, or applicable local child care standards. State agencies shall provide information about applicable State child care standards and CCFP child care standards to institutions, but may require institutions electing to demonstrate compliance with applicable local child care standards to identify and submit these standards. The State agency may permit independent centers, and sponsoring organizations on behalf of their facilities, to submit self-certification forms, and may grant approval without first conducting a compliance review at the center or facility. But the State agency shall require submission of health/sanitation and fire/safety permits or certificates for all independent centers and facilities seeking alternate child care standards approval. Compliance with applicable child care standards are subject to review in accordance with § 226.6(m).

(4) *Backlogs.* Independent centers and sponsoring organizations on behalf of their facilities may submit to the State agency a Program application for a child care center, outside-school-hours care center, or day care home which has applied for licensing and has not yet secured a determination from the licensing authority. Within 15 calendar days of receipt, the State agency shall notify the institution that the Program application is incomplete and provide the institution with information on demonstrating compliance of the center or home with CCFP child care standards and applicable State child care standards. However, the State agency shall not make any determination of eligibility under this section until 90 calendar days have elapsed from the date the State agency received both a Program application and documentation indicating that an application for licensure was submitted to the licensing authority. When a child care center, outside-school-hours care center, or day care home is approved under this section, the institution which submitted its Program application shall be informed of the responsibility to notify the State agency if the licensing application of the center or home is approved or denied by the licensing authority. The State agency shall terminate the Program participation of any independent center or facility so denied licensure or approval, effective the date of the denial. The State agency shall terminate the Program participation of an independent center, or facility, if, one year from the date of Program approval, the State or local licensing authority indicates that the independent center or the facility has failed to take action on completing the requirements for licensing. FNS shall exempt State agencies from implementation of the provisions of this paragraph and of § 226.6(d)(3)(iii) with respect to any type of child care entity (child care center, outside-school-hours care center, day care home) when State law mandates the entities of that type secure State licensure as a prerequisite to operation. State agencies seeking this exemption relative to a given type or types of child care entities shall submit for FNS review and approval documentation from the chief State legal officer that the condition for exemption exists within the State regarding the specified type or types.

(e) *Annual requirements.* State agencies shall require institutions to comply with applicable provisions of this part. Each State agency shall annually:

(1) Enter into and execute a written Program agreement with each institution, or renew such agreement with the written concurrence of the institution. The Program agreement shall provide that the institution shall accept final financial and administrative responsibility for management of an effective food service, comply with all requirements under this part, and comply with all requirements under Civil Rights Act of 1964 and the nondiscrimination regulations of the Department, as now or later amended (7 CFR Part 15), to the end that no person shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under the Program.

(2) Require each sponsoring organization to submit a management plan with its application for review and approval. Such a plan shall include detailed information on the organizational administrative structure, the staff assigned to Program management and monitoring, administrative budget, and procedures which will be used by the sponsoring organization to administer the Program in and disburse payments to the child care facilities under its jurisdiction.

(3) Require each institution to submit an administrative budget. Each sponsoring organization shall be required to incorporate this budget into its management plan.

(4) Determine that all meal procurements with food service management companies are in conformance with the bid and contractual requirements of § 226.22.

(5) Inquire as to the preference of institutions for commodities or cash-in-lieu of commodities.

(6) Provide institutions with information on foods available in plentiful supply, based on information provided by the Department.

(7) Inform institutions with separate meal charges of their responsibility to ensure that free and reduced-price meals are served to children unable to pay the full price and provide to all institutions a copy of the Secretary's income standards to be used by institutions for determining the eligibility of enrolled children for free and reduced-price meals under the Program.

(f) *Program expansion.* Each State agency shall take action to expand the availability of benefits under this Program. As a minimum, this State shall annually notify each nonparticipating child care center, outside-school-hours care center, and day care home within the State that is licensed, approved, registered, or receiving funds under Title XX of the availability of the Program, the requirements for Program participation, and the application procedures to be followed in the Program. The State agency shall make the list of child care centers, outside-school-hours care centers, and day care homes notified each year available to the public upon request.

(g) *Commodity distribution.* The State shall annually inquire as to the preference of each institution for commodities or cash-in-lieu of commodities. Each institution electing cash-in-lieu of commodities shall receive such payments. Each institution which elects to receive commodities shall have commodities provided to it unless the State agency, after consultation with the State commodity distribution agency, demonstrates to FNS that distribution of commodities to the number of such institutions would be impracticable. The State agency may then, with the concurrence of FNS, provide cash-in-lieu of commodities for all institutions. A State agency request for cash-in-lieu of all commodities shall be submitted to FNS not later than May 1 of the school year preceding the school year for which the request is made. The State agency shall, by June 1 of each year, submit a list of institutions which have elected to receive commodities to the State commodity distribution agency, unless FNS has approved a request for cash-in-

lieu of commodities for all institutions. The list shall be accompanied by information on the average daily number of lunches and suppers to be served to children by each such institution. The State agency may, with the concurrence of the State distribution agency, permit institutions to change their choice between commodities and cash-in-lieu of commodities during the same fiscal year.

(h) *Standard contract.* Each State agency shall develop a standard contract in accordance with § 226.21 and provide for its use between institutions and food service managment companies. The contract shall expressly and without exception stipulate:

(1) The institution shall provide the food service management company with a list of the State agency approved child care centers, day care homes, and outside-school-hours care centers to be furnished meals by the food service managment company, and the number of meals, by type, to be delivered to each location;

(2) The food service management company shall maintain such records (supported by invoices, receipts or other evidence) as the institution will need to meet its responsibilities under this part, and shall promptly submit invoices and delivery reports to the institution no less frequently than monthly;

(3) The food service management company shall have Federal, State or local health certification for the plant in which it proposes to prepare meals for use in the Program, and it shall ensure that health and sanitation requirements are met at all times. In addition, the State agency may require the food service management company to provide for meals which it prepares to be periodically inspected by the local health department or an independent agency to determine bacteria levels in the meals being prepared. These bacteria levels shall conform to the standards which are applied by the local health authority with respect to the level of bacteria which may be present in meals prepared or served by other establishments in the locality. Results of these inspections shall be submitted to the institution and to the State agency;

(4) The meals served under the contract shall conform to the cycle menus upon which the bid was based, and to menu changes agreed upon by the institution and food service management company;

(5) The books and records of the food service management company pertaining to the institution's food service operation shall be available for inspection and audit by representatives of the State agency, of the Department, and of the U.S. General Accounting Office at any reasonable time and place, for a period of 3 years from the date of receipt of final payment under the contract, or in cases where an audit requested by the State agency or the Department remains unresolved, until such time as the audit is resolved;

(6) The food service management company shall operate in accordance with current Program regulations;

(7) The food service management company shall not be paid for meals which are delivered outside of the agreed upon delivery time, are spoiled or unwholesome at the time of delivery, or do not otherwise meet the meal requirements contained in the contract;

(8) Meals shall be delivered in accordance with a delivery schedule prescribed in the contract;

(9) Increases and decreases in the number of meal orders may be made by the institution, as needed, within a prior notice period mutually agreed upon in the contract;

(10) All meals served under the Program shall meet the requirements of § 226.20;

(11) All breakfasts, lunches, and suppers delivered for service in outside-school-hours care centers shall be unitized, with or without milk, unless the State agency determines that unitization would impair the effectiveness of food service operations. For meals delivered to child care centers and day care homes, the State agency may require unitization, with or without milk, of all breakfasts, lunches, and suppers only if the State agency has evidence which indicates that this requirement is necessary to ensure compliance with § 226.20.

(i) *Procurement provisions.* State agencies shall require institutions to adhere to the procurement provisions set forth in § 226.22.

(j) *Institution appeal procedures.* Each State agency shall establish an appeal procedure to be followed by an institution requesting a review of a denial of an institution's application for participation, a denial of an application submitted by a sponsoring organization on behalf of a facility, a termination of the participation of an institution or facility, a suspension of an institution's agreement, a denial of an institution's application for start-up payments, a denial of an advance payment, a denial of all or a part of the claim for reimbursement, demand for the remittance of an overpayment, and any other action of the State agency affecting the participation of an institution in the Program or the institution's claim for reimbursement. At a minimum, the procedure shall provide that:

(1) The institution shall be advised in writing of the grounds on which the State agency based its action. The notice of action, which shall be sent by certified mail, return receipt requested, shall also include a full description of the institution's rights and responsibilities under this section;

(2) The written request for review shall be filed by the appellant not later than 15 calendar days from the date the appellant received the notice of action, and the State shall acknowledge the receipt of the request for appeal within 10 calendar days;

(3) The appellant may refute the charges contained in the notice of action in person and by written documentation to the review official. In order to be considered, written documentation must be filed with the review official not later than 30 calendar days after the appellant received the notice of action. The appellant may retain legal counsel, or may be represented by another person. A hearing shall be held by the review official in addition to, or in lieu of, a review of written information submitted by the appellant only if the appellant so specifies in the letter of request for review. Failure of the appellant institution's representative to appear at a scheduled hearing shall constitute the appellant institution's waiver of the right to a personal appearance before the review official, unless the review official agrees to reschedule the hearing;

(4) If the appellant has requested a hearing, the appellant shall be provided with at least 10 calendar days advance written notice, sent by certified mail, return receipt requested, of the time and place of the hearing;

(5) Any information on which the State agency's action was based shall be available to the appellant for inspection from the date of receipt of the request for review;

(6) The review official shall be an independent and impartial official other than, and not accountable to, any person authorized to make decisions that are subject to appeal under the provisions of this section;

(7) The review official shall make a determination based on information provided by the State agency and the appellant, and on Program regulations;

(8) Within 60 calendar days of the State agency's receipt of the request for review, the review official shall inform the State agency and the appellant of the determination of the review;

(9) The State agency's action shall remain in effect during the appeal

process. However, participating institutions and facilities may continue to operate under the Program during an appeal of termination, unless the action is based on imminent dangers to the health or welfare of children. If the institution or facility has been terminated for this reason, the State agency shall so specify in its notice of action; and

(10) The determination by the State review official is the final administrative determination to be afforded to the appellant.

(k) *Program assistance.* Each State agency shall provide technical and supervisory assistance to institutions and facilities to facilitate effective Program operations, monitor progress toward achieving Program goals, and ensure compliance with the Department's nondiscrimination regulations (Part 15 of this title) issued under Title VI of the Civil Rights Act of 1964. Documentation of supervisory assistance activities, including reviews conducted, corrective actions prescribed, and follow-up efforts, shall be maintained on file by the State agency. Program reviews shall assess institutional compliance with meal requirements, family-size and income documentation where applicable, financial management standards, and non-discrimination regulations. The State agency shall annually review 33.3 percent of all institutions, including reviews of 15 percent of the child care centers and outside-school-hours care centers under each sponsoring organization reviewed, and 10 percent of the first 1,000 day care homes and 5 percent of the homes in excess of 1,000 under each sponsoring organization reviewed. Such reviews shall be made for newly participating sponsoring organizations with five or more child care facilities within the first 90 days of Program operations. The State agency review system shall ensure that all institutions are reviewed at least once every four years.

(l) *Program irregularities.* Each State agency shall promptly investigate complaints received or irregularities noted in connection with the operation of the Program, and shall take appropriate action to correct any irregularities. State agencies shall maintain on file evidence of such investigations and actions. FNS and OIG may make investigations at the request of the State agency, or whenever FNS or OIG determines that investigations are appropriate.

(m) *Child care standards compliance.* The State agency shall, when conducting administrative reviews of child care centers, outside-school-hours care centers, and day care homes approved by the State agency under paragraphs (d)(3) and (4) of this section, determine compliance with the child care standards used to establish eligibility and ensure that all violations are corrected. If violations are not corrected within 60 calendar days of written notification to the institution, the State agency shall terminate the Program participation of the violating institution or facility. However, if the health or safety of the children is imminently threatened, the State agency may immediately terminate participation of the institution or facility. If, during an administrative review of a child care center, outside-school-hours care center, or day care home not approved by the State agency under paragraphs (d)(3) and (4) of this section, the State agency observes violations of applicable health, safety, or staff-child ratio standards, or attendance in excess of licensed capacity, the State agency shall promptly refer such violations to the appropriate authority. The State agency may deny reimbursement for meals served to attending children in excess of authorized capacity.

(n) *Sponsoring organization agreement.* Each State agency shall develop and provide for the use of a standard form of agreement between each day care home sponsoring organization and all day care homes participating in the Program under such organization. State agencies may develop a similar form for use between sponsoring organizations and other types of facilities.

§ 226.7 State agency responsibilities for financial management.

(a) *General.* This section prescribes standards of financial management systems in administering Program funds by the State agency and institutions.

(b) *State level responsibilities.* Financial management systems for Program funds in the State agency shall provide for:

(1) Accurate, current, and complete disclosure of the financial results of Program activities in accordance with Federal reporting requirements;

(2) Records of Program operations which will adequately identify funds authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income. State agencies shall maintain documentation of all claims against institutions under § 226.14. The records may be kept in their original form or on microfilm, and shall be retained for a period of three years after the date of submission of the Final Financial Status Report (Standard Form 269), except that, if audit findings have not been resolved, the records shall be retained beyond the three-year period as long as required for the resolution of the issues raised by the audit. Reports shall continue to be submitted on a regular basis after the end of the fiscal year to which they pertain until all unpaid obligations have been liquidated, at which time the next report made should be marked "Final" and submission discontinued for the fiscal year;

(3) Records which identify disallowed costs and offsets resulting from FNS or other determinations and disposition of these amounts. Procedures must be in effect to prevent State agency claims for these costs under the Program administration;

(4) Effective control and accountability by the State agency for all Program funds, property, and other assets acquired with Program funds. State agencies and subagencies or contractors shall adequately safeguard all such assets and shall assure that they are used for authorized Program purposes;

(5) Controls which minimize the time between the receipt of Federal funds from the United States Treasury and their payment to institutions. In the letter-of-credit system, the State agency shall make drawdowns from the United States Treasury Regional Disbursing Office in amounts as close as possible to their needs. Advances made by the State agency to institutions should conform to these same standards;

(6) Support and source documents for costs;

(7) Audit trails including identification of time periods, initial and summary accounts, cost determination and allocation procedures, cost controls or other accounting procedures to support any costs claimed for Program administration.

(c) *Management evaluations and audits.* State agencies shall provide FNS with full opportunity to conduct management evaluations (including visits to institutions and facilities) of all operations of the State agency under the Program and shall provide OIG with full opportunity to conduct audits (including visits to institutions and facilities) of all operations of the State agency under the Program. Within 60 calendar days of receipt of each management evaluation report, the State agency shall submit to FNSRO a written plan for correcting serious deficiencies, including specific timeframes for accomplishing corrective actions and initiating follow-up efforts. Each State agency shall make available its records, including records of the receipt and expenditure of funds, upon request by FNS or OIG. OIG shall also

have the right to make audits of the records and operation of any institution.

(d) *Reports.* Each State agency shall submit information to FNS on Program operations on a monthly and quarterly basis, and on the use of Program funds on a quarterly basis. FNS may require that each State agency submit an annual report on the scope of Program operations.

(e) *Annual plan.* Each State shall submit to the Secretary for approval by October 1 of each year an annual plan for the use of State administrative expense funds, including a staff formula for State personnel.

(f) *Rate assignment.* Each State agency shall require institutions (other than sponsoring organizations for day care homes) to submit, not less frequently than annually, information necessary to assign rates of reimbursement as outlined in § 226.9.

(g) *Administrative budget approval.* The State agency shall approve institution administrative budgets, and shall limit allowable administrative costs claimed by each sponsoring organization for day care homes to administrative costs approved in its annual budget. Administrative budget levels may be adjusted to reflect changes in Program activities.

(h) *Start-up payments.* Each State agency shall establish procedures for evaluating requests for start-up payments, issuing these payments to eligible sponsoring organizations, and monitoring the use of these payments.

(i) *Advance payments.* Each State agency shall establish procedures for issuing advance payments by the first day of each month and comparing these payments with earned reimbursement on a periodic basis.

(j) *Recovery of overpayments.* Each State agency shall establish procedures to recover outstanding start-up and advance payments from institutions which, in the opinion of the State agency, will not be able to earn these payments.

(k) *Claims processing.* Each State agency shall establish procedures for institutions to properly submit claims for reimbursement. All valid claims shall be paid within 45 calendar days of receipt. Within 15 calendar days of receipt of any incomplete or incorrect claim which must be revised for payment, the State agency shall notify the institution as to why and how such claim must be revised. If the State agency disallows partial or full payment for a claim for reimbursement, it shall notify the institution which submitted the claim of its right to appeal under § 226.6(j). State agencies may permit disallowances to be appealed separately from claims for reimbursement.

(l) *Participation controls.* The State agency may establish control procedures to ensure that payment is not made for meals served to children attending in excess of the authorized capacity of each independent center or child care facility.

(m) *Financial management system.* Each State agency shall establish a financial management system in accordance with OMB Circular A–102 and FMC 74–4, and with FNS guidance to identify allowable Program costs and establish standards for institutional recordkeeping and reporting. These standards shall (1) prohibit claiming reimbursement for meals provided by a child's parents, except as authorized by § 226.18(e) and (2) allow the cost of meals served to adults who perform necessary food service labor under the Program, except in day care homes. The State agency shall provide guidance on financial management requirements to each institution.

§ 226.8 Audits.

(a) The State agency shall provide for audits at the State and institution levels of Program funds, payments and operations. Such audits shall be conducted at least once every 2 years for each institution. Organization-wide audits of institutions receiving other Federal funds may be counted toward meeting this requirement. The audits shall determine the fiscal integrity of financial transactions and reports, and compliance with applicable laws and regulations. Audits may be made by: (1) State agency internal auditors; (2) State Auditors General; (3) State Comptrollers Office; (4) other comparable State or local groups; (5) certified public accountants; (6) public accountants licensed on or before December 31, 1970, currently certified or licensed by the regulatory authority of the State or other political subdivision of the United States.

(b) Except with the written approval of FNSRO, State agencies shall not permit institutions either to select an auditing firm or to disburse funds provided to the State agency for the conduct of audit under § 226.4(h).

(c) In conducting audits during any fiscal year, the State agency shall establish priorities for using the funds provided for in § 226.4(h) first to meet the fiscal audit requirements outlined in this section. Costs pertaining to such audits shall not be borne in whole or in part by the institution. Such audits shall be fiscal audits conducted in accordance with the Department's guidelines. After fulfilling the audit requirements any remaining funds may be used by the State agency, during the fiscal year for which the funds are allocated, to conduct administrative reviews of program operations in institutions. If the funds provided under § 226.4(h) are not sufficient to meet the requirements of this section, the State agency may use available State administrative expense funds to conduct audits.

(d) Use of audit guides available from OIG is encouraged. When these guides are utilized, OIG will coordinate its audits with State sponsored audits to form a network of intergovernmental audit systems.

(e) In making management evaluations or audits for any fiscal year, the State agency or OIG may disregard any overpayment which does not exceed $35 or, in the case of State agency administered programs, does not exceed the amount established under State law, regulations or procedures as a minimum amount for which claims will be made for State losses generally. No overpayment shall be disregarded, however, where there are unpaid claims of the same fiscal year from which the overpayment can be deducted, or where there is evidence of violation of criminal law or civil fraud statutes.

(f) While OIG shall rely to the fullest extent feasible upon State sponsored audits, OIG may, whenever it considers necessary: (1) Make audits on a statewide basis; (2) perform on-site test audits; (3) review audit reports and related working papers of audits performed by or for State agencies.

Subpart D—Payment Provisions

§ 226.9 Assignment of rates of reimbursement for centers.

(a) The State agency shall assign rates of reimbursement, not less frequently than annually, on the basis of family-size and income information report by each institution. Assigned rates of reimbursement may be changed more frequently than annually if warranted by changes in family-size and income information. Assigned rates of reimbursement shall be adjusted annually to reflect changes in the national average payment rates.

(b) The State agency shall either:

(1) Require that institutions submit each month figures for meals served daily to children from families meeting the family-size income standards for free meals, to children from families meeting the family-size income standards for reduced-price meals, and to children from families not meeting such guidelines; or

(2) Establish claiming percentages, not less frequently than annually, for each institution on the basis of the number of enrolled children eligible for free, reduced-price, and paid meals; or

(3) Determine a blended per-meal rate of reimbursement, not less frequently than annually, by adding the products obtained by multiplying the applicable national average payment rate of reimbursement for each category (free, reduced-price, paid) by the claiming percentage for that category.

(c) The State agency may elect to pay an institution's final claim for reimbursement for the fiscal year at higher reassigned rates of reimbursement for lunches and supper; however, the reassigned rates may not exceed the applicable maximum rates of reimbursement established under § 210.11(b) of the National School Lunch Program regulations. The total payments made to an institution shall not exceed the total net costs incurred for the fiscal year.

§ 226.10 Program payment procedures.

(a) Each State agency shall provide an advance payment to each institution by the first day of each month of operation. However, any institution may decline to receive all or part of an advance payment. The first advance payment of the fiscal year to each institution shall approximate the full amount of the average monthly reimbursement paid to the institution during the prior 6 months of operation except that the State agency may adjust the amount of advance payment to the full amount of reimbursement which the State agency has estimated the institution will earn in the month for which the advance payment is made. Advance payments to newly participating institutions shall equal the amount of reimbursement which the State agency has estimated the institution will earn in the month for which the advance payment is made.

(b) If the State agency has reason to believe that an institution will not be able to submit a valid claim for reimbursement, such as failure to submit a claim for reimbursement as required by this section or audit or monitoring evidence of extensive Program deficiencies, advance payments shall be withheld until the claim is received or the deficiencies are corrected. The State agency shall notify the institution of the reason for withholding the advance and allow the institution full opportunity to submit evidence on appeal as provided for in § 226.6(j). After three advance payments have been made to an institution the State agency shall establish procedures to ensure that no subsequent advance payment is made to such institution until the State agency has validated the institution's claim for reimbursement for the third month prior to the month for which the advances is to be paid. Claims for reimbursement and other information should be utilized to adjust the amount of advance payments to reflect the current amount needed by the institution for one month's operation. During the fiscal year, if the State agency determines that the amount of advance payments paid to an institution, less reimbursement earned by the institution, will not be earned by claims for reimbursement anticipated for the remainder of the fiscal year, the State agency may demand full or partial repayment of the outstanding balance. At the end of the fiscal year, unearned payments advanced to institutions shall be repaid to the State agency upon demand, or deducted from payments during the following fiscal year.

(c) Claims for reimbursement shall be filed with the State agency by the 10th day of the month following the month covered by the claim. Not more than 10 days of the beginning or ending month of Program operations in a fiscal year may be combined on a claim with the operations of the month immediately following the beginning month, or preceding the ending month. Claims for reimbursement may not combine the last month of a fiscal year with the first month of the next fiscal year. Claims for reimbursement shall report information in accordance with the financial management system established by the State agency, and in sufficient detail to justify the reimbursement claimed. In submitting a claim for reimbursement, each institution shall certify that the claim is correct and that records are available to support the claim. Such records shall be retained for a period of three years after the date of submission of the final claim for the fiscal year to which they pertain, except that if audit findings have not been resolved, the records shall be retained beyond the end of the three-year period as long as required for the resolution of the issues raised by the audit . All accounts and records pertaining to the Program shall be made available, upon request to representatives of the State agency, of the Department, and of the U.S. General Accounting Office for audit or review, at a reasonable time and place.

(d) The State agency may initiate procedures for suspension of an institution's agreement if any claim for reimbursement has not been submitted within 90 calendar days after the end of the month covered by the claim. Upon expiration of such 90 days, the State agency shall notify the institution and afford 15 calendar days for submission of the missing claim. If the claim is not postmarked or received within 15 days, the State agency may suspend the institution's agreement, or disallow the claim, or elect not to take action. A suspended agreement shall remain suspended until such time as the claim is received and determined to be valid and correct by the State agency. Reimbursement shall not be paid for meals served during the period of suspension, nor shall the State agency make any advance payments to the institution during this period. The State agency shall notify any institution suspended from participation under this paragraph of its rights to appeal under § 226.6(j).

(e) Claims for reimbursement for meals served during each fiscal year must be filed with the State agency prior to January 1 of the following fiscal year in order to be eligible for reimbursement. The State agency shall, as determined necessary through its administrative review process or otherwise, promptly take corrective action with respect to any such claim. Such corrective action must be completed in sufficient time to be reflected in the final Program Operations and Financial Status Report for each fiscal year if reimbursement for such claims is to be made available from that fiscal year through the letter of credit process described under § 226.4(i) of this part. The final Program Operations and Financial Status Reports for each fiscal year must be submitted by March 1 of the following year. Any requested increase in reimbursement level for a fiscal year resulting from corrective action taken after submission of the final fiscal year Program Operations and Financial Status Reports, must be submitted to FNS for approval. The request will be accompanied by a written explanation of the basis for the adjustment and the actions taken to minimize the need for such adjustments in the future. If FNS approved of such increase, it will make payments subject to the availability of funds. Any reduction in reimbursement for that fiscal year resulting from corrective action taken after submission of the final fiscal year Program Operations and Financial Status Reports shall be handled in accordance with the provision of § 226.7(a) of the part except that amounts recovered may not be used to make Program payments.

(f) If a State agency has reason to believe that an institution or food service management company has engaged in unlawful act with respect to Program Operations, evidence found in

audits, investigations or other reviews shall be a basis for non-payment of claims for reimbursement.

§ 226.11 Program payments for child care centers and outside-school-hours care centers.

(a) Payments shall be made only to institutions operating under an agreement with the State agency for the meal types specified in the agreement served at approved child care centers and outside-school-hours care centers. A State agency may make payment for meals served in accordance with provisions of the Program in the calendar month preceding the calendar month in which the agreement is executed.

(b) Each institution shall report each month to the State agency the total number of meals, by type (breakfasts, lunches, suppers, and supplements), served to children.

(c) Each State agency shall base reimbursement to each institution on the number of meals, by type, served to children multiplied by the assigned rates of reimbursement. In computing reimbursement, the State agency shall either: (1) Base reimbursement to institutions on actual daily counts of meals served, and multiply the number of meals, by type, served to children from families meeting the family-size income standards for free meals, served to children from families meeting the family-size income standards for reduced-price meals, and served to children from families not meeting such standards by the applicable national average payment rate, or (2) apply the applicable claiming percentage or percentages to the total number of meals, by type, served to children and multiply the product or products by the assigned rate of reimbursement for each meal type, or (3) multiply the assigned blended per-meal rate of reimbursement by the total number of meals, by type, served to children.

(d) During any fiscal year, total payments to an institution, including any cash payments in lieu of commodities, shall not exceed allowable Program operating and administrative costs, less income to the Program. The State agency may limit payments for administrative costs to the amount approved in the annual administrative budget of the institution. The State agency may prohibit an institution from using payments for operating costs to pay for administrative expenses.

(e) Each institution shall maintain records as prescribed by the State agency's financial management system.

§ 226.12 Administrative payments to sponsoring organizations for day care homes.

(a) Sponsoring organizations for day care homes shall receive payments for administrative costs. During any fiscal year, administrative costs payments to a sponsoring organization may not exceed the lesser of (1) actual expenditures for the costs of administering the Program less income to the Program, or (2) the amount of administrative costs approved by the State agency in the sponsoring organization's budget, or (3) the sum of the products obtained by multiplying each month the sponsoring organizations:

(i) Initial 25 day care homes by 45 dollars;

(ii) Next 50 day care homes by 35 dollars; and

(iii) Additional day care homes by 30 dollars. During any fiscal year, administrative payments to a sponsoring organization may not exceed 30 percent of the total amount of administrative payments and food service payments for day care home operations.

(b) Prospective sponsoring organizations of day care homes, participating sponsoring organizations of child care centers or outside-school-hours care centers, independent centers, and participating sponsoring organizations of fewer than 50 homes which meet the criteria of this paragraph shall be entitled to receive start-up payments to develop or expand successful Program operations in day care homes. The State agency shall approve start-up payments only once for any eligible sponsoring organization. Sponsoring organizations which apply for start-up payments shall evidence: (1) Public or nonprofit status in accordance with § 226.15(a), except that sponsoring organizations which are moving toward compliance with the requirements for IRS tax-exempt status must demonstrate current tax-exempt status under the State law and regulations; (2) an organizational history of managing funds and ongoing activities (i.e., administering public or private programs); (3) an acceptable and realistic plan for recruiting day care homes to participate in the Program, which may be based on estimates of the number of day care homes to be recruited and information supporting their existence (e.g., the method of contacting providers); (4) and acceptable preliminary sponsoring organization management plan (e.g., plans for preoperational visits, training). The State agency shall deny start-up payments to applicant sponsoring organizations which fail to meet any of these criteria or which have demonstrated financial irresponsibility in the operation of other programs funded by Federal, State, or local governments. The State agency shall notify the sponsoring organization of the reasons for denial and allow the sponsoring organization full opportunity to submit evidence on appeal as provided for in § 226.6(j). Any sponsoring organization applying for start-up funds shall be notified of approval or disapproval by the State agency in writing within 30 calendar days of filing a complete and correct application. If a sponsoring organization submits an incomplete application, the State agency shall notify the sponsoring organization within 15 calendar days of receipt of the application and shall provide technical assistance, if necessary, to the sponsoring organization for the purpose of completing its application.

(c) Applicant sponsoring organizations which apply for and meet the criteria for start-up payments shall enter into an agreement with the State agency. The agreement shall specify:

(1) Activities which the sponsoring organization will undertake to initate or expand Program operations in day care homes;

(2) The amount of start-up payments to be issued to the sponsoring organization, together with a budget detailing the costs which the sponsoring organization shall incur, document, and claim;

(3) The time allotted to the sponsoring organization for the initiation or expansion of Program operations in family day care homes;

(4) The responsibility of the applicant sponsoring organization to repay, upon demand by the State agency, start-up payments not expended in accordance with the agreement.

(d) Upon execution of the agreement, the State agency shall issue a start-up payment to the sponsoring organization in an amount equal to not less than one, but not more than two, month's anticipated administrative reimbursement to the sponsoring organization as determined by the State agency. However, no sponsoring organization may receive start-up payments for more than 50 day care homes, and eligible sponsoring organizations with fewer than 50 homes under their jurisdiction at the time of application for start-up funds shall receive such payments for up to 50 homes, less the number of homes under their jurisdiction. In determining the amount of start-up payments to be made to a sponsoring organization, the State agency shall consider the anticipated

level of start-up costs to be incurred by the sponsoring organization and alternate sources of funds available to the sponoring organization.

(e) Upon expiration of the time allotted to the sponsoring organization for initiating or expanding Program operations in day care homes, the State agency shall obtain and review documentation of activities performed and costs incurred by the sponsoring organization under the terms of the start-up agreement. If the sponsoring organization has not made every reasonable effort to carry out the activities specified in the agreement, the State agency shall demand repayment of all or part of the payment; however, the sponsoring organization may retain start-up payment for all day care homes which initiate Program operations. No sponsoring organization may retain any start-up payments in excess of its actual costs for the expenditures specified in the agreement.

§ 226.13 Food service payments to sponsoring organizations for day care homes.

(a) Payments shall be made only to sponsoring organizations operating under an agreement with the State agency for the meal types specified in the agreement served to enrolled nonresident children and eligible enrolled children of day care home providers, at approved day care homes.

(b) Each sponsoring organization shall report each month to the State agency the total number of meals, by type (breakfasts, lunches, suppers, and supplements), served to children enrolled in approved day care homes.

(c) Each sponsoring organization shall receive payment for meals served to children enrolled in approved day care homes at the rate of 47.75 cents for each breakfast, 93.5 cents for each lunch and supper, and 28 cents for each supplement. However, the rate for the lunches and suppers shall be reduced by the value of commodities established under § 226.5(b) for all sponsoring organizations for day care homes which have elected to receive commodities. The full amount of food service payments shall be disbursed to each day care home on the basis of the number of meals, by type, served to children. However, the sponsoring organization may withhold from Program payments to each home an amount equal to costs incurred for the provision of Program foodstuffs or meals by the sponsoring organization in behalf of the home and with the home provider's written consent.

§ 226.14 Claims against institutions.

(a) State agencies shall disallow any portion of a claim for reimbursement and recover any payment to an institution not properly payable under this part. However, the State agency shall notify the institution of the reasons for any disallowance or demand for repayment, and allow the institution full opportunity to submit evidence on appeal as provided for in § 226.6(j). Minimum Stage agency collection procedures for unearned payments shall include: (1) Written demand to the institution for the return of improper payments; (2) if, after 30 calendar days, the institution fails to remit full payment or agree to a satisfactory repayment schedule, a second written demand for the return of improper payments sent by certified mail return receipt requested; and (3) if, after 60 calendar days, the institution fails to remit full payment or agree to a satisfactory repayment schedule, the State agency shall refer the claim against the institution to appropriate State or Federal authorities for pursuit of legal remedies.

(b) In the event that the State agency finds that an institution which prepares its own meals is failing to meet the meal requirements of § 226.20, the State agency need not disallow payment or collect an overpayment arising out of such failure if the institution takes such other action as, in the opinion of the State agency, will have a corrective effect.

(c) If FNS does not concur with the State agency's action in paying an institution or in failing to collect overpayment, FNS shall notify the State agency of its intention to assert a claim against the State agency. In all such cases, the State agency shall have full opportunity to submit evidence concerning the action taken. The State agency shall be liable to FNS for failure to collect an overpayment, unless FNS determines that the State agency has conformed with this part in issuing the payment and has exerted reasonable efforts to recover the improper payment.

Subpart E—Operational Provisions

§ 226.15 Institution provisions.

(a) *Tax-exempt status.* Institutions shall be public, or have tax-exempt status under the Internal Revenue Code of 1954, or be moving toward compliance with the requirements for tax-exempt status, or be currently operating another Federal program requiring nonprofit status. An institution which has applied to IRS for tax-exempt status may participate in the Program while its application is pending review by IRS. If IRS denies the application for tax-exempt status, the institution shall immediately notify the State agency of such denial. The State agency shall then terminate the participation of the institution. If IRS certification of tax-exempt status has not been received within 12 months of filing the application with IRS, and IRS indicates that the institution has failed to provide all required information, the State agency shall terminate the participation of the institution until such time as IRS tax-exempt status is obtained.

(b) *Applications.* Each institution shall submit to the State agency all information required for its approval. As a minimum, such information shall include:

(1) Evidence of nonprofit status, in accordance with § 226.15(a);

(2) An application for participation, or application renewal materials, accompanied by all necessary supporting documentation;

(3) An administrative budget;

(4) If an independent child care center or independent outside-school-hours care center, documentation that it meets the licensing/approval requirements of § 226.6(d)(1); and

(5) A nondiscrimination and free and reduced-price policy statement, and information regarding a public release, in accordance with § 226.23.

(c) *Responsibility.* Each institution shall accept final administrative and financial responsibility for Program operations. No institution may contract out for management of the Program.

(d) *Staffing.* Each institution shall provide adequate supervisory and operational personnel for management and monitoring of the Program.

(e) *Recordkeeping.* Each institution shall establish procedures to collect and maintain all necessary Program records. Such records shall include:

(1) Copies of all applications and supporting documents submitted to the State agency;

(2) Documentation of the enrollment of each child, including family-size and income information used to determine eligibility for free or reduced-price meals for each child reported as being in either need category, at child care centers and outside school-hours care centers. Such information shall include the social security number of each adult member of the household.

(3) Documentation of the enrollment of each child at day care homes and the family size and income information used to determine the eligibility of enrolled providers' children for free or reduced-price meals. Such information shall include the social security number of

each adult member of the household of which the provider's child is a member.

(4) Daily records indicating the number of children in attendance and the number of meals, by type (breakfast, lunch, supper, and supplements), served to enrolled children;

(5) Except at day care homes, daily records indicating the number of meals, by type, served to adults performing labor necessary to the food service;

(6) Copies of invoices, receipts, or other records required by the State agency financial management instruction to document:

(i) Administrative costs claimed by the institution;

(ii) Operating costs claimed by the institution except sponsoring organizations of day care homes; and

(iii) Income to the Program.

(7) Copies of all claims for reimbursement submitted to the State agency;

(8) Receipts for all Program payments received from the State agency;

(9) Copies of menus, and any other food service records required by the State agency; and

(10) Information on training session date(s) and location(s), as well as topics presented and names of participants.

(f) *Claims submission.* Each institution shall submit claims for reimbursement to the State agency in accordance with § 226.10.

(g) *Program agreement.* Each institution shall enter into a Program agreement with the State agency in accordance with § 226.6(e)(1).

(h) *Commodities.* Each institution receiving commodities shall ensure proper commodity utilization.

(i) *Special Milk Program.* No institution may participate in both the Child Care Food Program and the Special Milk Program at the same time.

§ 226.16 Sponsoring organization provisions.

(a) Each sponsoring organization shall comply with all provisions of § 226.15.

(b) Each sponsoring organization shall submit to the State agency all information required for its approval and the approval of all child care facilities under its jurisdiction, including:

(1) A sponsoring organization management plan, in accordance with § 226.6(e)(2);

(2) An application for participation, or renewal materials, for each child care facility accompanied by all necessary supporting documentation; and

(3) Timely information concerning the eligibility status of child care facilities (such as licensing/approval actions).

(c) Each sponsoring organization shall accept final administrative and financial responsibility for food service operations in all child care facilities under its jurisdiction.

(d) Each sponsoring organization shall provide adequate supervisory and operational personnel for the effective management and monitoring of the Program at all child care facilities under its jurisdiction. At a minimum, such Program assistance shall include:

(1) Pre-approval visits to each child care facility for which application is made to discuss Program benefits and verify that the proposed food service does not exceed the capability of the child care facility;

(2) Staff training of all child care facilities in Program duties and responsibilities prior to beginning Program operations;

(3) Additional training sessions, to be provided not less frequently than annually; and

(4) Reviews of food service operations to assess compliance with meal pattern, recordkeeping, and other Program requirements. Such reviews shall be made not less frequently than:

(i) Three times each year at each child care center, provided at least one review is made during each child care center's first six weeks of Program operations and not more than six months elapse between reviews;

(ii) Four times each year at each day care home, provided at least one review is made during each day care home's first four weeks of Program operations and not more than six months elapse between reviews; and

(iii) Six times each year for each outside-school-hours care center, provided at least one review is made during each outside-school-hours care center's first four weeks of Program operations and not more than three months elapses between reviews.

(e) In addition to records required under § 226.15(e), each sponsoring organization shall maintain the following:

(1) Information concerning the dates and amounts of disbursements to each child care facility;

(2) Information concerning the location and dates of each child care facility review, any problems noted, and the corrective action prescribed and effected.

(f) The State agency may require a sponsoring organization to enter into separate agreements for the administration of separate types of child care facilities (child care centers, day care homes, and outside-school-hours care centers).

(g) Each sponsoring organization electing to receive advance payments for day care homes may disburse such payments to each of the operating homes under its jurisdiction immediately upon receipt from the State agency, but shall disburse such payments to each home not later than the fifth working day following receipt of the home's records for the month for which the advance is payable. If advance payments are disbursed by the sponsoring organization prior to receipt of each home's records, such payments shall be based on the number of meals projected to be served to enrolled children at each day care home during the period covered by the advance, multiplied by the applicable payment rate as specified in § 226.13(c). Each sponsoring organization shall disburse any reimbursement payments for food service due to each operating home within 15 working days of receipt from the State agency. Such payment shall be based on the number of meals served to enrolled children at each day care home, less any payments advanced to such home. However, the sponsoring organization may withhold from Program payments to each home an amount equal to food service operating costs incurred by the sponsoring organization in behalf of the home and with the home provider's written consent. If payments from the State agency are not sufficient to provide all day care homes under the sponsoring organization's jurisdiction with advance payments and reimbursement payments, available monies shall be used to provide all due reimbursement payments before advances are disbursed.

(h) Disbursements from sponsoring organizations for child care centers or outside-school-hours care centers shall be made within fifteen working days of receipt of payment, on the basis of the management plan approved by the State agency, and may not exceed the Program costs documented at each facility during any fiscal year.

(i) Disbursements of advance payments may be withheld from child care facilities which fail to submit reports required by § 226.15(e).

(j) Each sponsoring organization shall maintain all Program payments in a non-interest bearing account between the date of receipt from the State agency and the date of disbursement.

§ 226.17 Child care center provisions.

(a) Child care centers may participate in the Program either as independent centers or under the auspices of a sponsoring organization. Child care

centers participating as independent centers shall comply with the provisions of § 226.15.

(b) All child care centers, independent or sponsored, shall meet the following requirements:

(1) Child care centers shall have Federal, State, or local licensing or approval to provide day care services to children. Child care centers which are complying with applicable procedures to renew licensing or approval may participate in the Program during the renewal process, unless the State agency has information which indicates that renewal will be denied. If licensing or approval is not available to a child care center, it may participate if:

(i) It receives Title XX funds for child care; or

(ii) It demonstrates compliance with the CCFP Child Care Standards or any applicable State or local child care standards to the State Agency.

(2) Child care centers shall be public, or have tax exempt status under the Internal Revenue Code of 1954, or be moving toward compliance with the requirements for tax-exempt status, or be currently operating another Federal program requiring nonprofit status. A child care center which has applied to the Internal Revenue Service (IRS) for tax-exempt status may participate in the Program while its application is pending review by IRS. If IRS denies the application for tax-exempt status, the child care center shall immediately notify the State agency of such denial and the State agency shall terminate the participation of the child care center. If IRS certification of nonprofit status has not been received within 12 months of filing the application with IRS, and IRS indicates that the child care center has failed to provide all required information, the State agency shall terminate the participation of the child care center until such time as IRS tax-exempt status is obtained.

(3) Each child care center participating in the Program shall serve one or more of the following meal types: (i) Breakfast, (ii) lunch, (iii) supper, and (iv) supplemental food. Reimbursement shall not be claimed for more than two meals and one supplement provided daily to each child.

(4) Each child care center participating in the Program shall claim only the meal types specified in its approved application in accordance with the meal pattern requirements specified in § 226.20. Reimbursement may not be claimed for meals served to children who are not enrolled, or for meals served to children at any one time in excess of the child care center's authorized capacity. Menus and any other nutritional records required by the State agency shall be maintained to document compliance with such requirements.

(5) A child care center with pre-school children may also be approved to serve a breakfast, supplement, and supper to school-age children enrolled in an outside-school-hours care program meeting the criteria of § 226.19(b) which is distinct from its day care program for preschool-age children. The State agency may authorize the service of lunch to such enrolled children who attend a school which does not offer a lunch Program provided the limit of not more than two meals and one supplement per child per day is not exceeded. If the majority of children served by the center are participating in an outside-school-hours care program, the center shall comply with reporting requirements of § 226.19 and, if it is a facility, shall be monitored by the sponsoring organization at the frequency specified in § 226.16(d)(4)(iii).

(6) A child care center may utilize existing school food service facilities or obtain meals from a school food service facility, and the pertinent requirements of this part shall be embodied in a written agreement between the child care center and school. The center shall maintain responsibility for all Program requirements set forth in this part.

(7) Child care centers shall maintain current family-size income information for children classified as eligible for free and reduced-price meals, and documentation of the enrollment of children not eligible for free or reduced-price meals.

(8) Each child care center shall maintain daily records of the number of meals by type (breakfast, lunch, supper, and supplement) served to enrolled children, and to adults performing labor necessary to the food service.

§ 226.18 Day care home provisions.

(a) Day care homes shall have current Federal, State or local licensing or approval to provide day care services to children. Day care homes which are complying with applicable procedures to renew licensing or approval may participate in the Program during the renewal process, unless the State agency has information which indicates that renewal will be denied. If licensing or approval is not available to a day care home, it may participate in the Program if:

(1) It receives Title XX funds for providing child care; or

(2) It demonstrates compliance with CCFP child care standards or applicable State or local child care standards to the State agency.

(b) Day care homes participating in the Program shall operate under the auspices of a sponsoring organization. Sponsoring organizations shall enter into a written agreement, developed by the State agency, with each sponsored day care home to specify the rights and responsibilities of both parties. At a minimum, the agreement shall embody:

(1) The right of the sponsoring organization, the State agency, and the Department to visit the day care home and review its meal service and records during its hours of child care operations;

(2) The responsibility of the sponsoring organization to train the day care home's staff in program requirements;

(3) The responsibility of the day care home to prepare and serve meals which meet the meal patterns specified in § 226.20;

(4) The responsibility of the day care home to maintain records of menus, and of the number of meals, by type, served to enrolled children;

(5) The responsibility of the day care home to promptly inform the sponsoring organization about any change in the number of children enrolled for care or in its licensing or approval status;

(6) The meal types approved for reimbursement to the day care home by the State agency;

(7) The right of the day care home to receive in a timely manner the full food service rate for each meal served to enrolled children for which the sponsoring organization has received payment from the State agency. However, if, with the home provider's consent, the sponsoring organization will incur costs for the provision of Program foodstuffs or meals in behalf of the home, and subtract such costs from Program payments to the home, the particulars of this arrangement shall be specified in the agreement;

(8) The right of the sponsoring organization or the day care home to terminate the agreement for cause or convenience; and

(9) A prohibition of any sponsoring organization fee to the day care home for its Program administrative services.

(c) Each day care home shall serve one or more of the following meal types: (1) Breakfast, (2) Lunch, (3) Supper and (4) Supplemental food. Reimbursement shall not be claimed for more than two meals and one supplement provided daily to each child.

(d) Each day care home participating in the Program shall serve the meal types specified in its approved application in accordance with the meal pattern requirements specified in § 226.20. Menu records shall be

maintained to document compliance with these requirements. Meals shall be served at no separate charge to enrolled children;

(e) Each day care home shall maintain daily records of the number of children in attendance and the number of meals, by type, served to enrolled children. Payment may be made for meals served to the provider's own children only when (1) such children are enrolled and participating in the child care program during the time of the meal service, (2) enrolled nonresident children are present and participating in the child care program and (3) providers' children meet the family-size income standards for free or reduced-price meals. Reimbursement may not be claimed for meals served to children who are not enrolled, or for meals served at any one time to children in excess of the home's authorized capacity or for meals served to providers' children who are not eligible for free or reduced-price meals.

(f) The State agency may not require a day care home or sponsoring organization to maintain documentation of home operating costs. The State agency may not require a sponsoring organization to provide family size and income data on children enrolled in homes under its jurisdiction except in the case of providers' own children for the purpose of determining the eligibility of such children for Program participation.

§ 226.19 Outside-school-hours care center provisions.

(a) Outside-school-hours care centers may participate in the Program either as independent centers or under the auspices of a sponsoring organization. Outside-school-hours care centers participating as independent centers shall comply with the provisions of § 226.15.

(b) All outside-school-hours care centers, independent or sponsored, shall meet the following requirements:

(1) Outside-school-hours care centers shall have current Federal, State or local licensing or approval to provide organized child care services to enrolled school-age children outside of school hours. The main purpose of the Program shall be the care and supervision of children. Outside-school-hours care centers which are complying with applicable procedures to renew licensing or approval may participate in the Program during the renewal process, unless the State agency has information which indicates the renewal will be denied. If licensing or approval is not available to an outside-school-hours care center, it may participate in the Program if:

(i) It receives Title XX funds for providing child care; or

(ii) It demonstrates compliance with CCFP child care standards or any applicable State or local child care standards to the State agency.

(2) Outside-school-hours care centers shall be public, or have tax-exempt status under the Internal Revenue Code of 1954, or be moving toward compliance with the requirements for tax-exempt status, or be currently participating in another Federal program requiring nonprofit status. Centers which have applied to IRS for tax-exempt status may participate in the Program while their application is pending review by IRS. If IRS denies the application, the center shall immediately notify the State agency of such denial and the State agency shall terminate the participation of the center. If IRS certification of nonprofit status has not been received within 12 months of filing the application with IRS and IRS indicates that the center has failed to provide all required information, the State agency shall terminate the participation of the center in the Program until such time as IRS certification is obtained.

(3) Nonresidential public or private nonprofit schools which provide organized child care programs for school children may participate in the Program as outside-school-hours care centers if:

(i) Children are enrolled in a regularly scheduled child care program which meets the criteria of paragraph (b)(1) of this section. The program is organized for the purpose of providing child care services and is distinct from any extracurricular programs organized primarily for scholastic, cultural, and athletic purposes; and

(ii) Separate Program records are maintained.

(4) Outside-school-hours care centers shall be eligible to serve a breakfast, supplement, and supper to enrolled children outside of school hours.

(5) The State agency may authorize the service of lunch on weekdays to enrolled children attending schools which do not offer a lunch program provided the limit of not more than two meals and one supplement per child per day is not exceeded. Lunch may be served to all enrolled children during periods of school vacation, including weekends and holidays, provided that no more than two meals and one supplement is served per child per day. However, outside-school-hours care centers may not operate under the Program on weekends only.

(6) Reimbursement may not be claimed for children who are not enrolled, or for meals served to children at any one time in excess of authorized capacity. Reimbursement shall not be claimed for more than two meals and one supplement provided daily to each child.

(7) Three hours shall elapse between the beginning of one meal service and the beginning of another, except that 4 hours shall elapse between the service of a lunch and supper when no supplement is served between lunch and supper. The service of a supper shall begin no later than 7 p.m. and end no later than 8 p.m. The duration of the meal service shall be limited to 2 hours for lunches and supper and 1 hour for other meals.

(8) Each outside-school-hours care center shall ensure that each meal service is supervised by an adequate number of operational personnel trained in Program requirements. Operational personnel shall ensure that: (i) Meals are served only to children enrolled for care and adults who perform necessary food service labor; (ii) meals served to children meet the meal pattern requirements specified in § 226.20; (iii) each meal service is consistent with the meal time requirements of paragraph (b)(7) of this section; (iv) meals served are consumed on the premises of the centers; (v) accurate records are maintained; and (vi) the number of meals prepared or ordered is promptly adjusted on the basis of participation trends.

(9) Each outside-school-hours care center shall accurately maintain the following records:

(i) Documentation of enrollment for all children, including current family-size and income information for children classified as eligible for free and reduced-price meals;

(ii) Number of meals prepared or delivered for each meal service;

(iii) Daily menu records for each meal service;

(iv) Number of meals served to enrolled children at each meal service;

(v) Number of enrolled children in attendance during each meal service;

(vi) Number of meals served to adults performing necessary food service labor for each meal service; and

(vii) All other records required by the State agency financial management system.

(10) An outside-school-hours care center may utilize existing school food service facilities or obtain meals from a school food service facility, and the pertinent requirements of this part shall be embodied in a written agreement between the outside-school-hours care center and the school. The center shall

maintain responsibility for all Program requirements set forth in this part.

§ 226.20 Requirements for meals.

(a) Except as otherwise provided in the section, each meal served in the Program shall contain, as a minimum, the indicated food components:

(1) A breakfast shall contain:

(i) A serving of fluid milk as a beverage or on cereal, or used in part for each purpose;

(ii) A serving of vegetable(s) or fruit(s) of full-strength vegetable or fruit juice, or an equivalent quantity of any combination of these foods;

(iii) A serving of whole-grain or enriched bread; or an equivalent serving of cornbread, biscuits, rolls, muffins, etc., made with whole-grain or enriched meal or flour; or a serving of whole-grain or enriched or fortified cereal; or a serving of cooked whole-grain or enriched pasta or noodle products such as macaroni, or cereal grains such as rice, bulgar, or corn grits; or an equivalent quantity of any combination of these foods.

(2) Both lunch and supper shall contain:

(i) A serving of fluid milk as a beverage;

(ii) A serving of lean meat, poultry or fish; or cheese; or an egg; or cooked dry beans or peas; or peanut butter; or an equivalent quantity of any combination of these foods. These foods must be served in a main dish, or in a main dish and one other menu item, to meet this requirement. Cooked dry beans or dry peas may be used as the meat alternate or as part of the vegetable/fruit component but not as both food components in the same meal;

(iii) A serving of two or more vegetables or fruits, or a combination of both. Full-strength vegetable or fruit juice may be counted to meet not more than one-half of this requirement;

(iv) A serving of whole-grain or enriched bread; or an equivalent serving of cornbread, biscuits, rolls, muffins, etc., made with whole-grain or enriched meal or flour; or a serving of cooked whole-grain or enriched pasta or noodle products such as macaroni, or cereal grains such as rice, bulgur, or corn grits; or equivalent quantity of any combination of these foods.

(3) Supplemental food shall be served between other meal types and contain two of the following four components:

(i) A serving of fluid milk as a beverage, or on cereal, or used in part for each purpose;

(ii) A serving of meat or meat alternate;

(iii) A serving of vegetable(s) or fruit(s) or full-strength vegetable or fruit juice, or an equivalent qauntity of any combination of these foods. Juice may not be served when milk is served as the only other component;

(iv) A serving of whole-grain or enriched bread; or an equivalent serving of cornbread, biscuits, rolls, muffins, etc., made with whole-grain or enriched meal or flour; or a serving of whole-grain or enriched pasta or noodle products such as macaroni, or cereal grains such as rice, bulgur, or corn grits; or an equivalent quantity of any combination of these foods.

(b) Infant meal pattern. When infants aged up to 1 year participate in the Program, an infant meal shall be offered. Foods within the infant meal pattern shall be of texture and consistency appropriate for the particular age group being served. The total amount of food authorized in the meal patterns set forth below must be provided to the infant in order to qualify for reimbursement but may be served during a span of time consistent with the infant's eating habits. Solid food should be introduced to children age 4 months and older on a gradual basis with the intent of ensuring their nutritional well-being. The infant meal shall contain, as a minimum, each of the following components in the amounts indicated for the appropriate age group:

(1) *Age 0 up to 4 months.* (i) Breakfast–4–6 fluid ounces of infant formula;

(ii) Lunch or supper–4–6 fluid ounces of infant formula;

(iii) Supplemental food–4–6 fluid ounces of infant formula.

(2) *4 to 8 months.* (i) Breakfast–6–8 fluid ounces of infant formula; 1–3 tablespoons of infant cereal;

(ii) Lunch or supper–6–8 fluid ounces of infant formula; 1–2 tablespoons of infant cereal; 1–2 tablespoons of fruit or vegetable of appropriate consistency or a combination of both; 0–1 tablespoon of meat, fish, poultry or egg yolk or 0–½ ounce (weight) of cheese or 0–1 ounce (weight or volume) of cottage cheese or cheese food or cheese spread of appropriate consistency;

(iii) Supplemental food 2–4 fluid ounces of infant formula or full-strength fruit juice; 0–¼ slice of crusty bread or 0–2 cracker type products made from whole-grain or enriched meal or flour that are suitable for an infant for use as a finger food when appropriate.

(3) *8 months up to 1 year.* (i) Breakfast–6–8 fluid ounces of infant formula, or 6–8 fluid ounces of whole fluid milk and 0–3 fluid ounces of full-strength fruit juice; 2–4 tablespoons infant cereal;

(ii) Lunch or supper–6–8 fluid ounces of infant formula, or 6–8 fluid ounces whole fluid milk and 0–3 fluid ounces of full-strength fruit juice; 3–4 tablespoons of fruit or vegetable of appropriate consistency or infant cereal or combinations of such foods; 1–4 tablespoons of meat, fish, poultry, or egg yolk or ½–2 ounces (weight) of cheese or 1–4 ounces (weight or volume) of cottage cheese or cheese food or cheese spread of appropriate consistency; and

(iii) Supplementary food–2–4 fluid ounces of infant formula or whole fluid milk or full strength fruit juice; 0–¼ slice of crusty bread or 0–2 cracker type products made from whole-grain or enriched meal or flour that are suitable for an infant for use as a finger food when appropriate.

(c) *Meal patterns for children age one through 12.* When children over age one participate in the Program, the total amount of food authorized in the meal patterns set forth below shall be provided in order to qualify for reimbursement.

Breakfast

(c)(1) The minimum amount of food components to be served as breakfast as set forth in paragraph (a)(1) of this section are as follows:

Food components	Age 1 up to 3	Age 3 up to 6	Age 6 up to 12 [1]
MILK			
Milk, fluid	½ cup [2]	¾ cup	1 cup.
VEGETABLES AND FRUITS			
Vegetable(s) and/or fruit(s)	¼ cup	½ cup	½ cup.
or			
Full-strength vegetable or fruit juice or an equivalent quantity of any combination of vegetable(s), fruit(s) and juice.	¼ cup	½ cup	½ cup.
BREAD AND BREAD ALTERNATES [3]			
Bread	½ slice	½ slice	1 slice.
or			
Cornbread, biscuits, rolls, muffins, etc. [4]	½ serving	½ serving	1 serving.
or			
Cold dry cereal [5]	¼ cup or ½ oz	½ cup or ½ oz	¾ cup or 1 oz.
or			
Cooked cereal	¼ cup	¼ cup	½ cup.
or			
Cooked pasta or noodle products	¼ cup	¼ cup	½ cup.

Food components	Age 1 up to 3	Age 3 up to 6	Age 6 up to 12 [1]
or			
Cooked cereal grains or an equivalent quantity of any combination of bread/bread alternate.	¼ cup	¼ cup	½ cup.

[1] Children age 12 and up may be served adult-size portions based on the greater food needs of older boys and girls, but shall be served not less than the minimum quantities specified in this section for children age 6 up to 12.
[2] For purposes of the requirements outlined in this subsection, a cup means a standard measuring cup.
[3] Bread, pasta or noodle products, and cereal grains, shall be wholegrain or enriched; cornbread, biscuits, rolls, muffins, etc., shall be made with whole-grain or enriched meal or flour; cereal shall be whole-grain or enriched or fortified.
[4] Serving sizes and equivalents to be published in guidance materials by FNS.
[5] Either volume (cup) or weight (oz), whichever is less.

Lunch or Supper

(2) The minimum amounts of food components to be served as lunch or supper as set forth in paragraph (a)(2) of this section are as follows:

Food components	Age 1 up to 3	Age 3 up to 6	Age 6 up to 12 [1]
MILK			
Milk, fluid	½ cup [2]	¾ cup	1 cup.
VEGETABLES AND FRUITS [3]			
Vegetable(s) and/or fruit(s)	¼ cup total	½ cup total	¾ cup total.
BREAD AND BREAD ALTERNATES [4]			
Bread	½ slice	½ slice	1 slice.
or			
Cornbread, biscuits, rolls, muffins, etc. [5]	½ serving	½ serving	1 serving.
or			
Cooked pasta or noodle products	¼ cup	¼ cup	½ cup.
Cooked cereal grains or an equivalent quantity of any combination of bread/bread alternate.	¼ cup	¼ cup	½ cup.
MEAT AND MEAT ALTERNATES			
Lean meat or poultry or fish [6]	1 oz	1½ oz	2 oz.
or			
Cheese	1 oz	1½ oz	2 oz.
or			
Eggs	1 egg	1 egg	1 egg.
or			
Cooked dry beans or peas	¼ cup	⅜ cup	½ cup.
or			
Peanut butter or an equivalent quantity of any combination of meat/meat alternate.	2 tbsp	3 tbsp	4 tbsp.

[1] Children age 12 and up may be served adult size portions based on the greater food needs of older boys and girls, but shall be served not less than the minimum quantities specified in this section for children age 6 up to 12.
[2] For purposes of the requirements outlined in this subsection, a cup means a standard measuring cup.
[3] Serve 2 or more kinds of vegetable(s) and/or fruit(s). Full-strength vegetable or fruit or fruit juice may be counted to meet not more than one-half of this requirement.
[4] Bread, pasta or noodle products, and cereal grains shall be wholegrain or enriched; cornbread,/biscuits, rolls, muffins, etc., shall be made with whole-grain or enriched meal or flour.
[5] Serving sizes and equivalents to be published in guidance materials by FNS.
[6] Edible portion is served.

(3) The minimum amounts of food components to be served as supplemental food as set forth in paragraph (a)(3) of this section are as follows. Select two of the following four components. (Juice may not be served when milk is served as the only other component.)

Food components	Age 1 up to 3	Age 3 up to 6	Age 6 up to 12 [1]
MILK			
Milk, fluid	½ cup [2]	½ cup	1 cup.
VEGETABLES AND FRUITS			
Vegetable(s) and/or fruit(s)	½ cup	½ cup	¾ cup.
or			
Full-strength vegetable or fruit juice or an equivalent quantity of any combination of vegetable(s), fruit(s) and juice.	½ cup	½ cup	¾ cup.
BREAD AND BREAD ALTERNATE [3]			
Bread	½ slice	½ slice	1 slice.
or			
Cornbread, biscuits, rolls, muffins, etc. [4]	½ serving	½ serving	1 serving.
or			
Cold dry cereal [5]	¼ cup or ⅓ oz	½ cup or ½ oz	¾ cup or 1 oz.
or			
Cooked cereal	¼ cup	¼ cup	½ cup.
or			
Cooked pasta or noodle products	¼ cup	¼ cup	½ cup.
or			
Cooked cereal grains or an equivalent quantity of any combination of bread/bread alternate.	¼ cup	¼ cup	½ cup.
MEAT AND MEAT ALTERNATES			
Lean meat or poultry or fish [6]	½ oz	½ oz	1 oz.
or			
Cheese	½ oz	½ oz	1 oz.

Food components	Age 1 up to 3	Age 3 up to 6	Age 6 up to 12 [1]
or			
Eggs	½ egg	½ egg	1 egg.
or			
Cooked dry beans or peas	¼ cup	⅛ cup	¼ cup.
or			
Peanut butter or an equivalent quantity of any combination of meat/meat alternate.	1 tbsp	1 tbsp	2 tbsp.

[1] Children age 12 and up may be served adult size portions based on the greater food needs of older boys and girls, but shall be served not less than the minimum quantities specified in this section for children age 6 up to 12.
[2] For purposes of the requirements outlined in this subsection, a cup means a standard measuring cup.
[3] Bread, pasta or noodle products, and cereal grains shall be wholegrain or enriched; cornbread, biscuits, rolls, muffins, etcs., shall be made with wholegrain or enriched meal or flour; cereal shall be wholegrain or enriched or fortified.
[4] Serving size and equivalents to be published in guidance materials by FNS.
[5] Either volume (cup) or weight (oz), whichever is less.
[6] Edible portion is served.

(d) *Additional food.* To improve the nutrition of participating children over 1 year of age additional foods may be served with each meal as follows:

(1) *Breakfast.* Include as often as practical an egg; or a 1-ounce serving (edible portion as served) of meat, poultry or fish; or 1-ounce of cheese; or 2 tablespoons of peanut butter or an equivalent quantity of any combination of these foods. Additional foods may be served as desired.

(2) *Lunch or supper.* Additional foods may be served as desired.

(e) *Temporary unavailability of milk.* If emergency conditions prevent an institution normally having a supply of milk from temporarily obtaining milk deliveries, the State agency may approve the service of breakfasts, lunches or suppers without milk during the emergency period.

(f) *Continuing unavailability of milk.* The inability of an institution to obtain a supply of milk on a continuing basis shall not bar it from participation in the Program. In such cases, the State agency may approve service of meals without milk, provided that an equivalent amount of canned, whole dry or nonfat dry milk is used in the preparation of the components of the meal set forth in paragraphs (a) (1), (2) and (3) of this section.

(g) *Statewide substitutions.* In American Samoa, Puerto Rico, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands the following variations from the meal requirements are authorized: A serving of a starchy vegetable, such as yams, plantains, or sweet potatoes may be substituted for the bread requirements.

(h) *Individual substitutions.* Substitutions may be made in food listed in paragraphs (b) and (c) of this section if individual participating children are unable, because of medical or other special dietary needs, to consume such foods. Substitutions because of medical needs shall be made only when supported by a statement from a recognized medical authority which includes recommended alternate foods.

(i) *Special variations.* FNS may approve variations in the food components of the meals on an experimental or a continuing basis in any institution where there is evidence that such variations are nutritionally sound and are necessary to meet ethnic, religious, economic, or physical needs.

(j) *Meal planning.* Institutions shall plan for and order meals on the basis of current participation trends, with the objective of providing only one meal per child at each meal service. Records of participation and of ordering or preparing meals shall be maintained to demonstrate positive action toward this objective. In recognition of the fluctuation in participation levels which makes it difficult to estimate precisely the number of meals needed and to reduce the resultant waste, any excess meals that are ordered may be served to children and may be claimed for reimbursement, unless the State agency determines that the institution has failed to plan and prepare or order meals with the objective of providing only one meal per child at each meal service.

(k) *Sanitation.* Institutions shall ensure that in storing, preparing, and serving food, proper sanitation and health standards are met which conform with all applicable State and local laws and regulations. Institutions shall ensure that adequate facilities are available to store food or hold meals.

(l) *Donated commodities.* Institutions shall efficiently use in the Program any foods donated by the Department and accepted by the institution.

(m) *Plentiful foods.* Institutions shall, insofar as practicable, purchase and efficiently use in the Program foods designated as plentiful by the Department.

(n) *Additional provision.* The State agency may allow institutions which serve meals prepared in schools participating in the National School Lunch and School Breakfast Programs to substitute the meal pattern requirements of the regulations governing those Programs (7 CFR Part 210 and 7 CFR Part 220, respectively) for the meal pattern requirements contained in this section.

§ 226.21 Food service management companies.

(a) Any institution may contract with a food service management company. An institution which contracts with a food service management company shall remain responsible for ensuring that the food service operation conforms to its agreement with the State agency. All procurements of meals from food service management companies shall adhere to the procurement standards set forth in § 226.22. Public institutions shall follow applicable State or local laws governing bid procedures. In the absence of any applicable State or local laws, and in addition to the procurement provisions set forth in § 226.22, the State agency may mandate that each institution with Program meal contracts of an aggregate value in excess of $10,000 formally advertise such contracts and comply with the following procedures intended to prevent fraud, waste, and Program abuse:

(1) All proposed contracts shall be publicly announced at least once 14 calendar days prior to the opening of bids. The announcement shall include the time and place of the bid opening;

(2) The institution shall notify the State agency at least 14 calendar days prior to the opening of the bids of the time and place of the bid opening;

(3) The invitation to bid shall not provide for loans or any other monetary benefit or terms or conditions to be made to institutions by food service management companies;

(4) Nonfood items shall be excluded from the invitation to bid, except where such items are essential to the conduct of the food service;

(5) The invitation to bid shall not specify special meal requirements to meet ethnic or religious needs unless special requirements are necessary to meet the needs of the children to be served;

(6) The bid shall be publicly opened;

(7) All bids totaling $50,000 or more shall be submitted to the State agency for approval before acceptance. All bids shall be submitted to the State agency for approval before accepting a bid which exceeds the lowest bid. State agencies shall respond to any request for approval within 10 working days of receipt;

(8) The institutions shall inform the State agency of the reason for selecting the food service management company chosen. State agencies may require

institutions to submit copies of all bids submitted under this section.

(b) The institution and the food service management company shall enter into a standard contract as required by § 226.6(h). However, public institutions may, with the approval of the State agency, use their customary form of contract if it incorporates the provisions of § 226.6(h).

(c) A copy of the contract between each institution and food service management company shall be submitted to the State agency prior to the beginning of Program operations under the subject contract.

(d) Each proposed additional provision to the standard form of contract shall be submitted to the State agency for approval.

(e) A food service management company may not subcontract for the total meal, with or without milk, or for the assembly of the meal.

§ 226.22 Procurement standards.

(a) This section establishes standards and guidelines for the procurement of foods, supplies, equipment, and other goods and services. These standards are furnished to ensure that such materials and services are obtained efficiently and economically and in compliance with the provisions of applicable Federal law and Executive orders.

(b) These standards shall not relieve the institution of any contractual responsibilities under its contracts. The institution is responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements entered into in support of the Program. These include, but are not limited to: source evaluation, protests of award, disputes, and claims. Violations of the law shall be referred to the local, State, or Federal authority having proper jurisdiction.

(c) Institutions may use their own procurement procedures which reflect applicable State or local laws and regulations, provided that procurements made with Program payments conform to the standards set forth in this section and in Attachment O of Office of Management and Budget Circular A–102, as well as to procurement requirements which may be established to the State agency, with the approval of FNS to prevent fraud, waste, and Program abuse.

(d) Institutions shall maintain a written code of standards of conduct which shall govern the performance of their officers, employees or agents engaged in the award and administration of contracts supported by Program payments. No employee, officer or agent of the grantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

(1) The employee, officer or agent;

(2) Any member of his immediate family;

(3) His or her partner; or

(4) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award.

The institution's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements. Institutions may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards of conduct shall provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the institution's officers, employees, or agents, or by contractors or their agents.

(e) The institution shall establish procurement procedures which provide that proposed procurement actions shall be reviewed by institution officials to avoid the purchase of unnecessary or duplicative items. Where appropriate, an analysis shall be made of lease versus purchase alternatives, and any other appropriate analysis to determine which approach would be the most economical.

(f) Affirmative steps shall be taken to assure that small and minority businesses are utilized when possible. Affirmative steps shall include the following:

(1) Including qualified small and minority businesses on solicitation lists;

(2) Assuring that small and minority businesses are solicited whenever they are potential sources;

(3) When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum small and minority business participation;

(4) Where the requirement permits, establishing delivery schedules which will encourage participation by small and minority businesses;

(5) Using the services and assistance of the Small Business Administration, the Minority Business Development Agency of the Department of Commerce and the Community Services Administration as required;

(6) If any subcontracts are to be let, requiring the prime contractor to take the affirmative steps in paragraphs (b)(1) through (5) of this section; and

(7) Taking similar appropriate affirmative action in support of women's business enterprises.

(g) All procurement transactions, regardless of whether by sealed bids or by negotiation and without regard to dollar value, shall be conducted in a manner that provides maximum open and free competition consistent with this section. Procurement procedures shall not restrict or eliminate competition. Examples of what is considered to be restrictive of competition include, but are not limited to (1) placing unreasonable requirements on firms in order for them to qualify to do business, (2) noncompetitive practices between firms, (3) organizational conflicts of interest, and (4) unnecessary experience and bonding requirements.

(h) The institution shall have written selection procedures which shall provide, as a minimum, the following procedural requirements:

(1) Solicitations of offers, whether by competitive sealed bids or competitive negotiation, shall:

(i) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated; and

(ii) Clearly set forth all requirements which offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(2) Awards shall be made only to responsible contractors that possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, compliance with public policy, record of past

performance, and financial and technical resources.

(i) Program procurements shall be made by one of the following methods:

(1) Small purchase procedures are those relatively simple and informal procurement methods that are sound and appropriate for the procurement of services, supplies or other property, costing in the aggregate not more than $10,000. Institutions shall comply with State or local small purchase dollar limits under $10,000. If small purchase procedures are used for a procurement under the Program, price or rate quotation shall be obtained from an adequate number of qualified sources; or

(2) In competitive sealed bids (formal advertising), sealed bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is lowest in price.

(i) In order for formal advertising to be feasible, appropriate conditions must be present, including as a minimum, the following:

(A) A complete, adequate and realistic specification or purchase description is available.

(B) Two or more responsible suppliers are willing and able to compete effectively for the institution's business.

(C) The procurement lends itself to a firm-fixed price contract, and selection of the successful bidder can appropriately be made principally on the basis of price.

(ii) If formal advertising is used for a procurement under the Program, the following requirements shall apply:

(A) A sufficient time prior to the date set for opening of bids, bids shall be solicited from an adequate number of known suppliers. In addition, the invitation shall be publicly advertised.

(B) The invitation for bids, including specifications and pertinent attachments, shall clearly define the items or services needed in order for the bidders to properly respond to the invitation.

(C) All bids shall be opened publicly at the time and place stated in the invitation for bids.

(D) A firm-fixed-price contract award shall be made by written notice to that responsible bidder whose bid, conforming to the invitation for bids, is lowest. Where specified in the bidding documents, factors such as discounts, transportation costs and life cycle costs shall be considered in determining which bid is lowest. Payment discounts may only be used to determine low bid when prior experience of the grantee indicates that such discounts are generally taken.

(E) Any or all bids may be rejected when there are sound documented business reasons in the best interest of the Program.

(3) In competitive negotiation, proposals are requested from a number of sources and the Request for Proposal is publicized. Negotiations are normally conducted with more than one of the sources submitting offers, and either a fixed-price or cost-reimbursable type contract is awarded, as appropriate. Competitive negotiation may be used if conditions are not appropriate for the use of formal advertising. If competitive negotiation is used for a procurement under a grant, the following requirements shall apply:

(i) Proposals shall be solicited from an adequate number of qualified sources to permit reasonable competition consistent with the nature and requirements of the procurement. The Request for Proposals shall be publicized and reasonable requests by other sources to compete shall be honored to the maximum extent practicable;

(ii) The Request for Proposal shall identify all significant evaluation factors, including price or cost where required and their relative importance;

(iii) The institution shall provide mechanisms for technical evaluation of the proposal received, determinations of responsible offerors for the purpose of written or oral discussions, and selection for contract award; and

(iv) Award may be made to the responsible offeror whose proposal will be most advantageous to the procuring party, price and other factors considered. Unsuccessful offerors should be notified promptly.

(4) Noncompetitive negotiation is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate. Noncompetitive negotiation may be used when the award of a contract is infeasible under small purchase, competitive bidding (formal advertising), or competitive negotiation procedures. Circumstances under which a contract may be awarded by noncompetitive negotiation are limited to the following:

(i) The item is available only from a single source;

(ii) Public exigency or emergency when the urgency for the requirement will not permit a delay incident to competitive solicitation;

(iii) FNS authorizes noncompetitive negotiation; or

(iv) After solicitation of a number of sources, competition is determined inadequate.

(j) The cost plus a percentage of cost method of contracting shall not be used. Instructions shall perform some form of cost or price analysis in connection with every procurement action including contract modifications. Costs or prices based on estimated costs for contracts under the Program shall be allowed only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles.

(k) Institutions shall maintain records sufficient to detail the significant history of a procurement. These records shall include, but are not necessarily limited to information pertinent to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the cost or price.

(l) In addition to provisions defining a sound and complete procurement contract, institutions shall include the following contract provisions or conditions in all procurement contracts and subcontracts as required by the provision, Federal Law or FNS:

(1) Contracts other than small purchases shall contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate;

(2) All contracts in excess of $10,000 shall contain suitable provisions for termination by the institution including the manner by which it will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor;

(3) All contracts awarded in excess of $10,000 by institutions and their contractors shall contain a provision requiring compliance with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60);

(4) Where applicable, all contracts awarded by institutions in excess of $2,500 which involve the employment of mechanics or laborers shall include a provision for compliance with section 103 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–330) as supplemented by Department of Labor regulations (29 CFR Part 5). Under

section 103 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work day of 8 hours and a standard work week of 40 hours. Work in excess of the standard work day or week is permissible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 8 hours in any calendar day or 40 hours in the work week. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence;

(5) The contract shall include notice of FNS requirements and regulations pertaining to reporting and patent rights under any contract involving research, developmental, experimental or demonstration work with respect to any discovery or invention which arises or is developed in the course of or under such contract, and of FNS requirements and regulations pertaining to copyrights and rights in data. All negotiated contracts (except those awarded by small purchases procedures) awarded by institutions shall include a provision to the effect that the institution, FNS, the Comptroller General of the United States or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract, for the purpose of making audit, examination, excerpts, and transcriptions. Institutions shall require contractors to maintain all required records for three years after institutions make final payment and all other pending matters are closed;

(6) Contracts and subcontracts of amounts in excess of $100,000 shall contain a provision which requires compliance with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1837(h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15), which prohibit the use under nonexempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. The provision shall require reporting of violations to FNS and to the U.S. EPA Assistant Administrator for Enforcement (EN-329); and

(7) Contracts shall recognize mandatory standards and policies relating to energy efficiency which are contained in the State energy efficiency conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163).

(m) Institutions shall maintain a contract administration system insuring that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

§ 226.23 Free and reduced-price meals.

(a) The State agency shall require each institution to submit, at the time the institution applies for Program participation, a written policy statement concerning free and reduced-price meals to be used uniformly in all child care facilities under its jurisdiction as required in this section. Institutions shall not be approved for participation nor agreements renewed unless the free and reduced-price policy statement has been approved. Pending approval of a revision of a policy statement, the existing policy shall remain in effect.

(b) Sponsoring organizations of day care homes (which may not serve meals at a separate charge to children) and other institutions which elect to serve meals at no separate charge, shall develop a policy statement consisting of an assurance to the State agency that all children are served the same meals at no separate charge, regardless of race, color, or national origin, and that there is no discrimination in the course of the food service.

(c) Independent centers and sponsoring organizations of centers which charge separately for meals shall develop a policy statement for determining eligibility for free and reduced-price meals which shall include the following:

(1) The specific criteria to be used in determining eligibility for free and reduced-price meals. The institution's standards of eligibility shall conform to the Secretary's income standards;

(2) A description of the method or methods to be used in accepting applications from families for free and reduced-price meals;

(3) A description of the method or methods to be used to collect payments from those children paying the full or reduced price of the meal which will protect the anonymity of the children receiving a free or reduced-price meal;

(4) An assurance which provides that the institution will establish a hearing procedure for use when benefits are denied or terminated as a result of verification: (i) A simple, publicly announced method for a family to make an oral or written request for a hearing; (ii) an opportunity for the family to be assisted or represented by an attorney or other person in presenting its appeal; (iii) an opportunity to examine, prior to and during the hearing, the documents and records presented to support the decision under appeal; (iv) that the hearing shall be held with reasonable promptness and convenience to the family and that adequate notice shall be given to the family as to the time and place of the hearing; (v) an opportunity for the family to present oral or documentary evidence and arguments supporting its position; (vi) an opportunity for the family to question or refute any testimony or other evidence and to confront and cross-examine any adverse witnesses; (vii) that the hearing shall be conducted and the determination made by a hearing official who did not participate in making the initial decision; (viii) the determination of the hearing official shall be based on the oral and documentary evidence presented at the hearing and made a part of that hearing record; (ix) that the family and any designated representatives shall be notified in writing of the decision of the hearing official; (x) that a written record shall be prepared with respect to each hearing, which shall include the decision under appeal, any documentary evidence and a summary of any oral testimony presented at the hearing, the decision of the hearing official, including the reasons therefor, and a copy of the notification to the family of the decision of the hearing official; and (xi) that such written record of each hearing shall be preserved for a period of three years and shall be available for examination by the family or its representatives at any reasonable time and place during such period;

(5) An assurance that there will be no overt identification of free and reduced-price meal recipients and no discrimination against any child on the basis of race, color, or national origin;

(6) An assurance that the charges for a reduced-price lunch or supper will not exceed 40 cents and that the charge for a reduced-price breakfast will not exeed 30 cents.

(d) Each institution shall annually provide the information media serving the area from which the institution draws its attendance with a public release. All media releases issued by institutions other than sponsoring organizations of day care homes, shall include the Secretary's Income Eligibility Guidelines for Free and Reduced-Price Meals, and shall state the meals are available to all enrolled children without regard to race, color, or national origin. The release issued by all sponsoring organizations of day care homes, and by other institutions which

elect not to charge separately for meals, shall announce the availability of meals at no separate charge. The release issued by institutions which charge separately for meals shall announce the availability of free and reduced-price meals to children meeting the approved eligibility criteria.

(e) For the purpose of determining eligibility for free and reduced-price meals, institutions, other than sponsoring organizations of day care homes, shall distribute applications for free and reduced-price meals to parents or guardians of children enrolled in the institution. The application, and any other descriptive material distributed to such persons, shall contain only the family-size income levels for reduced-price meal eligibility with an explanation that households with incomes less than or equal to these levels are eligible for free or reduced-price meals. Such forms and descriptive materials may not contain the income standards for free meals. The application shall include the social security numbers of all adult members of the household.

(f) Free and reduced-price meal eligibility report by institutions to State agencies shall be based on family-size and income information established not more than 12 months prior to reporting.

(g) Sponsoring organizations for family day care homes shall ensure that no separate charge for food service is imposed on families of children enrolled in participating family day care homes.

Subpart F—Food Service Equipment Provisions

§ 226.24 Property management requirements.

(a) This section prescribes policies and procedures governing title, use, and disposition of personal property obtained by an institution by purchase, whose cost was borne in whole or in part with food service equipment assistance funds. Institutions shall follow the property management policies and procedures prescribed by the State agency.

(b) The following requirements shall be observed in acquiring, using and disposing of nonexpendable personal property:

(1) When nonexpendable personal property has been acquired by an institution in whole or in part with food service equipment assistance funds, formerly made available to institutions, title shall be vested in the institution;

(2) The institution shall retain such property in the Program as long as the State agency decides that there is a need for such property to accomplish the purposes of the Program whether or not the institution's food service continues to be supported by Federal funds;

(3) When there is no longer a need for such property to accomplish the purpose of the Program, the institution shall use the property in connection with other Federal programs it administers. Priority shall be given to Federal programs administered by the Department over the programs administered by other Federal agencies. Approval from the Department or State agency, as applicable, must be obtained by the institution prior to using equipment acquired with food service equipment assistance funds for programs of other Federal agencies. When the institution no longer has need for such property in any of its federally assisted programs, the property may be used for the institution's own official activities. In such situations, the institution may use the property without reimbursement to the State agency, or sell the property and retain the proceeds if the property had an acquisition cost of less than $1,000 per unit. In the case of other property, the institution may retain the property for its own use, provided that a fair compensation is made to FNS for the Federal share of the property. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the property to the current fair market value of the property. If the institution has no need for the property, disposition shall be made as follows:

(i) If the property had an acquisition cost of $1,000 or more per unit, the institution shall request disposition instructions from the State agency. If the State agency has no need for the property, the availability of the property shall be reported to the General Service Administration (GSA) by the Department to determine whether a requirement for the property exists in other Federal programs. FNS shall issue instructions to the State agency within 120 days following the receipt of the request. If the institution is instructed to ship the property elsewhere, the institution shall be reimbursed by the State agency where applicable, with an amount which is computed by applying the percentage of the institution's participation in the cost of the property to the current fair market value of the property, plus any reasonable shipping or interim storage costs incurred. If the institution is instructed to otherwise dispose of the property, the institution shall be reimbursed by the State agency for the costs incurred in the disposition. If disposition instructions are not issued within 120 days after reporting, the institution shall sell the property and reimburse the Department in an amount which is computed by applying the percentage of Federal participation in the cost of the property to the sales proceeds. Further, the institution may be permitted to deduct and retain from the Federal share $100 or 10 percent of the proceeds, whichever is greater, for the institution's selling and handling expenses; and

(ii) When the State agency determines that nonexpendable personal property with an acquisition cost of $1,000 or more financed with food service equipment assistance funds is unique or difficult or costly to replace, the State agency may reserve the right to require the institution to transfer title to property to the State agency or to a third party subject to the following provisions:

(A) The right to require the transfer of title may be reserved only by means of an express special condition in the agreement or, if approval for the acquisition of the property is given after the agreement is executed, by the means of a written stipulation at the time the approval is given.

(B) The property shall be appropriately identified in the award document or otherwise made known to the institution.

(C) FNS or the State agency shall not exercise this right until the institution no longer needs the property in the Program. That need will be deemed to end on the date of termination of the agreement, unless the institution continues to conduct a food service after the date and demonstrates to the State agency a continued need for the property in its food service.

(D) The State agency shall issue disposition instructions within 120 days after the completion of the need for the property under the Program. If instructions are not issued within this 120 day period, the State agency's right shall lapse, and the institution shall apply the applicable standards contained in paragraphs (b)(2) and (3) of this section.

(4) The institution's property management standards for non-expendable personal property shall also include the following procedural requirements:

(i) Property records shall be maintained accurately and provide for:

(A) A description of the property; (B) manufacturer's serial number or other identification number; (C) acquisition date and costs; (D) source of the property; (E) percentage of food service equipment assistance funds used in the purchase of the property; (F) location, use, and condition of the property; and

(G) ultimate disposition data including sales price or the method used to determine current fair market value if the institution reimburses the Department for its share.

(ii) A physical inventory of property shall be taken and the results reconciled with the property records at least once every two years to verify the existence, current utilization, and continued need for the property;

(iii) A control system shall be in effect to ensure adequate safeguards to prevent loss, damage, or the theft of the property. Any loss, damage, or the theft of nonexpendable property shall be investigated and fully documented. The institution shall be responsible for replacing or repairing (with funds of the institution) property which is lost, damaged, or destroyed due to negligence by the institution;

(iv) Adequate maintenance procedures, including those recommended by the manufacturer shall be implemented to keep the property in good condition; and

(v) Adequate sales procedures shall be established for unneeded property which would provide for competition to the extent practicable and result in the highest possible return.

(c) The institution may, at its option, either retain or sell items of expendable personal property when no longer needed for any federally sponsored activity (including activities sponsored by the Federal agencies). Compensation to the Department is required if the aggregate fair market value of all of those items of expendable personal property acquired with equipment assistance funds exceeds $1,000 when no longer needed for any federally sponsored activity. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original property to the current fair market value of items retained and to the sales proceeds of items sold.

(d) Compensation for the Federal share of property made by institutions to the State agency shall be returned to FNS.

Subpart G—Other Provisions

§ 226.25 Other provisions.

(a) *Grant closeout procedures.* Grant closeout procedures for the Program shall be in accordance with Attachments K and L of the Office of Management and Budget Circular A–110 (41 FR 32016, July 30, 1976), or Attachment L of the Office of Management and Budget Circular A–102 (42 FR 4582, September 12, 1977).

(1) *Termination for cause.* FNS may terminate a State agency's participation in the Program in whole, or in part, whenever it is determined that the State agency has failed to comply with the conditions of the Program. FNS shall promptly notify the State agency in writing of the termination, the reasons for the termination, and the effective date. A State agency shall terminate the Program participation of an institution or facility by written notice whenever it is determined by FNS or the State agency that the institution or facility has failed to comply with the conditions of the Program.

(2) *Termination for convenience.* FNS or the State agency may terminate the State agency's participation in the Program when both parties agree that the continuation of the Program would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated. The State agency shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. FNS shall allow full credit to the State agency for the Federal share of noncancellable obligations, properly incurred by the State agency, or FNSRO where applicable. FNSRO or the State agency may terminate an institution's participation in accordance with these provisions.

(b) *State requirements.* Nothing contained in this part shall prevent a State agency from imposing additional requirements for participation in the Program which are not inconsistent with the provisions of this part; however, any additional requirements shall be approved by FNSRO and may not deny the Program to an eligible institution.

(c) *Value of assistance.* The value of assistance to children under the Program shall not be considered to be income or resources for any purposes under any Federal or State laws, including, but not limited to laws relating to taxation, welfare, and public assistance programs.

(d) *Maintenance of effort.* Expenditure of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under the Act.

(e) *Fraud penalty.* Whoever embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets, or property that are the subject of a grant or other form of assistance under this part, whether received directly or indirectly from the Department or whoever receives, conceals, or retains such funds, assets, or property to his use or gain, knowing such funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud shall, if such funds, assets, or property are of the value of $100 or more, be fined not more than $10,000 or imprisoned not more than five years, or both, or, if such funds, assets, or property are of value of less than $100, shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

(f) *Claims adjustment authority.* The Secretary shall have the authority to determine the amount of, to settle, and to adjust any claim arising under the Program, and to compromise or deny such claim or any part thereof. The Secretary shall also have the authority to waive such claims if the Secretary determines that to do so would serve the purposes of the Program. This provision shall not diminish the authority of the Attorney General of the United States under section 516 of Title 28, U.S. Code, to conduct litigation on behalf of the United States.

§ 226.26 Program information

Persons desiring information concerning the Program may write to the appropriate State agency or Regional Office of FNS as indicated below:

(a) In the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont: New England Regional Office, FNS, U.S. Department of Agriculture, 33 North Avenue, Burlington, MA 01803.

(b) In the States of Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania, Puerto Rico, Virginia, Virgin Islands, and West Virginia: Mid-Atlantic Regional Office, FNS, U.S. Department of Agriculture, One Vahlsing Center, Robbinsville, NJ 08691.

(c) In the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee: Southeast Regional Office, FNS, U.S. Department of Agriculture, 1100 Spring Street NW., Atlanta, GA 30309.

(d) In the States of Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin: Midwest Regional Office, FNS, U.S. Department of Agricuture, 536 South Clark Street, Chicago, IL 60605.

(e) In the States of Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming: Mountain Plains Regional Office, FNS, U.S. Department of Agriculture, 2420 West 26th Avenue, Room 430, Denver, CO 30211.

(f) in the States of Arkansas, Louisiana, New Mexico, Oklahoma and Texas: Southwest Regional Office, FNS, U.S. Department of Agriculture, 1100 Commerce Street, Room 5–C–30, Dallas, TX 75242.

(g) In the States of Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, Trust Territory of the Pacific Islands, the Northern Mariana Islands, and Washington: Western Regional Office, FNS, U.S. Department of Agriculture, 550 Kearny Street, Room 400, San Francisco, CA 94108.

Note.—The reporting and recordkeeping requirements contained in this regulation are subject to review by OMB under the Paperwork Reduction Act and are not effective until approved by OMB.

Dated: November 18, 1981.

Mary C. Jarratt,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 81-33995 Filed 11-25-81; 8:45 am]

BILLING CODE 3410-30-M

---

7 CFR Part 226

Child Care Food Program; Eligibility of Proprietary Title XX Centers

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule implements provisions of Pub. L. 96–499 (The Omnibus Reconciliation Act of 1980) and Pub. L. 97–35 (The Omnibus Reconciliation Act of 1981) regarding participation of private for-profit organization in the Child Care Food Program. Pub. L. 96–499 permitted participation in the Child Care Food Program of any private for-profit organization "providing nonresidential day care services for which it receives compensation from amounts granted to the States under Title XX of the Social Security Act." The Department proceeded to implement the provisions of this legislation by issuing a proposed rule for public comment at 46 FR 32026 on June 19, 1981. After the proposed rule was published, Pub. L. 97–35 was enacted, which nullified some of the changes in Pub. L. 96–499. The matters which are discretionary in this rule were developed based on the proposed rule and public comments, as affected by Pub. L. 97–35.

Pub. L. 97–35 limited participation of proprietary Title XX centers by stating "* * * but only if such organization receives compensation under such title for at least 25 percent of the children for which the organization provides such nonresidential day care services." This rule deals only with proprietary Title XX centers. It is believed to affect less than 1860 proprietary centers currently providing nonresidential day care services under Title XX.

Additional proposed and final rules have been and will be issued by the Department to implement other provisions of Pub. L. 97–35. Many of the provisions contained in these other rules will become effective subsequent to the effective date of this rule. Therefore, references to current Program procedures, such as the tiering system of reimbursement, have been retained in this rule pending their elimination at a future date.

EFFECTIVE DATE: Pub. L. 97–35 makes the effective date of this rule October 1, 1981.

FOR FURTHER INFORMATION CONTACT: Stan Garnett, Acting Director, or Beverly Walstrom, Child Care and Summer Programs Division, Food and Nutrition Service, Washington, D.C. 20250, (202) 447–6509.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures established in Executive Order 12291 and has been classified "not major." The final rule has also been reviewed with regard to the requirements of Pub. L. 96–354. G. William Hoagland, Administrator of the Food and Nutrition Service, has determined that this action will not have a significant impact on a substantial number of small entities because its effect is simply to extend Program eligibility to a limited number of proprietary Title XX centers. The Department does not consider this to be a "major rule" under definition established in Executive Order 12291. This rule is expected to result in a Federal outlay of less than $15 million in Fiscal Year 1982. It will not cause a major increase in costs or prices for any sector of the domestic economy nor will it negatively affect the ability of United States-based enterprises to compete with foreign-based enterprises.

G. William Hoagland has determined, pursuant to 5 U.S.C. 553 (b) and (d), that good cause exists for making this rule effective earlier than 30 days after publication because Pub. L. 97–35 mandates that provisions in this rule, effective October 1, will be effective earlier than 30 days after publication.

Eligibility for Program Participation

Pub. L. 96–499 authorized the participation of private for-profit organizations receiving compensation from Title XX of the Social Security Act. On June 19, 1981, proposed regulations were published pertaining to the implementation of the provision of this law dealing with these Title XX organizations. This proposal defined such private for-profit organizations as "proprietary Title XX centers." A total of 25 comments were received. All comments were studied and catalogued by issue. The majority of the issues raised by the commenters concerned the standard of participation proposed by the Department. That standard required that not less than 10 percent of total meals served to children be served to Title XX beneficiaries in order for the proprietary Title XX center to be eligible for participation in the Child Care Food Program. Several of the commenters stated that proprietary Title XX centers serving any children eligible for Title XX benefits should be eligible. Others suggested that a standard of 50 percent should be established or that only meals served to children receiving Title XX benefits should be funded by the Child Care Food Program.

The Omnibus Reconciliation Act of 1981 established a legislative standard of participation for proprietary Title XX centers and, therefore, rendered many of the comments moot. This final rule defines proprietary Title XX centers as those in which not less than 25 percent of the children enrolled are Title XX beneficiaries. To conform to this legislated standard of eligibility, corresponding non-discretionary changes have been made throughout the regulation.

Comments on regulatory issues about which the Department retains discretionary authority are discussed below.

Reimbursement and Recordkeeping Requirements

In the June 19 proposal, the Department suggested that since each proprietary Title XX center was eligible only in months in which at least 10 percent of meals served were served to Title XX beneficiaries, it was necessary to record the number of meals served by type to each individual child. Several of the commenters pointed out that this would be a time-consuming and unreasonable burden. In response to those comments, the Department is requiring in this final rule that the proprietary Title XX center verify that the legislated standard of eligibility has been met. Each month the independent proprietary Title XX center will examine its enrollment records to verify that no less than 25 percent of enrolled children are Title XX beneficiaries. Sponsoring organizations will likewise verify that all such centers covered by the claim meet the 25 percent standard. Thus, no additional recordkeeping requirements are imposed, only an examination of enrollment data already on file. Enrollment records may be examined by the Department or the State agency during reviews and audits to substantiate a center's eligibility during any given month for which a claim was submitted. Meal count records will also be kept, as is currently the case for any other center participating in the Child Care Food Program.

Sponsorship by Proprietary Title XX Centers

The proposed rule limited sponsorship by proprietary Title XX centers to those proprietary Title XX centers sharing the same legal identity as the sponsoring organization. In support of this position, the proposal pointed out that Section 17(a) of the National School Lunch Act defined "institution" to include "public or nonprofit private organizations that sponsor family or group day care homes." Clearly, for-profit proprietary Title XX centers are not eligible under

the law to sponsor day care homes. The proposal then extended this legislated prohibition to public and private nonprofit centers in the best interest of the Program.

Several potential proprietary Title XX centers and sponsoring organizations objected to the proposed limitations on sponsorship by proprietary organizations. Another commentor suggested that additional regulatory language emphasizing these limitations be included.

First, the Department believed that to allow proprietary Title XX centers to act as sponsoring organizations for public and private nonprofit centers would result in an unnecessary administrative burden on such sponsoring organizations. Since eligibility standards and data reported are different for proprietary Title XX centers than for nonprofit centers it would necessitate separate record keeping and reporting systems for proprietary and nonprofit systems. The Department believes that this would be unnecessarily difficult and prone to error. Secondly, participation by proprietary Title XX centers and sponsoring organizations will, in many cases, be intermittent. Individual proprietary Title XX centers and entire sponsoring organizations may fall below the 25 percent of enrollment standard and, thus, no longer participate in the Program. This would result in a proprietary Title XX sponsoring organization acting as a sponsoring organization for public and private nonprofit centers when such sponsoring organization is not, itself, currently eligible for participation. Therefore, this final rule continues to prohibit proprietary Title XX organizations from sponsoring public or private nonprofit centers under the Program.

State Reporting Requirements

The proposed regulation established State reporting requirements to be contained in the State Plan of Operation. Section 812 of Pub. L. 97–35 eliminated State Plans. Therefore, the Department has eliminated all reference to State Plans in this final rule. In the preamble to the proposed regulation, the Department solicited comments concerning alternative reporting systems. All commenters responding to this request recommended the use of a separate line item on the Program operations report (FNS–44). In addition, several commenters pointed out that data obtained either through the State Plan or the Management Evaluation process would, at best, be obtained irregularly. In response to these comments, the Department will collect participation data as a separate line item on the appropriate forms.

Administrative and Review Requirements

The majority of State agencies and Regional Offices commenting on the proposed regulation pointed out that in addition to creating an entire new group of eligible child care centers, the Department proposed unique reporting and review requirements for those centers. This final rule responds to these concerns in several ways. By changing the standard of eligibility from 10 percent of meals served to 25 percent of enrollment, the universe of eligible institutions has, quite probably, been reduced. Additionally, the change to a standard of eligibility based on enrollment should greatly simplify review and verification requirements. Rather than examining daily meal records to determine that children receiving Title XX benefits received 10 percent of all meals served to children, the reviewer only need verify that 25 percent of the enrolled children were Title XX beneficiaries during the month claimed. Therefore, by changing the standard of eligibility to 25 percent of enrollment, the Department has both decreased the universe of eligible centers and simplified the administrative requirements for those which will, in fact, be eligible.

Applications and Claims

The application procedures described in the proposed regulation required for the calendar month immediately preceding the month of application or reapplication that 10 percent of meals served were served to children receiving Title XX benefits. Several commenters requested modifications of these application procedures. Two commenters recommended that the standard for application approval be changed to include maintenance of the standard for three consecutive months for the period immediately preceding the month of application or reapplication. The Department believes that this requirement would be contrary to the intent of the legislation which establishes the eligibility of these institutions when 25 percent of their enrollment are Title XX beneficiaries. The legislation imposes no additional qualifications.

Subsequent to approval for participation in the Program, a proprietary Title XX center may submit a claim for reimbursement only for those months in which 25 percent of the enrollment are Title XX beneficiaries. Two commenters suggested that the proposed regulation would prevent State agencies from effectively monitoring proprietary Title XX centers during those months in which such centers are not required to submit claims due to an insufficient percentage of Title XX beneficiaries. The Department believes that no provision of the proposed rule or this final rule prevents State agencies from either monitoring these centers during those months or requiring written verification that, although no claim for reimbursement has been submitted, the proprietary Title XX center continues to maintain its agreement with the State agency.

Clarification

Several commenters requested that the Department provide further clarification or emphasis in defining key operational terms. Two commenters recommended that additional language be included to emphasize that participating proprietary Title XX centers operate a nonprofit food service. This requirement is one which applies to all Program participants. The Department believes that the extensive practical experience of State agencies in monitoring this requirement will serve more effectively than any additional guidance in this area might do.

Other commenters requested that the Department define required "documentation," "legal identity" or specify that enrollment be defined as "Full Time Equivalent" enrollment. The Department believes that in all of these areas conditions and requirements may vary so greatly from State to State that any attempt to provide further clarification would either prove unduly restrictive or so general in nature as to be of little practical help.

PART 226—CHILD CARE FOOD PROGRAM

Accordingly, 7 CFR Part 226, Child Care Food Program, is amended as follows:

1. Section 226.2 is amended by revising the definitions of "Child care center", "Outside-school-hours care center", "Sponsoring organization", and by adding a new definition for "Proprietary Title XX center" immediately after the definition for program payments to read as follows:

§ 226.2 Definitions.

* * * * *

(e) "Child care center" means any public or private nonprofit organization, or any proprietary Title XX center, as defined in (ff–1), licensed or approved to provide nonresidential child care services to enrolled children, primarily of preschool age, including but not

limited to day care centers, settlement houses, neighborhood centers, Head Start centers, and organizations providing day care services for handicapped children. Child care centers may participate in the Program as independent centers or under the auspices of a sponsoring organization.

* * * * *

"Outside-school-hours care center" means a public or private nonprofit organization, or a proprietary Title XX center, as defined in this section, licensed or approved to provide organized nonresidential child care services to enrolled children, primarily of school age, outside of school hours. Outside-school-hours care centers may participate in the Program as independent centers or under the auspices of a sponsoring organization.

* * * * *

"Proprietary Title XX center" means any private, for profit center (a) providing nonresidential day care services for which it receives compensation from amounts granted to the States under Title XX of the Social Security Act and (b) in which Title XX beneficiaries were not less than 25 percent of the enrolled children during the calendar month preceding initial application or annual reapplication for Program participation.

* * * * *

"Sponsoring organization" means a public or private nonprofit organization which is entirely responsible for the administration of the food program in: (a) One or more day care homes; (b) a child care center or outside-school-hours care center which is a legally distinct entity from the sponsoring organization; (c) two or more child care centers or outside-school-hours care centers; or (d) any combination of child care centers, day care homes, and outside-school-hours care centers. The term "sponsoring organization" also includes a for-profit organization which is entirely responsible for administration of the Program in any combination of two or more child care centers and outside-school-hours care centers which are part of the same legal entity as the sponsoring organization, and which are proprietary Title XX centers, as defined in this section.

* * * * *

2. Section 226.6 is amended by revising paragraph (b) and adding a new paragraph (c)(11), to read as follows:

§ 226.6 State agency administrative responsibilities.

* * * * *

(b) *Application approval.* Each State agency shall establish an application procedure to determine the eligibility under this part of applicant institutions, and facilities for which applications are submitted by sponsoring organizations. State agencies, by written consent of the State agency and the institutions, shall renew agreements with institutions not less frequently than annually. A State agency may not execute an agreement to be effective during two fiscal years, but may nevertheless establish an ongoing reapplication process for the purpose of reviewing and approving applications from participating institutions throughout the fiscal year. As a minimum, such application approval process shall include: (1) Renewal of the Program agreement; (2) except for sponsoring organizations of day care homes, submission of current family size and income information on enrolled children; (3) for sponsoring organizations of day care homes, submission of the current total number of children enrolled; (4) issuance of a nondiscrimination policy statement and media release; (5) for sponsoring organizations, submission of a management plan; (6) submission of an administrative budget; (7) submission of documentation that all child care centers, outside-school-hours care centers, and day care homes for which application is made are in compliance with Program licensing/approval provisions; (8) for proprietary Title XX center, submission of documentation that they are currently providing nonresidential day care services for which they receive compensation under Title XX of the Social Security Act, and certification that not less than 25 percent of enrolled children in each such center during the most recent calendar month were Title XX beneficiaries; (9) statement of institutional preference to receive commodities or cash-in-lieu of commodities; (10) except for sponsoring organizations of day care homes, institutional choice to receive reimbursement on the basis of either the tiering method or the alternative method offered by the State agency; and (11) institutional choice to receive all, part, or none of advance payment. Any institution applying for participation in the Program shall be notified of approval or disapproval by the State agency in writing within 30 calendar days of filing a complete and correct application. If an institution submits an incomplete application, the State agency shall notify the institution within 15 calendar days of receipt of the application and shall provide technical assistance, if necessary, to the institution for the purpose of completing its application. Any disapproved applicant shall be notified of its right to appeal under paragraph (j) of this section.

(c) *Denial of applications and termination of institutions.* * * *

(11) The claiming of Program payment for meals served by a proprietary Title XX center during a calendar month in which less than 25 percent of enrolled children were Title XX beneficiaries.

* * * * *

3. Section 226.10 is amended by revising paragraph (c) to read as follows:

§ 226.10 Program payment procedures.

* * * * *

(c) Claims for reimbursement shall be filed with the State agency by the 10th day of the month following the month covered by the claim. Not more than 10 days of the beginning or ending month of Program operations in a fiscal year may be combined on a claim with the operations of the month immediately following the beginning month or preceding the ending month. Claims for reimbursement may not combine the last month of a fiscal year with the first month of the next fiscal year. Claims for reimbursement shall report information in accordance with the financial management system established by the State agency, and in sufficient detail to justify the reimbursement claimed. In submitting a claim for reimbursement, each institution shall certify that the claim is correct and that records are available to support the claim. Independent proprietary Title XX centers for months in which not less than 25 percent of enrolled children were Title XX beneficiaries shall submit the percentage of enrolled children receiving Title XX benefits for the month covered by the claim. Sponsoring organizations of such centers shall submit the percentage of enrolled children, for each center, for the claim month, receiving Title XX benefits. Sponsoring organizations of such centers shall not include in any claim those centers in which less than 25 percent of enrolled children for the month claimed were Title XX beneficiaries. Records in support of claims shall be retained for a period of three years after the date of submission of the final claim for the fiscal year to which they pertain, except that if audit findings have not been resolved, the records shall be retained beyond the end of the three-year period as long as required for the resolution of the issues raised by the audit. All accounts and records pertaining to the Program shall be made available, upon request, to representatives of the State agency, of the Department, and of the U.S. General

Accounting Office for audit or review, at a reasonable time and place.

* * * * *

4. Section 226.11 is amended by revising paragraphs (b) and (c), to read as follows:

§ 226.11 Program payments for child care centers and outside-school-hours care centers.

* * * * *

(b) Each institution shall report each month to the State agency the total number of meals by type (breakfast, lunch, supper, supplements) served to children, except that such reports shall be made for a proprietary Title XX center only for calendar months during which not less than 25 percent of enrolled children were Title XX beneficiaries.

(c) Each State agency shall base reimbursement to each institution on the number of meals, by type, served to children multiplied by the assigned rates of reimbursement, except that reimbursement shall be payable to proprietary Title XX centers only for calendar months during which not less than 25 percent of enrolled children were Title XX beneficiaries. For institutions which have elected to receive reimbursement on the basis of the eligibility of each enrolled child for free, reduced-price, or paid meals, the State agency shall either: (1) Base reimbursement to institutions on actual daily counts of meals served, and multiply the number of meals, by type, served to children from families meeting the family-size income standards for free meals, served to children from families meeting the family-size income standards for reduced-price meals, and served to children from families not meeting such standards by the applicable national average payment rate, or (2) apply the applicable claiming percentage or percentages to the total number of meals, by type, served to children and multiply the product or products by the assigned rate of reimbursement for each meal type, or (3) multiply the assigned blended per-meal rate of reimbursement by the total number of meals, by type, served to children.

* * * * *

5. Section 226.15 is amended by revising paragraphs (a), (b)(1), (b)(4), and (b)(5), and by adding a new paragraph (b)(6), to read as follows:

§ 226.15 Institution provisions.

(a) *Tax-exempt status.* Except for proprietary Title XX centers, and sponsoring organizations of such centers, institutions shall be public, or have tax-exempt status under the Internal Revenue Code of 1954, or be moving toward compliance with the requirements for tax-exempt status, or be currently operating another Federal program requiring nonprofit status. An institution which has applied to the Internal Revenue Service (IRS) for tax-exempt status may participate in the Program while its application is pending review by IRS. If IRS denies the application for tax-exempt status, the institution shall immediately notify the State agency of such denial. The State agency shall then terminate the participation of the institution. If IRS certification of tax-exempt status has not been received within 12 months of filing the application with IRS and IRS indicates that the institution has failed to provide all required information, the State agency shall terminate the participation of the institution until such time as IRS tax-exempt status is obtained.

(b) *Applications* * * *

(1) Except for proprietary Title XX centers and sponsoring organizations of proprietary Title XX centers, evidence of nonprofit status, in accordance with § 226.15(a);

* * * * *

(4) If an independent child care center or independent outside-school-hours care center, documentation that it meets the licensing/approval requirements of § 226.6(d)(1);

(5) A nondiscrimination and free and reduced-price policy statement, and information regarding a public release, in accordance with § 226.23; and

(6) For each proprietary Title XX center, documentation that it provides nonresidential day care services for which it receives compensation under Title XX of the Social Security Act and certification that not less than 25 percent of the children enrolled during the most recent calendar month were Title XX beneficiaries. Sponsoring organizations shall provide documentation and certification for each proprietary Title XX center under their jurisdiction.

* * * * *

6. Section 226.16 is amended by adding a new paragraph (k), to read as follows:

§ 226.16 Sponsoring organization provisions.

* * * * *

(k) A for-profit organization shall be eligible to serve as a sponsoring organization for proprietary Title XX centers which have the same legal identify as the organization, but shall not be eligible to sponsor proprietary Title XX centers which are legally distinct from the organization, day care homes, or public or private nonprofit centers.

7. Section 226.17 is amended by revising paragraphs (a), (b)(2), and (b)(4), to read as follows:

§ 226.17 Child Care center provisions.

(a) Child care centers may participate in the Program either as independent centers or under the auspices of a sponsoring organization: *Provided, however,* That public and private nonprofit centers shall not be eligible to participate in the Program under the auspices of a for-profit sponsoring organization. Child care centers participating as independent centers shall comply with the provisions of § 226.15.

(b) * * *

(2) Except for proprietary Title XX centers, child care centers shall be public, or have tax-exempt status under the Internal Revenue Code of 1954, or be moving toward compliance with the requirements for tax-exempt status, or be currently operating another Federal program requiring nonprofit status. A child care center which has applied to the Internal Revenue Service (IRS) for tax-exempt status may participate in the Program while its application is pending review by IRS. If IRS denies the application for tax-exempt status, the child care center shall immediately notify the State agency of such denial and the State agency shall terminate the participation of the child care center. If IRS certification of nonprofit status has been received within 12 months of filing the application with IRS and IRS indicates that the child care center has failed to provide all required information, the State agency shall terminate the participation of the child care center until such time as IRS tax-exempt status is obtained.

* * * * *

(4) Each child care center participating in the Program shall claim only the meal types specified in its approved application and served in compliance with the meal pattern requirements of § 226.20. Reimbursement shall not be claimed for meals served to children who are not enrolled, for meals served to children at any one time in excess of the center's authorized capacity or for any meal served at a proprietary Title XX center during a calendar month when less than 25 percent of enrolled children were Title XX beneficiaries. Menus and any other nutritional records required by the State agency shall be maintained to

document compliance with meal pattern requirements.

* * * * *

8. Section 226.18 is amended by revising the introductory text of paragraph (b) to read as follows:

§ 226.18 Day care home provisions.

* * * * *

(b) Day care homes participating in the Program shall operate under the auspices of a public or private nonprofit sponsoring organization. Sponsoring organizations shall enter into a written agreement, developed by the State agency, with each sponsored day care home to specify the rights and responsibilities of both parties. At a minimum, the agreement shall embody: * * *

* * * * *

9. Section 226.19 is amended by revising paragraphs (a), (b)(2) and (b)(6), to read as follows:

§ 226.19 Outside-school-hours care center provisions.

(a) Outside-school-hours care centers may participate in the Program either as independent centers or under the auspices of a sponsoring organization, *Provided, however,* That public and private nonprofit centers shall not be eligible to participate in the Program under the auspices of a for-profit sponsoring organization. Outside-school-hours care centers participating as independent centers shall comply with the provisions of § 226.15.

(b) * * *

(2) Except for proprietary Title XX centers, outside-school-hours care centers shall be public, or have tax-exempt status under the Internal Revenue Code of 1954, or be moving toward compliance with the requirements for tax-exempt status, or be currently participating in another Federal program requiring nonprofit status. Centers which have applied to IRS for tax-exempt status may participate in the Program while their application is pending review by IRS. If IRS denies the application, the center shall immediately notify the State agency of such denial and the State agency shall terminate the participation of the center. If IRS certification of nonprofit status has not been received within 12 months of filing the application with IRS and IRS indicates that the center has failed to provide all required information, the State agency shall terminate the participation of the center in the Program until such time as IRS tax-exempt status is obtained.

* * * * *

(6) Each outside-school-hours care center participating in the Program shall claim only the meal types specified in its approved application and served in compliance with the meal pattern requirements of § 226.20. Reimbursement shall not be claimed for meals served to children who are not enrolled, for meals served to children at any one time in excess of authorized capacity, or for any meal served at a proprietary Title XX center during a calendar month when less than 25 percent of enrolled children were Title XX beneficiaries.

* * * * *

Note.—The reporting and recordkeeping requirements contained in this regulation are subject to review by OMB under the Paperwork Reduction Act and are not effective until approved by OMB.

(Catalog of Domestic Assistance Programs Number 10.558)

(Omnibus Reconciliation Act of 1980, sec. 207, Pub. L. 96-499, 94 Stat. 2599)

(Omnibus Reconciliation Act of 1981, sec. 810, Pub. L. 97-35)

Dated: November 18, 1981.

G. William Hoagland,

Administrator, Food and Nutrition Service.

[FR Doc. 81-33996 Filed 11-25-81; 8:45 am]

BILLING CODE 3410-30-M

federal register

Friday
November 27, 1981

Part III

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Arizona: AZ81–5142	Aug. 14, 1981.
California: CA81–5154	Sept. 25, 1981.
Louisiana:	
LA81–4084	Nov. 6, 1981.
LA81–4085	Nov. 6, 1981.
LA81–4086	Nov. 6, 1981.
Minnesota: MN–2045	July 17, 1981.
New York:	
NY81–2023	Apr. 3, 1981.
NY81–3046	July 17, 1981.
NY81–3039	June 21, 1981.
NY81–3045	July 17, 1981.
Wyoming: WY81–5108	Apr. 3, 1981.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Iowa:	
IA80–4042 (IA81–4097)	Aug. 1, 1980.
IA80–4047 (IA81–4093)	Aug. 22, 1980.
IA80–4048 (IA81–4094)	Aug. 29, 1980.
IA80–4050 (IA81–4098)	Aug. 8, 1980.
IA80–4052 (IA81–4095)	Aug. 8, 1980.
IA81–4011 (IA81–4096)	Feb. 13, 1981.
IA81–4049 (IA81–4092)	July 6, 1981.
Kansas: KS80–4054 (KS81–4099)	July 16, 1980.
Virginia:	
VA81–3036 (VA81–3085)	June 12, 1981.
VA81–3037 (VA81–3084)	June 12, 1981.

Signed at Washington, D.C. this 20th day of November 1981.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510–27–M

Modification Page 1

DECISION NO. AZ81-5142 - Mod. #3
(46 FR 41299 - August 14, 1981)
Statewide, Arizona

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Electricians:					
Area 2:					
Electricians; Technicians and Cable Splicers:					
Zone A	$17.00	.96	3%+.93		1/2%
Zone B	20.12	.96	3%+.93		1/2%
Lathers:					
Area 1	14.325	1.00			.06
Painters:					
Area 3:					
Zones A, B, and D Change Health and Welfare ONLY		.97			
Zone C:					
Brush	12.82	.97	.50		.10
Soray	13.42	.97	.50		.10
Paperhangers	12.95	.97	.50		.10
Swing Stage, under 40 feet:					
Brush	13.12	.97	.50		.10
Spray	13.72	.97	.50		.10
Swing Stage, over 40 feet:					
Brush	13.57	.97	.50		.10
Spray	14.17	.97	.50		.10
Structural Steel and Tanks:					
Brush	13.82	.97	.50		.10
Spray & Sandblasters	14.42	.97	.50		.10
Plumbers:					
Zone 1	17.09	1.20	1.35		.23
Zone 2	17.49	1.20	1.35		.23
Zone 3	18.74	1.20	1.35		.23
Zone 4	20.09	1.20	1.35		.23

Modification Page 2

DECISION NO. CA81-5154 - Mod. #4
(46 FR 47384 - September 25, 1981)
Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Cos., California

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos Workers	$20.35	1.30	1.45		.07
Bricklayers; Stonemasons:					
Area 2:	14.89	1.40	2.46	2.00	.10
Elevator Constructors:					
Area 1:					
Elevator Constructors	18.67	1.345	1.085	a	.035
Helpers	70%JR	1.345	1.085	a	.035
Probationary Helpers	50%JR				
Marble Setters:					
Area 1:	14.89	1.40	2.46	2.00	.10
Plasterers:					
Area 4:	16.92	1.25	2.00		

Modification Page 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. LA81-4084 - MOD. #1 (46 FR 55203 - November 6, 1981) Bossier, Caddo & Calcasieu Parishes, Louisiana					
CHANGE:					
Laborers:					
Calcasieu Parish:					
Group 1	$10.15	.25	.40		.05
Group 2	10.25	.25	.40		.05
Group 3	10.30	.25	.40		.05
Group 4	10.40	.25	.40		.05
Group 5	11.11	.25	.40		.05
Group 6	10.67	.25	.40		.05
Group 7	10.51	.25	.40		.05
Group 8	10.20	.25	.40		.05
DECISION NO. LA81-4085 - MOD. #1 (46 FR 55206 - November 6, 1981) Allen, Beauregard, Bossier Caddo, Calcasieu, Cameron Jefferson, Jefferson Davis, Orleans, Plaquemines, St. Bernard & St. Charles Pars., Louisiana					
CHANGE:					
Ironworkers - Zone 3	11.40	.60	1.45		.06
DECISION NO. LA81-4086 - MOD. #1 (46 FR 55189 - November 6, 1981) Statewide Louisiana					
CHANGE:					
Laborers:					
Zone 2 - Group 1	8.17	.25	.35		.05
Group 2	8.37	.25	.35		.05
Zone 3 - Group 1	10.15	.25	.40		.05
Group 2	10.25	.25	.40		.05
Group 3	10.30	.25	.40		.05
Group 4	11.11	.25	.40		.05
Group 5	10.67	.25	.40		.05
Group 6	10.51	.25	.40		.05
Group 7	10.20	.25	.40		.05
Group 8	10.40	.25	.40		.05
Zone 8 - Group 1	7.56	.25	.35		.05
Group 2	7.76	.25	.35		.05
Group 3	7.81	.25	.35		.05
Group 4	7.86	.25	.35		.05
Group 5	8.21	.25	.35		.05

Modification Page 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. MN81-2045 - MOD. #1 (46 FR 37170 - July 17, 1981) Blue Earth, Faribault, Freeborn, & Mower Counties, Minnesota					
Omit:					
Electricians:					
Blue Earth & Faribault Cos.:					
Jobs outside the Mankato City Area less than $75,000	$14.53	.70	3%+.44	10½%	.07
Jobs within a 5 mile radius of Mankato $75,000 & over	12.29	.70	3%+.44	10½%	.07
Add:					
Electricians:					
Blue Earth & Faribault Cos.:					
Jobs under $75,000	12.29	.70	3%+.44	10½%	.07
Jobs over $75,000	14.53	.70	3%+.44	10½%	.07
DECISION NO. NY81-3023 - Mod. #2 (46 FR 20432 - April 3, 1981) Saint Lawrence County, New York					
Change:					
BOILERMAKERS	16.53	1.275	1.653		.04
CARPENTERS					
Carpenters & Soft Floor Layers	13.10	.60	1.15		.005
Millwrights	13.35	.60	1.15		.005
Piledrivers	13.25	.60	1.15		.005
ELECTRICIANS					
Electricians	13.88	3%+ .80	1.00		.8%
Cable Splicers	14.13	3%+ .80	1.00		.8%
IRONWORKERS					
Structural, Ornamental, Reinforcing, Machinery Movers, Rodmen, Riggers, Fence Erectors, & Stone Derrickmen	13.07	1.11	1.55		.04
Sheeters	13.32	1.11	1.55		.04
Sheeters, Bucker-up	13.195	1.11	1.55		.04
PAINTERS					
Remainder of County					
Basic	10.73		.40	c	.01
Spray cup, paperhanging, taping, spray	11.23		.40	c	.01
Sandblasting, swing or hang scaffold, boatswain chair, structural steel	11.48		.40	c	.01
Seamless Floor Material	10.98		.40	c	.01
PLUMBERS & STEAMFITTERS	13.42	.92	1.00		
ROOFERS	14.15	1.00	2.25		
SPRINKLER FITTERS	15.55	.95	1.40		.08

DECISION NO. NY81-3046 - Mod #1
(46 FR 37199 July 17, 1981)
Essex County, New York

Change:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
BOILERMAKERS	16.53	1.275	1.653		.04
CARPENTERS					
Carpenters & Soft Floor Layers	12.10	.60	1.15		.005
Millwrights	13.35	.60	1.15		.005
Piledrivermen	13.25	.60	1.15		.005
ELECTRICIANS					
Townships of Schroon Lake, Chilson, Olmstedville, Ticonderoga and Crown Point)	14.50	.95	3%+ .95	c	.05
Remainder of County:					
Zone 1 - up to a 20 mile radius from Plattsburg & Saranac Lake					
Electricians	13.10	.90	3%+ .65	d	1%
Cable Splicers	13.40	.90	3%+ .65	d	1%
Zone 2 - beyond a 20 mile radius from Plattsburg & Saranac Lake					
Electricians	13.30	.90	3%+ .65	d	1%
Cable Splicers	13.60	.90	3%+ .65	d	1%
PAINTERS					
Twps. of Ticonderoga, Schroon, North Hudson, Newcomb, Minerva					
Basic	10.10	.65	.65		
Bridge, Structural Steel & Iron, Swing Scaffold, boson, water tower, tanks, flagpoles, window jacks and rigging	10.50	.65	.65		
Waterblasting, Spraying, Sandblasting	11.00	.65	.65		
Vinyl Wallcovering, Drywall taping, Roller Handles	10.35	.65	.65		
Remainder of County					
Basic	10.73		.40	e	.01
Spray cup, paperhanging, taping	11.23		.40	e	.01
Structural steel, sandblasting, swing or hang scaffold, boatswain chair	11.48		.40	e	.01
Seamless Floor	10.98		.40	e	.01
SHEET METAL WORKERS	13.86	3%+1.07	1.04	g	.07

DECISION NO. NY81-3039 - Mod. #2
(46 FR 31189 - June 12, 1981)
Monroe County, New York

Change:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS	15.70	1.00	3%+1.40		
ROOFERS	14.29	.83	.97		

DECISION NO. NY81-3045 - Mod. #1
(46 FR 37204 July 17, 1981)
Niagara County, New York

Change:					
ASBESTOS WORKERS	14.60	1.32	1.40		.07
CARPENTERS					
Remainder of County					
Carpenters & Soft Floor Layers	13.35	1.69	1.65		.075
Millwrights	13.45	1.69	1.65		.075
CEMENT MASONS	15.26	1.00			
ELEVATOR CONSTRUCTORS	15.24	1.345	.95	b+c	.035
ELEVATOR CONSTRUCTORS' HELPERS	10.67	1.345	.95	b+c	.035
ELEVATOR CONSTRUCTORS' HELPERS PROBATIONARY	7.62				
IRONWORKERS					
Structural, Ornamental, Rodmen, Riggers & Machinery Movers, Reinforcing, Stone Derrickmen	14.66	1.07	1.02		
Sheeter	16.13	1.07	1.02		
PLUMBERS & STEAMFITTERS	15.70	.865	1.71		.025
ROOFERS					
Composition, Damp Waterproofers, Sprayers, Asphalt Mastic, Wood Block Floor Workers, Steep Roofers & Siders	14.36	.99	1.60		.62
Slate, Tile Asbestos & Precast Tile	14.51	.99	1.60		.02
SPRINKLER FITTERS	14.69	.95	2.65		.06

Modification Page 7

DECISION NO. WY81-5108 - Mod. #7
(46 FR 20477 - April 3, 1981)
Converse, Goshen, Laramie, Natrona, Niobrara, and Platte Counties, Wyoming

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Cement Masons:					
Cement Masons	$13.15	.60			.15
Working on swinging stage or temporary platform over 20 ft. high	13.65	.60			.15
Composition material, epoxy	13.65	.60			.15
Electricians:					
Area 1:					
Electricians	16.00	.75	3%+.50		3/4 of1%
Cable Splicers	16.25	.75	3%+.50		3/4 of1%
Millwrights	14.66	1.10	1.00		.29
Omit:					
Plumbers and Steamfitters - AREA 1 as originally issued					
Add:					
Plumbers and Steamfitters - AREA 1:					
Goshen, Platte, and Laramie (excluding Cheyenne)	16.32	1.00	.90	1.50	.18
Cheyenne	13.32	1.00	.90	1.50	.18

SUPERSEDEAS DECISION

STATE: IOWA COUNTY: Cerro Gordo
DECISION No.: IA81-4097 DATE: Date of Publication
Supersedes Decision No. IA80-4042 dated August 1, 1980 in 45 FR 51409
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories).

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$15.45	1.04	1.275		.10
BOILERMAKERS	14.97	1.375	1.15		.05
BRICKLAYERS	13.99		1.05		.02
CARPENTERS:					
Carpenters	10.91	.65	.50	.50	
Millwrights, Piledrivermen	11.16	.65	.50	.50	
CEMENT MASONS	11.45				
ELECTRICIANS	14.61	.65	3%		3/4%
GLAZIERS	12.24	.70	.55	4.35%+b	.01
IRONWORKERS	13.02	.92	1.26		.06
LABORERS:					
GROUP 1 - Construction laborers; Tenders; Power tools, barco operators; Mortar mixers; Concrete saw; Sand point setter	7.99	.30	.40		
GROUP 2 - Caissons, after 6 ft. depth; Dynamite men; Gunniting-nozzle man and backup man; Laborers working on swinging stage work, wood hoist, towers, scaffolds or ladders at a height of 35 ft. or over	8.24	.30	.40		
GROUP 3 - Laborers working on swinging stage work, wood hoist, towers, scaffolds or ladders at a height of 75 ft. or over	8.49	.30	.40		
LATHERS	10.24	.45			
LINE CONSTRUCTION:					
GROUP 1 - Lineman; all rigs setting assembled "H" fixtures & steel transmission structures	13.26	.45	7%	a	1/2%
GROUP 2 - Blaster; special equipment operations (hole digging machines, all tractors, transmission line pole hauling & setting equipment other than assembled "H" fixtures)	10.61	.45	7%	a	1/2%

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D):					
GROUP 3 - Groundman	$ 8.62	.45	7%	a	1/2%
GROUP 4 - Groundman - truck driver	8.75	.45	7%	a	1/2%
GROUP 5 - Pole treating truck driver	8.49	.45	7%	a	1/2%
GROUP 6 - Pole treating specialist	10.21	.45	7%	a	1/2%
PAINTERS:					
Brush	9.75		.50		
Tapers	9.85		.50		
Spray	10.25		.50		
PLASTERERS	9.00				
PLUMBERS & STEAMFITTERS	14.49	.80	.61		.04
ROOFERS	9.52				
SHEET METAL WORKERS	12.43	1.00	.72		.14
SOFT FLOOR LAYERS	10.91	.65	.50	.50	
SPRINKLER FITTERS	15.10	.95	1.40		.08
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:
a - Seven Paid Holidays A thru G
b - Six Paid Holidays A thru F

PAID HOLIDAYS:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day F-Christmas Day; G-Friday after Thanksgiving Day

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	12.32	.90	.90		.10
GROUP 2	12.085	.90	.90		.10
GROUP 3	10.78	.90	.90		.10
GROUP 4	10.015	.90	.90		.10

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Cranes, including those being used as backhoe, dragline, clamshell, etc.; tower cranes; truck cranes and cherry pickers 12½ ton & over rated capacity; derricks; piledrivers and extractors; caisson rigs; side boom and winch truck used for erection of structural steel and moving and setting of heavy machinery; 3 drum hoist; welders; mechanics; locomotive; dredge (levermen)

GROUP 2 - 1 and 2 drum hoists; air and electric tuggers (on power plants or setting and grating); economobiles; plant mixers; farm type tractors (with loaders, backhoes, attachments, etc.); scrapers (tournapull, etc.); endloaders; dredge (engineer); side boom and winch truck other than Group No. 1; motor patrol; bulldozers; push cat; truck cranes and cherry pickers (under 12½ tons); concrete mixers (1 yard and over); ditching machine (8" and over); fork lifts (on steel erection and machinery moving or hoisting above one complete story); concrete pump; dewatering pumps; temporary hoist cage operated; second man on locomotive; vibrating concrete spreader (Gomaco, C-450 or equal)

GROUP 3 - Tractors (under 35 HP) with or without attachments; endloaders (under 35 HP) with or without attachments; air compressors (one or a combination of 250 cfm or more); pumps 3" or over; welding machine 600 amps or combination thereof; conveyors; firemen (boiler); generator (75 KW & over); fork lifts (other than above Group No. 2); gunnite machine; self-propelled rollers; stump chippers; self-propelled tampers; air and electric tuggers (other than above); ditching machine under 8"

GROUP 4 - Oilers; mechanical heaters; truck crane drivers; permanent elevators

SUPERSEDEAS DECISION

STATE: IOWA COUNTY: Linn
DECISION No. IA81-4093 DATE: Date of Publication
Supersedeas Decision No. IA80-4047, August 22, 1980 in 45 FR 56273
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories)

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$16.21	.60	1.35		.20
BOILERMAKERS	14.97	1.375	1.15		.05
BRICKLAYERS & STONEMASONS	15.29		.55		.02
CARPENTERS:					
Carpenters	13.43	.75	.75		.10
Millwrights	15.65	.75	1.45		.25
Piledrivermen	13.93	.75	.75		.10
CEMENT MASONS	12.85	.65			
ELECTRICIANS	15.52	.85	3%+1.00		3/4%
ELEVATOR CONSTRUCTORS:					
Mechanics	14.33	1.345	1.085	a	.035
Helpers	70%JR	1.345	1.085	a	.035
Helpers (Prob.)	50%JR				
GLAZIERS	14.31	.75	1.00		.02
IRONWORKERS	14.11	.90	1.00		.06
LABORERS:					
GROUP 1 - Common Laborers	10.77	.40	.80		.05
GROUP 2 - Machine Rock Drills, Vibrators, Air, Electric or gasoline powered jack hammers, tampers, chipping hammers, power driven buggies, cutting torches, chain saws, sewer tile layers, mason mortar makers	11.12	.40	.80		.05
LATHERS	12.57				
LINE CONSTRUCTION:					
GROUP 1 - Lineman; all rigs setting assembled "H" fixtures & steel transmission structures	13.26	.45	7%	b	1/2%
GROUP 2 - Blaster; special equipment operations (hole digging machines, all tractors, transmission line pole hauling & setting equipment other than assembled "H" fixtures)	10.61	.45	7%	b	1/2%

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D):					
GROUP 3 - Groundman	$ 8.62	.45	7%	b	1/2%
GROUP 4 - Groundman - truck driver	8.75	.45	7%	b	1/2%
GROUP 5 - Pole treating truck driver	8.49	.45	7%	b	1/2%
GROUP 6 - Pole treating specialist	10.21	.45	7%	b	1/2%
PAINTERS:					
Brush & rollers	12.92				.03
Spray	13.47				.03
Sandblasting	13.82				.03
PLASTERERS	15.07				
PLUMBERS & STEAMFITTERS	15.85	.70	.75		.15
ROOFERS	11.95				
SHEET METAL WORKERS	15.85		1.08		.03
SOFT FLOOR LAYERS	13.43	.75	.75		.10
SPRINKLER FITTERS	15.10	.95	1.40		.08
TILE SETTERS	12.98		.55		
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:
a - Employer contributes 8% of basic hourly rate for over 5 years' service & 6% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Seven Paid Holidays A thru G
b - Seven Paid Holidays A thru G

PAID HOLIDAYS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G Friday after Thanksgiving

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	12.32	.90	.90		.10
GROUP 2	12.085	.90	.90		.10
GROUP 3	10.78	.90	.90		.10
GROUP 4	10.015	.90	.90		.10

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Cranes, including those being used as backhoe, dragline, clamshell, etc.; tower cranes; truck cranes and cherry pickers 12½ ton & over rated capacity; derricks; piledrivers and extractors; caisson rigs; side boom and winch truck used for erection of structural steel and moving and setting of heavy machinery; 3 drum hoist; welders; mechanics; locomotive; dredge (levermen)

GROUP 2 - 1 and 2 drum hoists; air and electric tuggers (on power plants or setting and grating); economobiles; plant mixers; farm type tractors (with loaders, backhoes, attachments, etc.); scrapers (tournapull, etc.); endloaders; dredge (engineer); side boom and winch truck other than Group No. 1; motor patrol; bulldozers; push cat; truck cranes and cherry pickers (under 12½ tons); concrete mixers (1 yard and over); ditching machine (8" and over); fork lifts (on steel erection and machinery moving or hoisting above one complete story); concrete pump; dewatering pumps; temporary hoist cage operated; second man on locomotive; vibrating concrete spreader (Gomaco, C-450 or equal)

GROUP 3 - Tractors (under 35 HP) with or without attachments; endloaders (under 35 HP) with or without attachments; air compressors (one or a combination of 250 cfm or more); pumps 3" or over; welding machine 600 amps or combination thereof; conveyors; firemen (boiler); generator (75 KW & over); fork lifts (other than above Group No. 2); gunnite machine; self-propelled rollers; stump chippers; self-propelled tampers; air and electric tuggers (other than above); ditching machine under 8"

GROUP 4 - Oilers; mechanical heaters; truck crane drivers; permanent elevators

SUPERSEDEAS DECISION

STATE: IOWA COUNTY: Polk
DECISION No. IA81-4094 DATE: Date of Publication
Supersedes Decision No.: IA80-4048, dated August 29, 1980 in 45 FR 57917
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories).

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$15.45	1.04	1.275		.10
BOILERMAKERS	14.97	1.375	1.15		.05
BRICKLAYERS & STONEMASONS	13.40	1.05	1.50		.02
CARPENTERS:					
Carpenters	12.50	.85	.95		.20
Millwrights; Piledrivermen	12.85	.85	.95		.20
CEMENT MASONS	10.56		.80		.04
ELECTRICIANS	14.70	.75	3%+1.60		3/4%
ELEVATOR CONSTRUCTORS:					
Mechanics	14.21	1.345	.95	a	.035
Helpers	70%JR	1.345	.95	a	.035
Helpers (Prob.)	50%JR				
GLAZIERS	9.67	.70	.55	4.35%+c	.005
IRONWORKERS	13.02	.92	1.26		.06
LABORERS:					
GROUP 1 - General laborers	10.975	.40	.80		.05
GROUP 2 - Mortar mixers; motor buggies, when pouring concrete,; power tool operators (air tools, concrete vibrator, gunnite nozzlemen, electric drills & hammers)	11.075	.40	.80		.05
GROUP 3 - Plasterers' tenders	11.10	.40	.80		.05
GROUP 4 - Powdermen	11.125	.40	.80		.05
GROUP 5 - Air tool, power tampers & other similar self-powered tools weighing 50 lbs. & over	11.175	.40	.80		.05
GROUP 6 - Paving breakers weighing 50 lbs. and over	11.275	.40	.80		.05
LATHERS	13.33				
LINE CONSTRUCTION:					
GROUP 1 - Lineman; all rigs setting assembled "H" fixtures & steel transmission structures	13.26	.45	7%	b	1/2%
GROUP 2 - Blaster; special equipment operations (hole digging machines, all tractors, transmission line pole hauling & setting equipment other than assembled "H" fixtures	10.61	.45	7%	b	1/2%

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D):					
GROUP 3 - Groundman	$ 8.62	.45	7%	b	1/2%
GROUP 4 - Groundman - truck driver	8.75	.45	7%	b	1/2%
GROUP 5 - Pole treating truck driver	8.49	.45	7%	b	1/2%
GROUP 6 - Pole treating specialist	10.21	.45	7%	b	1/2%
MARBLE SETTERS	14.79				
PAINTERS:					
GROUP 1 - Brush, roller, drywall finisher	13.57		.80		.05
GROUP 2 - Spray; structural steel; sandblasting swing stage	14.07		.80		.05
GROUP 3 - Paperhangers	13.82		.80		.05
GROUP 4 - Stack; tower work over 100 ft.	14.67		.80		.05
PLUMBERS & PIPEFITTERS	14.90	1.05	1.60		.15
ROOFERS	11.79	1.30	.55		
SHEET METAL WORKERS	13.21	1.00	1.20		.14
SOFT FLOOR LAYERS	12.25	.85	.95		.20
SPRINKLER FITTERS	15.10	.95	1.40		.08
TERRAZZO WORKERS	14.79				
TILE SETTERS	14.79				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:
a - Employer contributes 8% of basic hourly rate for over 5 years' service & 6% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Seven Paid Holidays A thru G
b - Seven Paid Holidays A thru G
c - Six Paid Holidays A thru F

PAID HOLIDAYS:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Friday after Thanksgiving Day

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
GROUP 1	$12.32	.90	.90		.10
GROUP 2	12.085	.90	.90		.10
GROUP 3	10.78	.90	.90		.10
GROUP 4	10.015	.90	.90		.10

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Cranes, including those being used as backhoe, dragline, clamshell, etc.; tower cranes; truck cranes and cherry pickers 12½ ton & over rated capacity; derricks; piledrivers and extractors; caisson rigs; side boom and winch truck used for erection of structural steel and moving and setting of heavy machinery; 3 drum hoist; welders; mechanics; locomotive; dredge (levermen)
GROUP 2 - 1 and 2 drum hoists; air and electric tuggers (on power plants or setting and grating); economobiles; plant mixers; farm type tractors (with loaders, backhoes, attachments, etc.); scrapers (tournapull, etc.); endloaders; dredge (engineer); side boom and winch truck other than Group No. 1; motor patrol; bulldozers; push cat; truck cranes and cherry pickers (under 12½ tons); concrete mixers (1 yard and over); ditching machine (8" and over); fork lifts (on steel erection and machinery moving or hoisting above one complete story); concrete pump; dewatering pumps; temporary hoist cage operated; second man on locomotive; vibrating concrete spreader (Gomaco, C-450 or equal)
GROUP 3 - Tractors (under 35 HP) with or without attachments; endloaders (under 35 HP) with or without attachments; air compressors (one or a combination of 250 cfm or more); pumps 3" or over; welding machine 600 amps or combination thereof; conveyors; firemen (boiler); generator (75 KW & over); fork lifts (other than above Group No. 2); gunnite machine; self-propelled rollers; stump chippers; self-propelled tampers; air and electric tuggers (other than above); ditching machine under 8"
GROUP 4 - Oilers; mechanical heaters; truck crane drivers; permanent elevators

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii).

SUPERSEDEAS DECISION

STATE: Iowa COUNTY: Scott
DECISION NO.: IA81-4098 DATE: Date of Publication
Supersedes Decision No. IA80-4050, dated August 8, 1980 in 45 FR 53049.
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to & including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$16.21	.60	1.35		.20
BOILERMAKERS	14.97	1.375	1.15		.05
BRICKLAYERS & STONEMASONS	15.06	.70	1.30		.07
CARPENTERS	14.91	.75	1.30		.08
CEMENT MASONS	12.92	.70	.60		
ELECTRICIANS	16.34	.70	7.5%		.06
CABLE SPLICERS	17.34	.70	7.5%		.06
ELEVATOR CONSTRUCTORS:					
Mechanics	15.00	1.345	1.085	a	.035
Helpers	70%JR	1.345	1.085	a	.035
Helpers (Prob.)	50%JR				
GLAZIERS	14.31	.75	1.00		.02
IRONWORKERS	16.40	.95	1.125		.11
LABORERS:					
GROUP 1	12.53	.50	1.65		.05
GROUP 2	12.78	.50	1.65		.05
GROUP 3	13.03	.50	1.65		.05
MARBLE SETTERS	14.20	.55	1.30		
MILLWRIGHTS	16.65	.75	1.45		.25
PAINTERS:					
Bruch, roller	13.77	.70	1.50		.22
Spray, structural steel	14.27	.70	1.50		.22
PILEDRIVERMEN	15.41	.75	1.30		.08
PLASTERERS	10.90				
PLUMBERS & STEAMFITTERS	15.25	.81	1.24		.15
POWER EQUIPMENT OPERATORS:					
GROUP 1	14.80	1.00	.90		.08
GROUP 2	13.40	1.00	.90		.08
GROUP 3	12.35	1.00	.90		.08
ROOFERS	15.45	.90	1.20		.06
SHEET METAL WORKERS	14.05	.75	1.72		.14
SOFT FLOOR LAYERS	14.91	.75	1.30		.08
SPRINKLER FITTERS	15.10	.95	1.40		.08
TERRAZZO WORKERS	14.20	.55	1.30		
TILE SETTERS	14.20	.55	1.30		

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.
FOOTNOTE:
a - Employer contributes 8% of basic hourly rate for over 5 years service and 6% of basic hourly rate for 6 months to 5 years service as Vacation Pay Credit. Also, 7 paid holidays - New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Day after Thanksgiving.
Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

LABORERS CLASSIFICATION DEFINITIONS
GROUP 1 - Carpenter tenders, common laborers, mason tenders
GROUP 2 - Concrete saw, pipesetters, plumber laborer, power tools (barco-vibrator-mortar mixers-dynamite handlers-burner on dismantling work to be junked), prime movers, sand points
GROUP 3 - Caissons after 6' depth, dynamite men, tunnel miners

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS
GROUP 1 - All hoists or steel erecting equipment: Crane, Shovel, Clamshell, Dragline, Backhoe, Derricks, Tower Crane, Cable Way, Concrete Spreader (servicing 2 pavers), Asphalt Spreader, Asphalt Mixer Plant Engineer, Dipper Dredge Operator; Dipper Dredge Craneman, Dual Purpose Truck (boom or winch); Leverman or Engineman (hydraulic dredge), Mechanic, Paving Mixer with tower attached (2 operators required); Pile Driver, Boom Tractor, Stationary, Portable or Floating Mixing Plant, Trenching Machine (over 40 HP), Building Hoist (2 drums), Hot Paint Wrapping Machine, Cleaning & Priming Machine, Backfiller (throw bucket), Locomotive Engineer, Qualified Welder, Tow or Push Boat, Concrete Paver, Seaman Trav-L-Plant or similar machines, CMI Autograder or similar machines, Slip Form Paver, Caisson Augering Machine, Mucking Machine, Asphalt Heater-Planer Unit, Hydraulic Cranes, Mine Hoists; Athey, Barber-Green, Euclid or Haiss Loader, Asphalt Pug Mill, Fireman & Drier, Concrete Pump. Concrete Spreader (servicing 1 paver); Bulldozer, Endloader, Log Chippers or similar machines, Elevating Grader, Group Equipment Greaser, LeTourneaupull & similar machines, DW-10, Hyster Winch & similar machines, Motor Patrol, Power Blade, Push Cat, Tractor Pulling Elevating Grader or Power Blade, Tractor Operating Scoop or Scraper, Tractor with Power Attachments, Roller on Asphalt or Blacktop, Single Drum Hoist, Jaeger Mix & Place Machine, Pipe Bending Machine, Flexaplane or similar machines, Automatic Curbing Machines, Automatic Cement & Gravel Batch Plants (1 stop set-up), Seaman Pulvi-Mixer or similar machines, Blastholer Self-Propelled Rotary Drill or similar machines, Work Boat, Combination Concrete Finishing Machine & Float, Self-Propelled Sheep Foot Roller or Compactor (used in conjunction with a Grading Spread), Asphalt Spreader Screed Operator, Apsco Spreader or similar machine, Slusher, Forklift (over 6000 lbs. cap. or working at heights above 28 ft.), Concrete Conveyors.
GROUP 2 - Asphalt Booster, Fireman & Pump Operator at Asphalt Plant, Mud Jack, Underground Boring Machine, Concrete Finishing Machine, Form Grader With Roller on Earth, Mixers (3 bag to 16E), Power Operated Bull Float, Tractor without Power attachments, Dope Pot (agitating motor), Dope Chop Machine, Distributor (back end), Straddle Carrier, Portable Machine Fireman, Hydro-Hammer, Power Winch on Paving Work; Self-Propelled Roller or Compactor (other than provided for above), Pump Operator (more than 1 well point pump), Portable Crusher Operator, Trench Machine (under 40 HP), Power Subgrader (on forms) or similar machines, Forklift (6000 lbs. or less capacity), Gypsum Pump, Conveyor over 20 HP, Fuller-Kenyon Cement Pump or similar machines; Air Compressor (275 CFM or over), Driver on Truck Crane or similar machines, Light Plant, Mixers (1 or 2 bag), Power Batching Machine (Cement Auger or Conveyor), Boiler (Engineer or Fireman), Water Pumps, Mechanical Broom, Automatic Cement & Gravel Batch Plants (2 or 3 stop set-up), Small Rubber-tired Tractors (not including backhoes or endloaders), Self-Propelled Curing Machine
GROUP 3 - Oiler, Mechanic's Helper, Mechanical Heater (other than steam boiler), Belt Machine, Small Outboard Motor Boat, Engine Driven Welding Machine.

SUPERSEDEAS DECISION

STATE: Iowa COUNTY: Webster
DECISION NO.: IA81-4095 DATE: Date of Publication
Supersedes Decision No. IA80-4052 dated August 8, 1980 in 45 FR 53050.
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories).

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$15.45	1.04	1.275		.10
BOILERMAKERS	14.97	1.37	1.15		.05
BRICKLAYERS & STONEMASONS	14.09		.40		.02
CARPENTERS:					
Carpenters & piledrivermen	12.72				
Millwrights	12.97				
ELECTRICIANS	13.52	.75	3%+.50		3/4%
ELEVATOR CONSTRUCTORS:					
Mechanics	14.21	1.345	.95	a	.035
Helpers	70%JR	1.345	.95	a	.035
Helpers (Prob.)	50%JR				
IRONWORKERS	13.02	.92	1.26		.06
LABORERS:					
Common	7.55	.40			.05
Mortar mixers	7.75	.40			.05
Machine, air tool operator	7.80	.40			.05
Pipelayer	8.55	.40			.05
LINE CONSTRUCTION:					
GROUP 1 - Lineman; all rigs setting assembled "H" fixtures & steel transmission structures	13.26	.45	7%	b	1/2%
GROUP 2 - Blaster; special equipment operations(hole digging machines, all tractors, transmission line pole hauling & setting equipment other than assembled"H" fixture)	10.61	.45	7%	b	1/2%
GROUP 3 - Groundman	8.62	.45	7%	b	1/2%
GROUP 4 - Groundman - truck driver	8.75	.45	7%	b	1/2%
GROUP 5 - Pole treating truck driver	8.49	.45	7%	b	1/2%
GROUP 6 - Pole treating specialist	10.21	.45	7%	b	1/2%
PAINTERS:					
Brush, drywall finishers; rollers	13.57		.80		.05
Paperhangers	13.82		.80		.05
Spray	14.07		.80		.05
Stack, tower work over 100 feet	14.67		.80		.05

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & PIPEFITTERS	$14.90	1.05	1.60		.15
ROOFERS	7.75				
SHEET METAL WORKERS	13.21	1.00	1.20		.14
SPRINKLER FITTERS	15.10	.95	1.40		.08
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:
a - Employer contributes 8% of basic hourly rate for over 5 years service and 6% for 6 months to 5 years service as Vacation Pay Credit, also Seven Paid Holidays
b - Seven paid Holidays

PAID HOLIDAYS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Friday after Thanksgiving

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
GROUP 1	$12.32	.90	.90		.10
GROUP 2	12.085	.90	.90		.10
GROUP 3	10.78	.90	.90		.10
GROUP 4	10.015	.90	.90		.10

GROUP 1 - Cranes including those being used as backhoe, dragline, clamshell, etc.; tower cranes: truck cranes and cherry pickers 12 1/2 ton & over rated capacity; derricks; pile drivers and extractors; caisson rigs; side boom and winch truck used for erection of structural steel and moving and setting of heavy machinery; 3 drum hoist; welders; mechanics; locomotive; dredge levermen

GROUP 2 - 1 and 2 drum hoist; air and electric tuggers (on power plants or setting steel or grating); Economobiles; plant mixer; farm type tractors (with loaders, backhoes, attachments, etc.); scrapers (tournapull, etc.); endloaders; dredge (engineer); side boom and winch truck other than Group No. 1 ; Motor patrol; bulldozers; push cat; truck cranes and cherry pickers (under 12½ton); concrete mixers (1 yard and over); ditching machine (8" and over); fork lifts (on steel erection and machinery moving or hoisting above one complete story); concrete pump; dewatering pump; temporary hoist cage operated; second man on locomotive; vibrating concrete spreader (gomaco, C-450 or equal)

GROUP 3 - Tractors (under 35 HP) with or without attachments; endloaders (under 35 HP) with or without attachments; air compressors (one or a combination of 250 CFM or more); pumps 3" or over; welding machines 600 amps or combination thereof; conveyors; fireman (boiler); generator (75 KW and over); fork lifts (other than above group No. 2); gunnite machine; self-propelled rollers; stump chippers; self-propelled tampers; air and electric tuggers (other than above); Ditching machine under 8"

GROUP 4 - Oilers, mechanical heaters; truck crane drivers; permanent elevators

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: IOWA COUNTY: Woodbury
DECISION NO.: IA81-4096 DATE: Date of Publication
Supersedes Decision No. IA81-4011 dated February 13, 1981 in 46 FR 12407
DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$14.40	.60	1.50		
BOILERMAKERS	14.97	1.375	1.15		.05
BRICKLAYERS & STONEMASONS	14.58		1.00		.02
CARPENTERS:					
Carpenters and drywall Hangers	12.86	.92	.60		.04
Millwrights and piledrivermen	13.36	.92	.60		.04
CEMENT MASONS	11.215				
ELECTRICIANS:					
Within 15 miles radius of Sioux City and all electrical contracts over $300,000	14.76	.65	3%+1.00		3/4%
All contracts $300,000 & under; outside 15 mile radius of Sioux City	6.50	.65	3%+1.00		3/4%
ELEVATOR CONSTRUCTORS:					
Mechanics	13.67	1.345	1.085	a	.035
Helpers	70%JR	1.345	1.085	a	.035
Helpers (Prob.)	50%JR				
IRONWORKERS	13.84	.90	.55		.045
LABORERS:					
GROUP 1 - Common laborers	10.25	1.11	.80		
GROUP 2 - Mortar mixers; plasterers' mixers; air tool operators; mechanical tampers; concrete saw; gunnite nozzle; chain saw; wrecking torch; sandpot and blasting	10.40	1.11	.80		
LATHERS	11.13				.01
LINE CONSTRUCTION					
GROUP I - lineman; all rigs setting assembled "H" fixtures and steel transmission structures	13.26	.45	7%	b	1/2%
GROUP II - blaster; special equipment operations (hole digging machines, all tractors, transmission line pole hauling and setting equipment other than assembled "H" fixtures)	10.61	.45	7%	b	1/2%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D):					
GROUP 3 - Groundman	$ 8.62	.45	7%	b	1/2%
GROUP 4 - Groundman - truck driver	8.75	.45	7%	b	1/2%
GROUP 5 - Pole treating truck driver	8.49	.45	7%	b	1/2%
GROUP 5 - Pole treating specialist	10.21	.45	7%	b	1/2%
MARBLE SETTERS	13.98		1.00		.02
PAINTERS:					
GROUP 1 - Brush & drywall finishers	12.73	1.10	.80		
GROUP 2 - Spray, all swing work; all work higher than 40 ft.; scaffolds, jacks, ladders; pressure roller; sandblasting; structural steel over 25 ft.	13.23	1.10	.80		
PLUMBERS & PIPEFITTERS	14.97	.84	.80		.10
ROOFERS:					
Roofers	10.98	.87			
Kettlemen	10.60	.87			
SHEET METAL WORKERS	13.85	.75	.90		.06
SPRINKLER FITTERS	15.10	.95	1.40		.08
TERRAZZO WORKERS	13.98		1.00		.02
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:
a - Employer contributes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit; Seven Paid Holidays
b - Seven Paid Holidays

PAID HOLIDAYS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Friday after Thanksgiving

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$13.095	.90	.90		.10
GROUP 2	12.35	.90	.90		.10
GROUP 3	11.58	.90	.90		.10
GROUP 4	10.80	.90	.90		.10

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Cranes including those being used as backhoe, dragline, clamshell, etc., tower cranes; truck cranes and cherry pickers 12½ ton & over rated capacity; derrick; piledriver and extractors; caisson rigs; side boom and winch truck used for erection of structural steel and moving and setting of heavy machinery; 3 drum hoist; welders; mechanics; locomotive; dredge (levermen)
GROUP 2 - 1 and 2 drum hoist; air and electric tuggers (on power plants or setting steel or grating); Economobiles; plant mixer; farm type tractors (with loaders, backhoes, attachments, etc.); scrapers (tournapull, etc.); endloaders; dredge (engineer); side boom and winch truck other than Group No. 1; Motor patrol; bulldozers; push cat; truck cranes and cherry pickers (under 12½ ton); concrete mixers (1 yard and over); ditching machine (8" and over); fork lifts (on steel erection and machinery moving or hoisting above one complete story); concrete pump; dewatering pump; temporary hoist cage operated; second man on locomotive; vibrating concrete spreader (gomaco, C-450 or equal)
GROUP 3 - Tractors (under 35 HP) with or without attachments; endloaders (under 35 HP) with or without attachments; air compressors (one or combination of 250 CFM or more); pumps 3" or over; welding machines 600 amps or combination thereof; conveyors; firemen (boiler); generator 75 KW and over); fork lifts (other than above Group NO. 2); gunnite machine; self-propelled rollers; stump chippers; self-propelled tampers; air and electric tuggers (other than above); Ditching machine under 8"
GROUP 4 - Oilers, mechanical heaters; truck crane drivers; permanent elevators

SUPERSEDEAS DECISION

STATE: IOWA COUNTY: Johnson
DECISION No. IA81-4092 DATE: Date of Publication
Supersedes Decision No.: IA81-4049, dated July 6, 1981 in 46 FR 34970
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories).

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
ASBESTOS WORKERS	$16.21	.60	1.35		.20
BOILERMAKERS	14.97	1.375	1.15		.05
BRICKLAYERS & STONEMASONS	15.29		.55		.02
CARPENTERS:					
Carpenters; Soft floor layers	13.43	.75	.75		.10
Piledrivermen	13.93	.75	.75		.10
Millwrights	15.65	.75	1.45		.25
CEMENT MASONS	12.85	.65			
ELECTRICIANS	15.52	.85	3%+1.00		3/4%
ELEVATOR CONSTRUCTORS:					
Mechanics	14.33	1.345	1.085	a	.035
Helpers	70%JR	1.345	1.085	a	.035
Helpers (Prob.)	50%JR				
GLAZIERS	14.31	.75	1.00		.02
IRONWORKERS	14.11	.90	1.00		.06
LABORERS:					
GROUP 1: - Common laborers	11.40	.50	.80		.05
GROUP 2 - Mason mortar mixers	11.75	.50	.80		.05
GROUP 3 - All jack & chipping hammers; All water & sewer tile layers; Chain saw; Cutting torches; Power buggies; Rick drills; Tampers; Vibrators; Well point work	11.75	.50	.80		.05
LATHERS	12.57				
LINE CONSTRUCTION					
GROUP 1 - lineman; all rigs setting assembled "H" fixtures and steel transmission structures	13.26	.45	7%	b	1/2%
GROUP II - blaster; special equipment operations (hole digging machines, all tractors, transmission line pole hauling and setting equipment other than assembled "H" fixtures)	10.61	.45	7%	b	1/2%

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D)					
GROUP III - Groundman	$ 8.62	.45	7%	b	1/2%
GROUP IV - groundman-truck driver	8.75	.45	7%	b	1/2%
GROUP V - pole treating truck driver	8.49	.45	7%	b	1/2%
GROUP VI - pole treating specialist	10.21	.45	7%	b	1/2%
PAINTERS:					
Brush & rollers	12.82				.03
Paperhangers	13.07				.03
Sandblasting	13.82				.03
Spray	13.47				.03
PLASTERERS	15.07				
PLUMBERS & STEAMFITTERS	15.85	.70	.75		.15
ROOFERS	11.95				
SHEET METAL WORKERS	15.85		1.08		.03
SPRINKLER FITTERS	15.10	.95	1.40		.08
TILE SETTER	12.98		.55		
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental					

FOOTNOTES
a - Employer contributed 8% of the basic hourly rate for over 5 years' service and 6% of the basic hourly rate for 6 months to 5 years' of service as Vacation Pay Credit. Seven Paid Holidays A thru G
b - Seven Paid Holidays A thru G

PAID HOLIDAYS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas; G-Friday after Thanksgiving Day

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$12.32	.90	.90		.10
GROUP 2	12.085	.90	.90		.10
GROUP 3	10.78	.90	.90		.10
GROUP 4	10.015	.90	.90		.10

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Cranes, including those being used as backhoe, dragline, clamshell, etc.; tower cranes; truck cranes and cherry pickers 12½ ton & over rated capacity; derricks; piledrivers and extractors; caisson rigs; side boom and winch truck used for erection of structural steel and moving and setting of heavy machinery; 3 drum hoist; welders; mechanics; locomotive; dredge (levermen)

GROUP 2 - 1 and 2 drum hoists; air and electric tuggers (on power plants or setting and grating); economobiles; plant mixers; farm type tractors (with loaders, backhoes, attachments, etc.); scrapers (tournapull, etc.); endloaders; dredge (engineer); side boom and winch truck other than Group No. 1; motor patrol; bulldozers; push cat; truck cranes and cherry pickers (under 12½ tons); concrete mixers (1 yard and over); ditching machine (8" and over); fork lifts (on steel erection and machinery moving or hoisting above one complete story); concrete pump; dewatering pumps; temporary hoist cage operated; second man on locomotive; vibrating concrete spreader (Gomaco, C-450 or equal)

GROUP 3 - Tractors (under 35 HP) with or without attachments; endloaders (under 35 HP) with or without attachments; air compressors (one or a combination of 250 cfm or more); pumps 3" or over; welding machine 600 amps or combination thereof; conveyors; firemen (boiler); generator (75 KW & over); fork lifts (other than above Group No. 2); gunnite machine; self-propelled rollers; stump chippers; self-propelled tampers; air and electric tuggers (other than above); ditching machine under 8"

GROUP 4 - Oilers; mechanical heaters; truck crane drivers; permanent elevators

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

27 3 234

SUPERSEDEAS DECISION

STATE: Kansas COUNTY: Shawnee
DECISION NO.: KS81-4099 DATE: Date of Publication
Supersedes Decision No. KS80-4054 dated July 18, 1980 in 45 FR 48400
DESCRIPTION OF WORK: Building Construction Projects (excluding single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$16.69	1.05	1.75		.06
BOILERMAKERS	14.97	1.375	1.15		.05
BRICKLAYERS: Stonemasons	13.14	.70	.25		
CARPENTERS:					
Carpenters	11.40	.70	.75		.05
Millwrights	11.90	.70	.75		.05
Piledrivermen	11.775	.70	.75		.05
CEMENT MASONS:					
Cement masons	10.85	.70	.35		
Machine operators	10.975	.70	.35		
Composition color or chloride additives	11.05	.70	.35		
ELECTRICIANS:					
Electricians	15.55	1.00	3%+.80		.13
Cable splicers	17.11	1.00	3%+.80		.13
ELEVATOR CONSTUCTORS	12.21	1.345	.95	a	.035
GLAZIERS	12.23	.90	1.26	2.73	.05
IRONWORKERS	14.00	.85	1.50	1.00	.10
LABORERS (Building Construction):					
General laborers	8.65	.70	.50	.50	.05
Power tool operators, compactors concrete breakers, chipping tools, drilling tools, concrete saws, mechanically operated georgia buggy	8.85	.70	.50	.50	.05
Mason tenders, plaster tenders, mortar mixers for masons and cement finishers, all stocking scaffold, clean up for masons (building and wrecking)	8.95	.70	.50	.50	.05
Sand and concrete gun nozzleman and powderman	9.05	.70	.50	.50	.05
Laborers (Site Preparation and Grading):					
Group 1	7.80	.70	.50	.50	.05
Group 2	7.95	.70	.50	.50	.05
Group 3	8.05	.70	.50	.50	.05
Group 4	8.20	.70	.50	.50	.05

27 3 235

CLASSIFICATION DEFINITIONS

LABORERS (Site Preparation and Grading):

Group 1 - Board mat weavers and cable tiers; Georgia buggy (manually operated); mixerman - no skip; lift; nailers, salamander tenders; track men; tractor swamper; truck dumper, wire mesh setter, water pump up to 4 inches; and all other general laborer including flagman

Group 2 - Air tool operators, cement handlers (bulk), chain saw, georgia buggy (machanically, operated); grade man, hot mastic kettlemen, crusher feeder, joint man, jute man; mason tender; material batch hooper and scall man, mixer man; pier hole man working 10 ft. deep; pipelayer-drainage (concrete and/or corrugated metal); signal man (crane), truck dumper-dry batch; vibrator operator; wagon and churn drill operator

Group 3 - Asphalt raker, barco tamper; concrete saw; creosote material-handling and applying; nozzle burner (cutting torch and burning bar)

Group 4 - Conduit pipe; tile and duck line setter; form setter and liner on concrete paving; powderman; sandblasting and gunite nozzleman; sanitary sewer pipe layer; steel plate structure erectors; water and gas distrubution

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	$11.40	.70	.75		.05
LINE CONSTUCTION:					
Lineman	14.52	.45	3%		1/2%
Cable splicers	15.26	.45	3%		1/2%
Groundman,	9.03	.45	3%		1/2%
Powderman	12.03	.45	3%		1/2%
Line Truck and Equipment Operators	12.03	.45	3%		1/2%
PAINTERS:					
Brush, drywall, sandling and taping	12.79	.70			.03
Painting of structures over 50' (all types); spray	13.54	.70			.03
PLASTERERS	13.10				.01
PIPEFITTERS; Plumbers	14.93	1.00	1.00		.04
ROOFERS:					
Roofers, Plate Slate & Tile damproofers and Water-proofers	14.66		.60	b	
Roofers working in pitch, tar or Creosote, Coal	15.76		.60	b	
SHEET METAL WORKERS	13.76	3%+.75	1.77		.07
SOFT FLOOR LAYERS	12.45	.50	.55		.06
SPRINKLER FITTERS	15.10	.95	1.40		.08
TILE SETTERS	13.00				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS BUILDING CONSTUCTION					
Master Mechanic	$14.25	.85	1.00	1.05	.15
Cranes with lifting ring	13.25	.85	1.00	1.05	.15
Cranes and shovels-100 ft. of boom or over including jib or 30 tons or over or 2 yard capacity, three (3) drum hoist	12.50	.85	1.00	1.05	.15
Cranes and shovels-booms 200 ft. and over four (4) drum hoist, Frankie - type pile driving machines, and tower cranes and derricks	12.75	.85	1.00	1.05	.15
GROUP I	12.25	.85	1.00	1.05	.15
GROUP II	11.85	.85	1.00	1.05	.15
GROUP III					
CLASS A	10.05	.85	1.00	1.05	.15
CLASS B	10.30	.85	1.00	1.05	.15
GROUP IV					
CLASS A	9.50	.85	1.00	1.05	.15
CLASS B	9.75	.85	1.00	1.05	.15

GROUP I

Boiler (2), boom cat, boring machine, ditching machine, concrete ready-mix plant, crane, truck crane, clamshell dragline, dozer, scrapper, all types, patrol, firemen (when operating steam or air valve), gradall, hi-loaders (over one yard), hoist, two drum, mechanic or welder, mix-ermobile, paver, or any other machine with power swing, piledriver operator, power shovel, pump, concrete or other material, locomotive

GROUP II

A-frame truck, boo cat/hi-loaders (1 yard or under), barber-greene loader or similar type, boiler (1), ditching machine - small, elevator operator, fireman, forklift, hoist, or active drum, hydra hammer jeep ditcher, mixer, other than paver, power broom, pump 4" or larger, small machine engineer, welding machine (1), greaser equipment

GROUP III

CLASS A - Farm tractor (without attachments)
CLASS B - Farm tractor (with attachments)

GROUP IV

CLASS A - Oiler
CLASS B - Motor crane oiler

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
Site Preparation and Grading					
Group 1	$11.55	.85	1.00		.15
Group 2	11.30	.85	1.00		.15
Group 3	11.05	.85	1.00		.15
Group 4	10.70	.85	1.00		.15
Group 5	10.80	.85	1.00		.15
Group 6	11.80	.85	1.00		.15

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS (Site Preparation and Grading):
Group 1 - Asphalt paver and spreader, backhoe; boring machine, blades, all types; clamshell; concrete mixer paver operator; concrete central plant operator (automatic); crane, truck crane, pitman crane, hydro crane, or any machine with power swing; derrick or derrick trucks; dragline operator; dredge operator; dozer; ditching machine; euclid loader; hoist -2 active drums; loader, all types, mechanic or welder; mixer-noble; track; scoop operator, all types; side boom cat-cherry picker; skimmer scoop operator; pushcat operator
Group 2 - Asphalt plant operator; elevating grader operator
Group 3 - A-frame truck; asphalt roller operator; asphalt plant boiler fireman; backfiller operator; barber greene loader; boiler other than asphalt; bull float operator; churn drill operator; compressor operator (1); concrete central plant operator; concrete mixer operator skip; concrete pump operator; crusher operator, distributor operator; finish machine operator - concrete; fireman other than asphalt; flex plane operator, fork lift; form grader operator; greaser; hoist 1 drum; jeep ditching machine; pavement breakers, self-propelled (of the hydra hammer or similar type); pump operator, 4" or over, two; pump operator, other than dredge; screening and wash plant operator; small machine operator; spreader box operator, self-propelled; tractor operator over 50 h.p.; self-propelled roller operator, other than asphalt; siphon and jets; subgrading machine operator; tank car heater operator, combination booster and boiler; towboat operators; vibrating machine operator, not hand
Group 4 - Concrete gang saw, self-propelled (con-cut); conveyor operator; Harrow, disc seeder; oiler; tractor operator, 50 h.p. or less without attachments
Group 5 - Oiler, motor crane
Group 6 - Master mechanic

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DIVERS - Light Station Wagons, Pickups	9.225	.40	.35		
TRUCK DRIVERS - Medium Flatbeds and dump five ton or less, Warehousemen & Partsmen	9.325	.40	.35		
TRUCK DRIVERS - Heavy - Over 5 ton, Semi-Trailers, Fork Lifts, Industrial Tractors as used in Teamsters jurisdiction, Staddle Trucks, A frame & Winch Trucks when used as such	9.575	.40	.35		
Mechanics and Dispatchers	9.725	.40	.35		
TRUCK DRIVERS (Site Preparation and Grading)					
Group 1	8.25	.40	.50		
Group 2	8.35	.40	.50		
Group 3	8.50	.40	.50		

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS:
Group 1 - pickups; panel trucks; station wagons; flat beds; dump and batch trucks (single axle)
Group 2 - Tandem trucks, warehousemen or partsmen; mechanic helpers and servicemen
Group 3 - Lowboys; semi-trailers, all transit mixer trucks (single or tandem axle); A-frame and winch trucks when used as such; eucid, end and bottom dump; tournarockers; atheys; dumptors and similar off-road equipment and mechanics on such equipment

FOOTNOTES:
a. Employer contributes 8% of basic hourly rate for over 5 years of service and 6% of basic hourly rate for 6 months to 5 years service as Vacation Pay Credit. Also 7 paid Holidays.

b. After 6 months of employment $.26; after 5 years $.52

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Virginia

COUNTIES: York County, The Cities of Hampton and Newport News (including Langley AFB, Fort Eustis and Fort Monroe)

DECISION NO.: VA81-3085

DATE: Date Of Publication

Supersedes Decision No. VA81-3036 dated June 12, 1981 in 46 FR 31198

DESCRIPTION OF WORK: Building Construction (does not include single family homes and apartments up and including 4 stories), Sewer and Water Line Construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	12.05	.90	.90		.01
BOILERMAKERS	1..70	1.375	1.30		.04
BRICKLAYERS AND STONE MASONS	12.00				
CARPENTERS AND SOFT FLOOR LAYERS	11.25	.75	.65		.06
CEMENT MASONS:					
Cement Masons	9.95	.40			
Machine and Scaffold Men	10.05	.40			
ELECTRICIANS:					
Zone I-within a 16 air mile radius of 7812 Warwick Bldv., Newport News:					
Wiremen	12.20	.75	8%		1%
Cable Splicers	12.45	.75	8%		1%
Zone II-beyond a 16 air mile radius of 7812 Warwick Bldv., Newport News:					
Wiremen	13.20	.75	8%		1%
Cable Splicers	13.45	.75	8%		1%
ELEVATOR CONSTRUCTORS	10.33	1.195	.95	a+b	.035
ELEVATOR CONSTRUCTORS HELPERS	7.23	1.195	.95	a+b	.035
ELEVATOR CONSTRUCTORS HELPERS PROBATIONARY	5.165				
GLAZIERS	11.10	.70	.40		.02
IRONWORKERS:					
Structural, ornamental, riggers, reinforcing, fence erectors, and machinery movers	12.40	.75	1.40		.08
LABORERS:					
Unskilled	7.25	.25	.35		.06
Tenders, motorized Georgia buggy operators, nozzlemen (gunite or sandblasting), concrete saw operators, air tool and vibrator operators	7.35	.25	.35		.06

27 3 240

DECISION NO. VA81-3085

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS CONT'D:					
Mortar mixers, hod carriers, pipelayers, caulkers, marble, tile and terrazzo worker helpers	7.50	.25	.35		.06
Burners (wrecking)	7.60	.25	.35		.06
Floor, base, and terrazzo grinder	7.65	.25	.35		.06
Wagon drill and air trac	7.75	.25	.35		.06
Powdermen	8.00	.25	.35		.06
LATHERS	10.75		.25		
LINE CONSTRUCTION:					
Zone 1-within a 16 air mile radius of 7812 Warwick Blvd., Newport News:					
Linemen	11.05	.60	8%		1%
Cable Splicer	11.30	.60	8%		1%
Zone II-beyond a 16 air mile radius of 7812 Warwick Bldv., Newport News:					
Linemen	12.05	.60	8%		1%
Cable Splicer	12.30	.60	8%		1%
MARBLE SETTERS	10.65				
MILLWRIGHTS	13.00	.65	.65		.01
PAINTERS:					
(York County from a point on the north shore of Queens Creek at the intersection of York River due west to a point on the eastern shore of James River including all cities therein the cities of Hampton and Newport News:)					
Brush and roller	9.50	.55	.55		
Paperhanger, taper, spray, roller with a 6' handle or over, structural steel to 74' from the ground up, swing stage, under 40', sandblasting	9.85	.55	.55		

27 3 241

DECISION NO. VA81-3085

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS CONT'D:					
Swing stage over 40', spray epoxy	10.10	.55	.55		
Epoxy brushed or rolled	9.75	.55	.55		
All work over 74' from the ground	10.00	.55	.55		
Bituminous coatings, hot creosite	10.90	.55	.55		
PAINTERS: REMAINDER OF COUNTY OF YORK					
Brush and roller	10.10	.55	.55		
Paperhanging, taper, spray, roller with a handle 6' or over, structural steel 74' from the ground up, swing stage under 40', sandblasting	10.45	.55	.55		
Swing stage over 40', epoxy sprayed	10.70	.55	.55		
Epoxy brushed or rolled	10.35	.55	.55		
All work over 74' from the ground	10.60	.55	.55		
Bituminous coatings, hot creosite	11.50	.55	.55		
Piledrivermen and dockbuilders	11.10	.65	.65		
Plasterers	12.51	.40			
Plumbers and Steamfitters	13.10	.75	.55		.02
Roofers composition	7.75				
Roofers helpers (tearing off old roofing, carrying materials & clear-up)	5.85				
Sheet metal workers:					
Newport News and Hampton	10.30	.45	.55		.005
York County	10.55	.45	.55		.005
Sound and Signal Installer	6.00				
Sprinkler fitters	11.79	.85	1.20		.08
Terrazzo workers and tile setters	10.65				
WELDERS-receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. VA81-3085

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Holidays: A through F, Day after Thanksgiving.
b. Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% of basic hourly rate for 6 months to 5 years of service as vacation pay credit.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION:					
Group 1	11.95	.725	.80		.10
Group 2	9.55	.725	.80		.10
Group 3	7.70	.725	.80		.10
Group 4	7.50	.725	.80		.10
Group 5	7.31	.725	.80		.10

CLASSIFICATIONS:

Group 1 - Tunnel machine, cranes, derricks, pile drivers, pavers, two or more drum hoist, finish motor grader, mechanic, batch plant, gradall, quad

Group 2 - Cableways, tractors with attachments, combination front end loader and backhoe, front end loader, rubber tired scraper and pans, rough motor grader, 20-ton locomotive, bulldozers, pump crete, trenching machine, mixer larger than 16S, fork lift

Group 3 - Compressor over 125 cu. ft., bottom and end dumps, tractors without attachments, 1 drum hoist, rollers, welding machines (gas or diesel), locomotive under 20-tons, power plant, generator (1200 KW or larger), pumps (over 2 inches, including wellpoints), A-frame trucks, mechanic's helper

Group 4 - Firemen

Group 5 - Oilers

DECISION NO. VA81-3085

SEWER AND WATER CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS	3.38				
PIPELAYERS	4.59				
TRUCK DRIVERS	3.50				
LOADERS	4.69				
BACKHOE	6.50				
CRANES	7.90				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Virginia

COUNTIES: Henrico and the Independent City of Richmond

DECISION NO.: VA81-3084

DATE: Date of Publication

Supersedes Decision No. VA81-3037 dated June 12, 1981 in 46 FR 31196

DESCRIPTION OF WORK: Building Construction (does not include single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	12.38	.80	1.10		.01
BOILERMAKERS	13.70	1.375	1.30		.04
BRICKLAYERS AND STONEMASONS	12.50	.85	.40		.02
CARPENTERS AND SOFT FLOOR LAYERS	11.25	.75	.65		.06
CEMENT MASONS	10.30				
CEMENT MASONS MACHINE MAN	10.40				
ELECTRICIANS:					
ZONE I-within a 12 air mile radius of Staples Mills Road and Broad Street in the City of Richmond	13.65	7%	3%		3%
ZONE II-remainder of city of Richmond and Henrico County	14.40	7%	3		3%
ELEVATOR CONSTRUCTORS	12.03	1.345	1.085	a+b	.035
ELEVATOR CONSTRUCTORS HELPERS	8.42	1.345	1.085	a+b	.035
ELEVATOR CONSTRUCTORS HELPERS PROBATIONARY	6.015				
GLAZIERS	11.10	.70	.40		.02
IRONWORKERS-STRUCTURAL, REINFORCING AND ORNAMENTAL:					
ZONE I-up to 10 miles from Capital Square	12.75	.80	1.00		.05
ZONE II-from 10 miles to 30 miles radius	13.125	.80	1.00		.05
ZONE III-from 30 miles and beyond	13.375	.80	1.00		.05
LABORERS:					
Unskilled	7.25	.25	.35		.06
Tenders, Motorized Georgia Buggy Operators, Nozzlemen (gunite or sandblasting), Concrete Saw Operators, Air Tool and Vibrator Operators	7.35	.25	.35		.06
Mortar Mixers, Hod Carriers, Pipelayers, Caulkers, Marble and Tile and Terrazzo Workers Helpers	7.50	.25	.35		.06
Burners (wrecking)	7.60	.25	.35		.06

DECISION NO. VA81-3084

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D)					
Floor, Base and Terrazzo Grinders	7.65	.25	.35		.06
Wagon Drill, Air Trac and Similar Drills	7.75	.25	.35		.06
Powdermen	8.00	.25	.35		.06
LATHERS:					
Plasterer and Drywall Finish	10.89	.65	.55		.01
Sheet Rock Applicator	9.19	.65	.55		.01
LEADBURNERS	10.75	.40	.25	c	.01
LINEMEN AND CABLE SPLICERS:					
ZONE I-within a 12 mile air radius of Staples Mill Road and Broad Street in the City of Richmond	12.35	6⅓%	3%		⅓%
ZONE II-remainder of City of Richmond and Henrico County	13.10	6⅓%	3%		⅓%
MARBLE, TILE AND TERRAZZO WORKERS	10.10				
MILLWRIGHTS	13.00	.75	.65		.01
PAINTERS:					
Brush, Paperhangers, Tapers and Finishers	10.40				
Structural Steel, Swing Stage and Bosun Chair	10.65				
Scaffold or Other Hazard Work Over 50 Feet	10.65				
Spray	10.90				
Sandblasting, Elevated Tanks, Smoke Stacks and all Towers	11.05				
PILEDRIVERMEN AND DOCK-BUILDERS	11.10	.65	.65		
PLASTERERS	12.10				
PLUMBERS AND STEAMFITTERS	13.65	.60	.70		.05
ROOFERS COMPOSITION	7.75				
ROOFERS HELPERS (TEARING OFF OLD ROOFING, CARRYING MATERIALS & CLEAN-UP)	5.85				

DECISION NO. VA81-3084

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS:					
City of Richmond	11.32	.45	.35		.01
Remainder of County	11.57	.45	.35		.01
SOUND AND SIGNAL INSTALLER	6.00				
SPRINKLER FITTERS	11.79	.85	1.20		.08

WELDERS-receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% of basic hourly rate for 6 months to 5 years of service as vacation pay credit.

b. Paid Holidays: A through F, Day after Thanksgiving.

c. Paid Holidays: A through F; Washington's Birthday; Good Friday and Christmas Eve, provided the employee has worked 30 full days during the 90 calendar days prior to the holiday and the regular scheduled work days immediately preceeding and following the holiday.

DECISION NO. VA81-3084

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION:					
GROUP 1	11.95	.725	.80		.10
GROUP 2	9.55	.725	.80		.10
GROUP 3	7.70	.725	.80		.10
GROUP 4	7.50	.725	.80		.10
GROUP 5	7.31	.725	.80		.10

CLASSIFICATIONS

GROUP 1 - Tunnel machine, cranes, derricks, pile drivers, pavers, two or more drum hoist, finish motor grader, mechanic, batch plant, gradall, quad

GROUP 2 - Cableways, tractors with attachments, combination front end loader and backhoe, front end loader, rubber tired scraper and pans, rough motor grader, 20-ton locomotive, bulldozers, pump crete, trenching machine, mixer larger than 16 S, fork lift

GROUP 3 - Compressor over 125 cu. ft., bottom and end dumps, tractor without attachments, 1 drum hoist, rollers, welding machines (gas or diesel), locomotive under 20-tons, power plant, generator (1200 KW or larger), pumps (over 2 inches, including wellpoints), A-frame trucks, mechanic's helper

GROUP 4 - Firemen

GROUP 5 - Oilers

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(ii)).

[FR Doc. 81-34111 Filed 11-25-81; 8:45am]

BILLING CODE 4510-27-C

federal register

Friday
November 27, 1981

Part IV

Department of Transportation

Federal Aviation Administration

Metropolitan Washington Airports: Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 93 and 159

[Docket No. 21955; Amdt. Nos. 93-44 and 159-27]

Metropolitan Washington Airports

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

ACTION: Final rule.

SUMMARY: The FAA is adopting rules to implement the DOT/FAA policy to guide the future operation and development of Washington National and Dulles International Airports and to improve the quality of the environment in the Washington metropolitan area. These rules relate to the number and type of aircraft operations, the hours of operation and scheduling, a limit on the total number of passengers using National Airport, noise levels for nighttime operations, the perimeter for nonstop service, aircraft equipment restrictions, and the hourly allocation of operations among different classes of users at National. This amendment revokes the rules issued September 15, 1980, which were scheduled to become effective on November 30, 1981.

EFFECTIVE DATE: December 6, 1981, except that § 159.40 (Nighttime Noise Limitations) is effective on March 1, 1982. The revocation of Amendments 93.37 and 159.20 (§§ 93.123(a), (b)(3), (c), 159.40, 159.59, 159.60) is effective on November 23, 1981.

FOR FURTHER INFORMATION CONTACT:
Edward P. Faberman, Acting Deputy Chief Counsel (AGC-2), Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone (202) 426-3073
or
Edward Faggen, Metropolitan Washington Airports Counsel, Washington National Airport, Hangar 9, Washington, D.C. 20001; telephone (703) 557-8123.

SUPPLEMENTARY INFORMATION:

Environmental Impact Statement

A supplement to the Final Environmental Impact Statement of August 1980 has been prepared by the FAA Office of Environment and Energy. This final statement was transmitted to the Environmental Protection Agency and the formal notice of its availability was published in the **Federal Register** on September 25, 1981 (46 FR 47297). It is available for public review at the FAA Docket. Also, the statement will be distributed to area public libraries. Copies of the impact statement may be obtained from: John E. Wesler, Director of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: (202) 426-8406.

Regulatory Evaluation

A final Regulatory Evaluation was prepared and has been placed in the public docket. At DOT's request, the Director of OMB, in accordance with the Executive Order, waived the requirement for a preliminary evaluation. However, a preliminary evaluation was prepared and placed in the docket in order to maximize the amount of information available to those commenting on the proposal.

Some commenters have criticized the amount of time for which the preliminary analysis was made available prior to the close of the comment period. FAA recognizes that this period of time was relatively short; however, since its preparation and release were voluntary, FAA does not consider the criticism to be warranted. The alternative was not to release the document at all, which would not have been in the public interest. It must be noted that under 14 CFR 11.47, comments submitted after the close of the comment period would have been considered so far as possible without incurring expense or delay. The preliminary Regulatory Evaluation remained available for review after the formal comment period closed. Therefore, those commenters wishing to submit comments on the evaluation did have additional time to do so.

Some commenters claimed that the FAA has not complied with the Regulatory Flexibility Act (5 U.S.C. 603) in this rulemaking. However, the FAA has fully complied with the Act. The FAA's certification required under the Act (5 U.S.C. 605(b)) was contained in the notice of proposed rulemaking on this subject. A supplementary evaluation supporting that certification was placed in the docket at the beginning of the comment period.

Background

Interested persons were invited to participate in the making of the policy and these rules by a Notice of Proposed Rulemaking (NPRM) published July 13, 1981 (Notice No. 81-8; 46 FR 36068). Written comments were received from citizens residing near the airport, local municipal and county governments, cities served or desiring service into National, and the air carrier and general aviation industries. In addition, FAA heard the views of more than 50 speakers at public hearings held July 28-29. Many of the speakers represented large organizations of citizens or airport users.

The United States, acting through the Federal Aviation Administration (FAA) of the Department of Transportation (DOT) owns, operates and maintains the Metropolitan Washington Airports—Washington National and Dulles International, the two air carrier airports serving the Washington, D.C. area. Baltimore-Washington International Airport (BWI) also provides service to metropolitan Washington, and is owned and operated by the State of Maryland acting through the Maryland Department of Transportation (MDOT).

For approximately 10 years, the U.S. Department of Transportation has been seeking to establish an appropriate policy to guide the management and operation of Washington National and Dulles International Airports. Once a role for each airport in meeting the Washington metropolitan area's air transportation needs is clearly defined, it will be possible for DOT to move ahead with decisions pertaining to the facilities at Washington National while continuing to make timely improvements to Dulles. An understanding of the role of each airport is necessary to assure that the investment in improvements and management of present facilities are consistent with the area's needs. While the U.S. DOT does not establish policy for BWI, it recognizes that actions taken at National and Dulles Airports may influence operations at BWI. Therefore, BWI's role was considered in the development of this policy for the federally owned airports. The respective roles of these three airports have been the subject of several studies by the U.S. DOT, the State of Maryland DOT, and the Metropolitan Washington Council of Governments (COG).

In March 1978, the FAA issued a Notice of Proposed Metropolitan Washington Airports Policy (43 FR 12141; March 23, 1978). At that time, FAA proposed that Dulles Airport would continue to provide all types of air service to the Washington area. At National it was proposed to formally adopt the existing 650-mile nonstop perimeter, to retain the existing limit on air carrier activity at 40 scheduled operations per hour, to end scheduled air carrier activity at 9:30 p.m. daily, to place nighttime noise level restrictions on aircraft, to permit two- and three-engine wide-body aircraft to operate, and to constrain growth to no more than 16 million annual passengers in 1985 and 18 million in 1990. The FAA proposal

was accompanied by a Draft Environmental Impact Statement. Following the proposal, FAA conducted several public hearings and solicited comments from the public. Many comments on the policy proposal were received from other Federal agencies, state, local and municipal agencies, organizations, individuals, and members of Congress. Officials of several cities currently served or seeking to receive air service to Washington via National Airport also commented on the proposal.

On January 15, 1980, the Secretary proposed a new policy based upon the 1978 Notice, with new proposals with respect to nighttime operations, the number of operations allocated to different classes of users, the annual passenger limitation, and the nonstop service restriction at National. Also, on January 15, 1980, the FAA's Administrator issued an NPRM (Notice No. 80–2; 45 FR 4314; January 21, 1980) in which rules to implement the proposed policy were presented for public review and comment. The FAA also issued a supplement to the FAA Draft Environmental Impact Statement that had been issued in March 1978. As part of this rulemaking effort, the FAA held three public hearings which supplemented the hundreds of comments submitted during the comment period.

A Metropolitan Washington Airports Policy was announced on August 15, 1980, by the Secretary of Transportation. The FAA filed its Final Impact Statement with the Environmental Protection Agency on that same date. On September 15, 1980, the Administrator issued final rules implementing the Metropolitan Washington Airports Policy issued by the Secretary (45 FR 62398; September 18, 1980). The policy and regulations were as follows:

1. *Growth Limitation at National.* Washington National Airport would be permitted to accommodate no more than 17 million total passengers per year. That level would be maintained by periodically adjusting the number of operations allocated to air carriers operating aircraft with 56 passenger seats or more.

2. *Operating Hours.* The hours of operation at Washington National Airport were to be modified to provide that no air carrier, air taxi or commuter would be permitted to schedule operations between the hours of 9:30 p.m. and 7:00 a.m. Additionally, a curfew would be in force on all aircraft departures between the hours of 10:30 p.m. and 7:00 a.m. Similarly, there would be a curfew on aircraft arrivals between the hours of 11:00 p.m. and 7:00 a.m. FAA was to determine if a noise level limitation in lieu of an absolute curfew could be adopted consistent with the objective of maintaining a quiet nighttime environment.

3. *Slot Availability to Various User Classes.* The total number of operating slots at Washington National would remain at 60 per hour, as provided in the existing High Density Rule (14 CFR 93.121, *et. seq.*). The portion of that total which would be available to scheduled certificated air carriers was reduced to 36 per hour, a reduction of 4 per hour from the current allocation of 40 per hour. The commuter allowance was increased from 8 per hour to a level of 12 per hour with additional slots contemplated if air carrier slots were reduced over time.

4. *Use of Wide-body Aircraft at National.* The policy would have ended the prohibition on the use of two- and three-engine wide-body aircraft at Washington National provided that the FAA determined that the use of such aircraft was operationally feasible and the Director of FAA's Metropolitan Washington Airports found that the use of such aircraft was compatible with the aircraft operator's apron and terminal facilities and with the airport's other terminal and roadway capabilities.

5. *Nonstop Perimeter at National.* The nonstop service perimeter for Washington National would be redefined at 1,000 statute miles, with no exceptions.

6. *Improvement of Washington National.* The FAA would undertake to develop a master plan for physical redevelopment of Washington National.

7. *The Role of Dulles.* Dulles Airport would provide all types of aviation service. The Dulles Airport Access Highway would remain an airport-only roadway with the exceptions currently in force. Additional access improvements to Dulles would be pursued.

The regulations issued on September 15 were to become effective on January 5, 1981. The Congress, in the Department of Transportation and Related Agencies Appropriation Act of 1981, Pub. L. 96–400, provided that none of the funds appropriated could be used to mandate any reduction of the total number of certificated air carrier slots allocated per hour at National before April 26, 1981. As a result of that law and because the Metropolitan Washington Airports Policy elements were interrelated, the effective date of the entire policy was postponed until April 26, 1981.

On March 24, 1981, the Secretary of Transportation delayed the effective date of the Metropolitan Washington Airports Policy and the implementing regulations until October 25, 1981 (46 FR 19255; March 30, 1981). The change in the effective date was necessary to permit evaluation, among other things, of the existing policy in accordance with the objectives of Executive Order 12291 (46 FR 13193; February 19, 1981), which provided new government-wide standards for the promulgation of regulations.

On October 22, 1981, the effective date of the Metropolitan Washington Airports Policy was further delayed until November 30, 1981, to allow additional time to complete the review of the issues and comments.

Summary of the Policy

The FAA and the Office of the Secretary of Transportation have reevaluated each aspect of the Metropolitan Washington Airports Policy and the implementing regulations with reference to Executive Order 12291, the Regulatory Flexibility Act, and comments received during the comment period in light of the Department's objectives. The objectives for the Metropolitan Washington Airports Policy have been stated repeatedly over the years. Stated concisely, the DOT's objectives have been and remain:

1. To provide the metropolitan Washington area with safe and efficient airport facilities.

2. To prescribe a role for Washington National and Dulles International Airports which, considering environmental and safety factors, will permit orderly planning by the FAA, the surrounding region, and the aviation industry for the future of these facilities.

3. To reduce the aircraft noise and congestion associated with the prevailing use of Washington National.

4. To promote better utilization of Dulles Airport.

5. To achieve optimum utilization of existing and planned capacity at the airports.

Comments on the notice, as well as those submitted on previous proposals concerning this issue, reveal sharp differences on the policy. Commenters from the immediate region in which the airports are located, including the States of Virginia and Maryland, regional and municipal officials, and many local residents, expressed the view that with Dulles and BWI Airports available to serve the region, the concentration of the region's air carrier activity at National Airport is an unwarranted burden on the residents who are constantly exposed to aircraft noise. Other commenters, including the air

carrier industry, business interests, many from beyond the Washington area, and elected officials from many areas of the country, expressed the opinion that National Airport is a uniquely convenient and valuable transportation asset that must be kept available for air travellers and shippers.

With these ends in mind, the Metropolitan Washington Airports Policy as follows:

1. The number of scheduled operations at Washington National Airport by air carriers utilizing aircraft with 56 or more passenger seats shall be limited to 37 per hour. The numerical limitation on the scheduled operations of commuter air carriers (operations involving aircraft certificated with less than 56 passenger seats) shall be 11 per hour while the number of reservations available for general aviation operations will remain at 12 per hour.

2. There will be noise limitations imposed on aircraft operated after 9:59 p.m. and before 7:00 a.m. at Washington National Airport. The noise limits will be sufficiently stringent to permit only relatively quiet aircraft to operate during nighttime hours. Adoption of daytime noise limits will be deferred at this time pending further review during a one year period after date of issuance.

3. Washington National Airport will be permitted to accommodate no more than 16 million total passengers per year.

4. Any air carrier aircraft types not currently operating at National Airport will not be allowed to use the airport: (1) Until it has been determined by the Administrator that operation of the aircraft at the airport meets appropriate safety concerns; and (2) until it has been determined by the director of the Metropolitan Washington Airports that the proposed operation is compatible with the airport's gate, apron, baggage and passenger handling, and roadway facilities.

5. Nonstop air carrier service to and from Washington National Airport shall be limited to distances of not more than 1,000 statute miles.

Other Matters

The FAA will actively promote improvements in the ground transportation to Dulles Airport. In particular, FAA will: (1) Emphasize the construction of the Dulles Access Highway connection to Interstate 66; and (2) strive to improve the quality of bus transportation to the airport.

In the first year of implementation of this policy, a Department of Transportation task force will monitor the impacts on air service to and from Washington to determine whether the policy is serving its stated purposes and whether any alterations should be made.

In addition, this task force will conduct a careful study of the original noise level standards proposed for daytime operations in 1981 and 1986 to determine whether, in light of the comments, they can reasonably be imposed as proposed or in a modified form. Interested parties will be contacted during this review.

Finally, consideration will also be given by the task force to a proposal made in the rulemaking process by the commuter air carriers. They argued that they should be permitted more operations than proposed, on the condition that they be operated with aircraft that meet the nighttime noise levels. The FAA, in determining whether to allow them, will consider the effects of any such additional flights on noise levels, congestion, and air traffic.

Policy Description

The following is a further description of the adopted policy and regulations.

1. Passenger Ceiling

Under this policy the annual passenger limitation at National Airport will be 16 million total passengers per year (including enplaned plus deplaned passengers from air carrier, commuter and general aviation operations). The limitation (see § 93.124) will be maintained by future reductions in the slots of "air carriers except air taxis" as defined by these regulations. Although the reduction in air carrier slots from 40 to 37 will reduce the number of air carrier operations conducted at National Airport, the capacity limitation is necessary because the number of passengers utilizing the airport may continue to increase, even without the introduction of new aircraft types. Passenger activity has decreased slightly at National compared to 1979 levels, but growth trends can be expected to resume. Under existing limits, passenger activity has increased from approximately 11 million in 1972 to 15 million in 1979. This rule will limit that increase to be consistent with an appropriate level of use of airport facilities and will shift future growth in passenger activity to Dulles and BWI Airports. Thus, the cap on growth is a key to achieving the goals of this policy.

If no limitation were imposed, Washington area passengers would be expected to be distributed in the future as follows:

ANNUAL PASSENGERS

(Forecast in million annual passengers)

Year	National	Percent market	Dulles	Percent market	BWI	Percent market
1980	14.8	69	2.7	13	3.9	18
1985	19.1	60	6.3	20	6.2	20
1990	19.2	53	8.8	24	8.3	23

The forecast shows National continuing to dominate, in terms of passenger activity, through this decade, even assuming, as the above figures do, that wide-bodies are not allowed there. If wide-bodies, which seat about 200 to 275 passengers, were permitted to replace the 90- to 150-seat aircraft now serving National, passenger activity would grow even faster. It would be projected to reach 19 million passengers even earlier than shown above.

The growth potential is so great that, even with the reduction of the number of operations per hour allowed by this rule, combined with the nighttime noise limitations, National's passenger traffic could increase substantially if capacity limitations were not adopted. The reduction from 40 to 37 flights per hour may slow the rate of growth at Washington National somewhat, but would not by itself bring about a significant shift in future passenger activity to Dulles or BWI. Therefore, the ceiling on passenger activity at National is necessary.

Several commenters urge FAA to set the passenger ceiling at a lower level. Some commenters state that 14.5 million passenger level (approximately the level prior to the air traffic controller's strike) should be maintained. However, the 16 million annual passenger limitation imposes a limit on the use of National at a level not appreciably higher than the level at which it operated prior to the strike. It is a level which should not necessitate further reduction in air carrier scheduling slots for at least another 2 years, thereby giving the carriers time to plan for future changes in the way they serve the Washington metropolitan area. It is a level of use that permits National to continue as a major airport facility without severely disrupting passenger traffic patterns, but it will also increase the likelihood that the bulk of the growth in the area's passenger activity in this decade will occur at Dulles and BWI. Without a firm cap on National, it does not appear that the air carrier activity will shift in sufficient volume to these airports. A cap of 14.5 million passengers would require a deeper immediate cut of air carrier slots than FAA believes is prudent to impose. The 37 slots per hour,

although down from 40, would permit annual passenger activity at the airport to exceed 14.5 million when the growth trends in passenger activity resume. Therefore, further slot reductions would be necessary almost immediately, which could have service impacts that are not necessary for furtherance of this policy.

The slot reduction mechanism itself should enable the air carriers to plan operations at National even though there could be possible fluctuation in the number of slots available. The mechanism will automatically adjust the number of hourly scheduled operations or operating slots that are available to air carriers operating aircraft with 56 or more passenger seats. Under the amendment, the number of passengers will be allowed to grow toward the ceiling, but slot reduction will occur to assure that the 16-million level is not exceeded.

As provided in § 93.124, once a year (in January), the FAA will prepare a forecast of total enplaned and deplaned air passenger activity (air carrier, commuter, and general aviation) over a 12-month period, beginning the following April. If the forcasted activity for the 12-month period is in excess of the target number of passengers, 16 million, then the number of hourly slots allocated to air carriers (37) will be reduced. The slots reduced from the air carrier allocation will be added to the air taxi allocation. If future projections were to show that the 16 million target would be exceeded, then additional slots would be deleted until the forecast passenger activity stabilizes at less than 16 million. For example, if the forecast showed that 35 hourly air carrier slots would result in a passenger capacity of more than 16 million, then the air carrier hourly slot level will be reduced to 34 and the air taxi hourly slot level will be increased to 14.

The formula would also work in reverse. In a situation where, first, passenger activity forecasts have led to a reduction in slots below 37, and then passenger activity is forecasted to go below 16 million, then slots will be added to the air carrier total so long as the resultant forecast remains below 16 million. The slots added to the air carrier hourly total will be taken from the air taxi hourly total. This would permit the carriers to add flights, but no increase above 37 total slots per hour will be permitted.

Some commenters suggest that by adding the reduced air carriers operations to those by the air taxis the total passenger count would continue to rise and air carriers would lose additional slots as a result of actions not taken by them. Under this mechanism for enforcing the cap, the alternative of holding the air carrier slots in escrow in lieu of allocating them to the commuters is not considered necessary inasmuch as, in view of the aircraft types used by commuters, use of these slots by commuters will not drive the passenger count up significantly.

The annual modification of slots allocated to air carriers other than air taxis would be automatic. Several commenters suggest that the proposed forecast be published for comment before slot adjustments are made. The FAA recognizes the significant of a forecast which results in the reduction of slots. Therefore, the agency will review the forecasting procedures and will use a notice procedure in which the preliminary forecast of annual passenger activity will be published in the **Federal Register**. After some comment period, the final forecast and slot modification, if any, will also be published. Any slot modification resulting from this process would be effective for the next airline scheduling period beginning in April, and would remain in effect until superseded by another forecast.

2. Operating Slots

This rule (§ 93.123(c)) modifies the distribution of instrument flight operations (takeoffs and landings) or "slots" for air carriers and commuters and keeps the "other" group at its current level. The number of "air carrier except air taxis" as defined in § 93.123(c), operations at National may not be more than 37 per hour. The carriers currently schedule up to 40 operations per hour. A reduction of 3 air carrier operations per hour will, by itself, eliminate 45 potential operations between 7:00 a.m. and 10:00 p.m. Although operations could be conducted under this amendment between 10:00 p.m. and 7:00 a.m., aircraft involved in such operations would have to comply with the applicable noise limits set out in § 159.40. None of the aircraft currently in use at National by air carriers comply with these noise level restrictions. This results in air carriers being able to schedule operations over a 15-hour day in lieu of a 16-hour day which they currently schedule.

The reduction of air carrier hourly slots, combined with the elimination of additional operations that have been conducted under § 93.129 (discussed below), and the elimination of noisy aircraft after 9:59 p.m., will give relief from noise and groundside congestion. This reduction and the passenger capacity limitation will provide the impetus for a shift in air carrier operations to the other airports serving the metropolitan area while, at the same time, promoting a more efficient airspace system.

With respect to operations at Washington National Airport, changes the definition of "scheduled air taxis" and "air carriers except air taxis" as those terms are used in §§ 93.123 and 93.124. "Air carrier" slots would have to be used for operations (air carriers and commuters) with aircraft having a maximum certificated passenger seating capacity of 56 seats or more, while "air taxi" slots would have to be used for all air carrier or commuter operations in aircraft having a maximum certificated passenger seating capacity of less than 56. Some commenters asked for a definition of the word "certificated." The phrase as used in this section refers to the original type certificate not a supplemental or amended type certificate.

As a result of the change in definition of air carrier and air taxis, the number of operators seeking air carrier slots will decrease. Today, more than 50 of these slots per day are used for operations conducted with aircraft with fewer than 56 seats that will no longer be eligible for "air carrier except air taxi" reservations. Therefore, this slot adjustment will not result in a major reduction in the actual number of operations that are today conducted by operators with aircraft having 56 seats or more.

Extra Sections

As under the previous policy, § 93.123(b)(4) provides that extra sections of a scheduled operation will not be required to obtain a slot reservation. The rule (§ 93.123(b)(4)) is modified to allow "scheduled air taxis" also to fly extra sections to and from Washington National without regard to the slot limitations of § 93.123(c). At the time at which the high density rule was issued, there was no need to extend the "extra section" authority to air taxi operations. As a result of changes in the industry, there is no longer a basis for limiting this authority to air carriers. Therefore, air taxis at National will also be able to utilize extra section authority.

Comments were submitted in connection with the use of "extra sections." New York Air states that allowing continuation of "extra section" authority while eliminating "ATC" authority (under § 93.128) amounts to regulatory bias. The "extra section" provision pertains to a type of service; it does not limit who can use that service. It was designed to give carriers who wanted to operate "extra sections" the ability to conduct that particular type of

operation without having to obtain a reserved "slot." The alternative was to require a carrier to obtain a slot for an entire scheduling period although the slot might only be used for certain days during that period. This would be an inefficient use of slots and would deprive carriers of the opportunity to conduct other operations. The fact that only one carrier, Eastern, uses a large number of these "extra sections" to conduct a shuttle type of operation is not a consequence of the rule but instead reflects individual management decisions. Other carriers do operate extra sections, particularly during holiday seasons.

If newer carriers do not implement a shuttle type of service, the use of this provision by one carrier does not make the provision discriminatory. There are many types of service new entrant carriers do not choose to provide. Yet, the DOT is not obligated to forbid other carriers from offering them. DOT would not be justified in eliminating the extra sections provision solely because a particular carrier is not in the position to make use of it or gives priority to use of its equipment in other markets.

DOT is concerned over allegations made about the manner in which "extra section" flights have been operated. For example, the use of "advance" sections is inconsistent with the intended use of this provision. Eastern Airlines in its comment states (p. 6):

> If a greater number of passengers appear for a scheduled flight than can be accommodated on that flight, the extra section rule permits the carrier to initiate an extra section to ensure that every passenger demanding a seat on a regularly scheduled flight is accommodated.

This statement does reflect the type of service which was intended to be accommodated by this provision. To expand on this, DOT considers an extra section to be an operation which: (a) Is nonscheduled; (b) serves the passengers who cannot be accommodated on the original scheduled section for which the carrier has obtained an arrival or departure reservation; and (c) the original section should depart no more than a few minutes before, on, or after the time at which it was scheduled.

DOT recognizes that unanticipated equipment, weather, or other problems could create a situation which might necessitate the use of an extra section which does not fall within these guidelines. An occasional operation outside the criteria caused by such factors would be acceptable. Continued inconsistent operations, however, would not be acceptable. DOT will monitor future operation of extra sections to determine whether these guidelines are followed. If necessary, further regulatory action will be taken in this connection.

Commuter Slots

In the NPRM, it was proposed that the slots available for scheduled air taxis or commuters be raised to 11 per hour. The scheduled air taxis are currently limited to 8 scheduled operations per hour at National. As a result of a demand for additional short-haul commuter type service to Washington from smaller communities not served by the larger aircraft, there is a large number of commuters on the waiting list for slots at National.

The Washington National Commuter Airline Association (WNCAA) strongly supports the policy but recommends that it should be adjusted to provide for an additional number, as many as nine, of hourly "quiet commuter aircraft operations." In support of this proposal, WNCAA states that the proposed slot numbers for their members would result in a net loss of daily slots. With the suspension of service to small communities in states surrounding National by trunk and local service carriers, WNCAA believes that commuters present the only alternative to service from such points to National Airport. To maintain the proposal's overall environmental integrity, WNCAA proposed that these additional operations be required to meet the nighttime noise restrictions (Departures —72 dBA as generated on takeoff; Arrivals—85 dBA as generated on approach).

A number of commenters (including some at the public hearing) supported some additional authority for commuters. The Dulles Policy Task Force states that although it supports the policy, it is concerned about "one possibly detrimental aspect of the proposed policy: Its impact on continuing adequate service to communities in Virginia." To remedy this, it recommends that special provision be made for additional commuter airline access to National as proposed by WNCAA. Similar comments were submitted by the Attorney General and the Department of Aviation for the Commonwealth of Virginia.

DOT recognizes that the provision of additional authority for commuter operators may have merit. Additional operations by commuter aircraft meeting the nighttime noise levels would not be inconsistent with many of the objectives of this policy. Promulgation of such a provision will be reviewed during the next year in connection with the review of the noise levels themselves. It must be noted that issuance of such a rule at this time would be of little value since all operations at National Airport are limited under the Interim Operations Plan developed in response to the air traffic controller's strike. Under this plan, it is unlikely that the number of commuter operations could increase in the near future. For this reason, further review of this issue will not have an adverse impact.

General Aviation

The number of slots allocated to general aviation operators, "others," will remain at 12 per hour. Under the current regulations and practices, general aviation operators are required to obtain an arrival or departure reservation from air traffic control. The number of general aviation IFR reservations per hour authorized at National is 12 (this is the same number that would be authorized under the previous policy), except that the regulations permit additional operations whenever the aircraft can be accommodated without significant additional delay to the operations allocated for the airport. The number of general aviation operations has remained relatively constant over the past several years, although the number varies on a day-by-day basis. The experience has been that, except in poor weather conditions, the airport has accommodated more than 12 general aviation operations per hour.

Several commenters state that the proposal misplaced priorities by proposing to decrease the number of certificated air carrier aircraft using National in favor of commuter aircraft and general aviation. The criticism relates to the fact that these smaller aircraft use the limited airspace and airport facilities to serve fewer persons than are served by the certificated air carrier aircraft. The criticism would be valid if the FAA's sole obligation were to maximize the number of persons transported through National Airport. However, National Airport is already being used beyond the design capacity of its terminal and roadways. The 1977 study performed for the FAA by the firm of Howard, Needles, Tammen and Bergendoff identified large portions of the public space within the terminal, as well as the curbside and traffic circle area, as inadequate to serve the number of people making demands on those facilities. The reduction of potential air carrier operations in large aircraft and the increase of commuter operations to smaller communities promotes the FAA's objective of relieving the overuse

of National while tending to promote use of Dulles for air carrier service.

Additional Reservations

With further regard to slots, the FAA is amending § 93.129 to clarify the regulations to provide that air carriers [1] at National are ineligible for additional reservations beyond those allocated under FAR § 93.123. On December 16, 1980, the FAA issued Notice No. 80–26 (45 FR 84380; December 22, 1980) which proposed clarification of the method by which aircraft operators can obtain additional reservations or slots. On January 19, 1981, the FAA issued a Supplemental Notice of Proposed Rulemaking (46 FR 8028; February 26, 1981) which proposed modification of the High Density Rule to expressly codify the method by which additional IFR reservations are to be obtained and when they must be obtained.

When these notices were issued, the proposal applied to all high density airports. This amendment contains a revised limitation on the number of hourly operations at National Airport by air carriers (including air taxis). The objectives of the policy are less achievable if these operators are permitted to substantially exceed the proposed limitations. Some parties have interpreted the current rule to allow as many additional operations as the air traffic control at the airport will accommodate. This was never the intent of the rule and, indeed, only a few carriers have conducted more operations than the number allocated to them. Although these provisions have been in effect for over 10 years, these carriers began these operations within this year. Therefore, the restrictions proposed in Notice No. 80–26 and the Supplemental Notice of Proposed Rulemaking are being adopted to make them applicable to operations at National Airport. Application of these provisions to the other high density airports was not proposed in the July NPRM; this amendment relates only to National Airport. If it is subsequently determined appropriate to clarify the High Density Rule with respect to operations at other high density airports, a separate regulatory effort would need to be considered.

Section 93.129 is amended to provide clearly that scheduled air carriers operating to and from National Airport may not obtain additional reservations beyond those allocated under § 93.123. For the purpose of this section, a scheduled operation would be defined as an operation regularly conducted by an air carrier between National Airport and another point served by that air carrier unless the service is conducted pursuant to the charter or hiring of aircraft, or is a nonpassenger flight. This provision is further amended to make clear that any such "charter" or "hiring" can not be on a regular basis but must be "irregular."

This provision would not affect § 93.123(b)(3) which permits nonscheduled flights of scheduled air carriers to be conducted at Washington National Airport without regard to the limitation of 37 IFR reservations per hour. This rule would also not affect the provisions of § 93.123(b)(4) which provide that extra sections of scheduled air carrier flights may be conducted without regard to the limitation on hourly IFR reservations. The extra section authority is available to any carrier with a slot for a regularly scheduled operation. The extra section rule is intended to accommodate operations, the necessity of which an operator cannot precisely predict. They are not scheduled operations and it would be impractical to obtain permanent slots for such operations. Regularly scheduled operations do not have the same uncertainty and, thus, require slots. As modified, the rule will allow air carriers to utilize § 93.129 on an occasional basis for positioning or to replace inoperative aircraft.

New § 93.219(d) makes regulatory the longstanding method by which an operator obtains additional IFR reservations at a high density airport. In 1969, the NPRM originally proposing the High Density Rule stated:

> For flights between two high density airports, approved reservations for the takeoff and arrival would have to be obtained prior to takeoff. After receipt of the approval, the operator would file an IFR flight plan in the usual manner.

This procedure has been used since the rule was first promulgated, more than a decade ago. Currently, Advisory Circular No. 90–43D, "Operations Reservations for High Density Traffic Airports," sets forth the method by which additional IFR reservations are to be obtained from air traffic control. Additional IFR reservations can only be obtained by contacting the FAA Airport Reservation Office (ARO) directly or by submitting a request for reservation to the nearest Flight Service Station. The air traffic control towers are not authorized to grant additional IFR slots nor does the fact that the tower permits the operation to occur constitute an authorization under the High Density Rule. Air traffic control towers do not turn aircraft away; their function relates to handling the traffic that comes to them safely. Therefore, the intended practice has always been that an operator proposing to fly IFR to or from a high density airport must obtain a reservation not from the tower but by allocation under § 93.123 or from the ARO prior to takeoff. This practice is adopted in the regulations.

Until a reservation at National is obtained, the operator may not file its IFR flight plan. Furthermore, an operator flying to National must have an IFR reservation for the arrival airport even if it intends to change the operation to VFR during flight. Of course, an air carrier departing National will be required to have an IFR reservation for the departure airport before it files its IFR flight plan. This amendment is not intended to change the practice of allowing operators to file IFR flight plans with the FAA for computer storage.

The FAA recognizes that the prohibition of VFR operations by air carriers may initially curtail competition in the Northeast corridor markets. However, this problem can be addressed in the slot allocation process. The carriers must realize that even apart from the air traffic controllers' strike, the demand for slots at National now far exceeds the available supply. In these circumstances, carrier management should begin an assessment of their service to Washington with an eye towards voluntarily shifting to Dulles or BWI some or all of its service and thus avoid the slot allocation difficulties at DCA. DOT has taken action to make service to Dulles more attractive to carriers by reducing landing fees and mobile lounge charges and these incentives will continue. Moreover, in view of the planned improvements in groundside access to Dulles, some of which are underway, DOT believes Dulles may become an extremely attractive alternative for carrier management.[2]

Hours of Operation and Noise Levels

3. There will continue to be no restriction on the operating hours of Washington National Airport. The noise level limitations (§ 159.40) will effectively control nighttime and early

[1] The term "air carrier" as used in the Federal Aviation Regulations is defined in 14 CFR 1.1 as, "a person who undertakes directly by lease, or other arrangement, to engage in air transportation."

[2] It might be argued that a carrier having to move service to Dulles would be placed at a competitive disadvantage. However, as the programs for increased utilization of Dulles become effective and more traffic begins to utilize that facility, any perceived competitive advantage to National is likely to disappear. Moreover, as more air service is operated through Dulles, there will be increased opportunity for carriers to obtain connecting traffic.

morning operations. This approach provides meaningful noise relief, does not penalize the operators of newer technology, quieter aircraft, and provides incentive for other operators to use quieter aircraft.

The NPRM proposed day and night noise limits for aircraft operating at National. Many objections to the noise limits were voiced by the airlines and the equipment manufacturers. The most significant criticisms of the proposal were that the daytime levels for 1986 imposed more stringent noise limits on National Airport than Congress imposed on the aircraft manufacturers, the result being that even after the great cost of retrofitting aircraft and purchasing new aircraft which meet the noise standards for FAA certification, the operators would still not have aircraft able to operate at National Airport. Some commenters asserted that application of these standards at other major airports would also impose an economic burden on the carriers requiring capital that may not be available within the time frames proposed based upon anticipated revenues. The most compelling argument is that there may not be sufficient quiet aircraft to replace the noncomplying aircraft under the 1986 standards.

The Boeing Company does not believe that there are sufficient complying aircraft in the fleet or on order to meet the proposed 1986 noise limits. Boeing and several air carriers estimate that to comply with the limits proposed for National, the carriers would need almost 500 "quiet" airplanes, and only about half of that number might be available. The proposed 1986 daytime noise limits would have eliminated from the airport most air carrier aircraft that now exist. The Air Transport Association (ATA) states that only 113 Stage 3 aircraft appropriate for use at National under the proposed policy are now on order and will be in use by the operators at the end of 1986. To maintain existing service at National, ATA claims that the carriers would be required to purchase or reengine over 350 additional aircraft by 1986. Although DOT is not prepared to acknowledge that these comments are accurate, the comments do reflect concern by the air carriers about their ability to function under the proposal. It is, therefore, appropriate to conduct additional analysis of fleet availability before such a rule is adopted. A final rule which could cause severe financial and service repercussions would not benefit anyone.

Instead of issuing daytime noise limits at this time, a DOT task force will further review the impact of the noise proposals. This task force will closely examine the critical issue, which is the availability of "quiet" aircraft. All interested parties including carriers, manufacturers, and representatives of the local community will be asked to supply information as part of this review. All parties are asked to cooperate in this effort. The task force will also consider appropriate noise levels and implementation dates as well as alternative types of noise standards.

Although the uncertainty of potential impact of the proposed daytime (7:00 a.m. to 10:00 p.m.) noise limits necessitates delay of their implementation, there is no similar reason to postpone the nighttime (10:00 p.m. to 7:00 a.m.) limits. Some commenters state that these standards also conflict with nationwide compliance schedules. However, the certification standards of FAR, Part 36, and the noise compliance program of Part 91, Subpart E, permit differing local standards and disclaim any intention of specifying what noise levels are to be acceptable or unacceptable at individual airports. Also, Congressional actions and judicial decisions have consistently recognized the rights of airport proprietors to control noise at their airports as long as the restrictions are consistent with the goals of the Federal Aviation Act, the Airline Deregulation Act and Airport and Airway Development Act, and do not otherwise unduly burden interstate commerce. For example, the Aviation Safety and Noise Abatement Act, Section 104(a), provides a process by which a proprietor may implement a restriction on the use of such airport by any type or class of aircraft based on the noise characteristics of such aircraft.

Significantly, at National Airport there is a long history of nighttime noise restrictions. Since 1960, the air carriers have not scheduled jet operations to occur after 10:00 p.m. and prior to 7:00 a.m. General aviation aircraft jets are requested not to operate after 11:00 p.m. and before 7:00 a.m. Indeed, only about 5 percent of all of National's operations occur between 10:00 p.m. and 7:00 a.m.

Most of the carrier operations in these hours occur between 6:00 a.m. and 7:00 a.m. or between 10:00 p.m. and 11:00 p.m. and are conducted by commuters with piston or turboprop aircraft. Unlike the situation with the daytime limits it is undisputed that the commuter carriers have quiet, suitable aircraft that meet these standards available for commuter use. Therefore, the nighttime noise standards are achievable without imposing serious, impractical repercussions on the air carrier industry. It should also be noted that the FAA provides the Washington area and the national aviation community with an unrestricted 24-hour facility at Dulles where the aircraft that do not comply with National's nighttime noise standards are able to operate.

The noise limits established under this rule are as follows:

Departures, 10:00 p.m. through 6:59 a.m.: 72 dBA as determined on takeoff.
Arrivals, 10:00 p.m. through 6:59 a.m.: 85 dBA as determined on approach.

The nighttime noise limits will apply to all aircraft operating in this time period regardless of when the operation was scheduled to occur, except that aircraft scheduled to arrive before 10:00 p.m. will be permitted to land at National if they have received an approach clearance before 10:30 p.m. If such a clearance is not received before that time, the aircraft will have to proceed to another airport if it cannot comply with the nighttime noise limit. It must be noted that the half-hour grace period does not pertain to departures from National; departures that occur after 9:59 p.m. in noncomplying aircraft will be in violation of these regulations.

For the purpose of compliance with this regulation, the noise level produced by an aircraft will be determined from FAA data on noise produced by aircraft types under standardized test conditions. It will not be determined on an operation-by-operation basis. The reference point will be the noise made by aircraft at the Federal Aviation Regulation Part 36 measuring points for approach and takeoff. The approach measuring point is 2,000 meters from the runway threshold under the flight path. The takeoff measuring point is 6,500 meters from the start of the takeoff roll under the flight path. FAA has compiled and tabulated measured or estimated noise data on almost all aircraft types at these points.

FAA Advisory Circular 36-3B, "Estimated Airplane Noise Levels in A-Weighted Decibels," November, 1981 (copy in this docket), or the latest version thereof will be used to determine the aircraft's noise and will be incorporated by reference into the regulation. Compliance will be based upon comparison with the data in the advisory circular, not upon a monitoring of individual aircraft operations. By using this method, aircraft operators will know if their type and model of aircraft will comply with the Washington National Airport noise limits before the operation occurs.

Adjustments based upon the gross weight of the aircraft will not be

allowed. If adjustments in gross weight were allowed, it would be difficult to determine whether a given operation meets the noise level limit. Thus, a noncomplying aircraft type will not be allowed to reduce its weight and thereby claim to be in compliance with the rule. Requiring the aircraft to be able to meet the standard when operating at maximum gross weight provides an extra margin of assurance that the noise levels actually produced by the aircraft operating at night will be within the limits prescribed.

Some commenters state that the proposal should not be based upon the Advisory Circular, which they claim is inaccurate and is an incomplete document. However, the proposed noise limitations are based on mutually-consistent estimates of the noise levels generated by various aircraft, operated under directly comparable and repeatable standardized conditions. The criteria proposed are the simplest available, and are related directly to the noise-making characteristics of the various aircraft models and types. Although the Advisory Circular includes data on nearly 300 airframe-engine combinations, certain specific combinations may not be included. These data are available from the FAA's Office of Environment and Energy, if needed. Comparison of the tabulated data with those provided by manufacturers indicates good agreement, especially for aircraft which have been tested for noise certification. A few differences may exist for older aircraft which have never been required to be tested for certification purposes. These differences have been corrected, where found, and will become unimportant as these older aircraft are retired or brought into compliance with FAR, Part 36. The Task Force will further consider these comments as part of its overall review.

The ATA comment that "(a)ircraft noise varies depending upon whether conditions, aircraft weight, flight procedures, aerodynamic configuration, and other factors" is correct. This variation was the reason that noise levels under the well-defined testing and operating conditions of FAR, Part 36, were proposed for use as noise limitations. Without such standardized and clearly understood conditions, the large number of variables involved would prevent a consistent comparison of the pertinent noise characteristics of a wide group of aircraft. Such a comparison cannot possibly take into account all of the day-to-day variables under which aircraft operate. The "ranking" of the noise characteristics of various aircraft using standardized test procedures eliminates these variables to provide a consistent comparison among the various types.

FAA does not intend to enforce the noise limits by measuring the noise from individual aircraft operations at a point on the ground because such enforcement may cause pilots to attempt to "beat the meter" with power cutbacks and maneuvers which reduce noise at that one point. These maneuvers may actually increase noise exposure to other areas. In addition, such maneuvering around the meter may not be in the best interest of safety. Basing the noise limits on aircraft type and model eliminates these problems. Use of type also promotes consistency and predictability for operators. If each individual operation is measured, an aircraft that complies one day may not comply the next day because atmospheric conditions have changed. Noise levels for the same type of aircraft, following the same flight path, may vary within a range of 20 decibels due to meteorological conditions. Thus, even if a pilot flies exactly the same pattern and operating procedure during each flight, he cannot be assured that he will not exceed a set noise level at one or more microphones on the ground.

ATA claims that the proposal used "three confusing and inconsistent measurements of aircraft noise (i.e., peak dBA, SEL, and EPNdB)." The noise certification standards of FAR, Part 36, initially issued in 1969, incorporate Effective Perceived Noise Level in decibels (EPNdB) as the unit of measurement. This unit was then, and continues to be, the most reliable indicator of public annoyance with aircraft noise. It is a somewhat complex unit, however, and cannot be measured directly by ordinary instrumentation. For land-use compatibility purposes, the A-Weighted Sound Level (dBA) is used primarily and has been adopted broadly for representing noise impacts on community activities (see "Guidelines for Considering Noise in Land Use Planning and Control," Federal Interagency Committee on Urban Noise, June 1980, and American National Standards S3.23–1980, "Sound Level Descriptors for Determination of Compatible Land Use"). This unit was adopted as the single system of measuring single-event noise at airports in FAR, Part 150, and is appropriate for use in imposing noise limitations for aircraft. It is directly measurable, using relatively unsophisticated instrumentation. A-Weighted Sound Level (dBA) is also the noise unit specified in FAR, Part 36, for noise certification of small propeller-driven aircraft. No noise limitations are specified in terms of Sound Exposure Level (SEL).

During the comment period, a great deal of concern was expressed about the nighttime noise limits. The supplement to the Environmental Impact Statement indicates that an aircraft type that produces a takeoff noise level of 72 dBA[3] or less, measured at maximum gross weight under FAA aircraft takeoff noise certification conditions, will produce no increase in the cumulative noise to which the community around National is exposed. That is, aircraft that can meet this nighttime noise limitation can operate at National without measurably altering the noise exposure as depicted in FAA's August 1980 Environmental Impact Statement (EIS) on the Metropolitan Washington Airports Policy.

A limit of 72 dBA for takeoff noise at the certification measuring point (6,500 meters from the start of the takeoff roll) will not produce noise levels that intrude upon any residences in the area. No large jet aircraft will be able to take off under this standard. Therefore, air carrier activity, except for some commuter operations in complying turboprop aircraft, will be greatly diminished. Also, some small general aviation jets can meet this standard. For the quieter aircraft that do operate, procedures will be in effect which direct operations to be over the Potomac River for a certain distance (10 miles north or 5 miles south) or until an altitude of 2,000 feet is reached. Under these procedures, the 72 dBA contour does not include any residential areas and, according to the environmental study, persons inside their homes will be exposed to no more than 50–55 dBA. This level should cause no interference or annoyance to most persons, even at night.

The FAA has been requested by the Metropolitan Washington Council of Governments to test a modification of the flight paths that currently channel almost all operations up and down the Potomac River corridor by experimenting with a scatter type of program. The FAA is currently evaluating the impact of this proposal. The scatter plan, if it were tested, would apply to jet aircraft only; turboprops would remain in the existing flight paths. Also, the test would not apply from 10:00 p.m. to 7:00 a.m.

[3] A-weighted decibels are decibels measured with an adjustment that emphasizes sound frequencies heard by the human ear, as opposed to treating all measured frequencies equally.

The approach noise limit of 85 dBA has caused a great deal of confusion. Approach noise is measured 2,000 meters from the end of the runway when the aircraft is at a very low (approximately 400 feet) altitude, just prior to landing. Only very quiet aircraft are capable of achieving 85 dBA or less at this point when flown at maximum certificated gross landing weight, and these are the only aircraft that will be permitted under this regulation. An approach noise level of 85 dBA, measured under certification conditions, will not alter the cumulative noise level contours, as depicted in the August 1980 EIS, and will not intrude upon residences. An aircraft which produces 72 dBA under the specified takeoff conditions will measure approximately 85 dBA under the specified approach conditions. Thus, 85 dBA on approach is set as the level not to be exceeded. According to the Environmental Impact Statement, persons inside their homes along the Potomac River corridor will be exposed to no more than 50–55 dBA as a result of such approaches, and this should cause no interference or sleep interruption.

Several comments were received about the appropriateness of using the Federal Aviation Regulation Part 36 noise testing procedures. Part 36 specifies three noise tests and includes the manner in which the test aircraft must be operated for those tests. Part 36 also specified standard meteorological test conditions and the manner in which the test results are corrected for nonstandard conditions or operational procedures. Thus, Part 36 provides standardized and repeatable tests through which aircraft noise may be measured accurately and consistently.

The noise limitations adopts two of the three Part 36 tests as criteria for determining the relative noisiness of aircraft models and types, and for determining which aircraft may be used for nighttime operations at Washington National Airport on the basis of noise. The possible paradox from having two noise criteria during the night is acceptable since, for example, an aircraft which can meet the arrival noise limit, but not the departure noise limit, may land during nighttime hours and depart the following day. As noted above, the nighttime arrival noise limit of 85 dBA is approximately the same degree of stringency as the nighttime departure noise limit of 72 dBA. As tabulated in the Final Supplement to the August 1980 Environmental Impact Statement, the aircraft models and types which meet one criterion generally meet the other criterion also.

At present, on an average night, there are 50–55 operations between 10:00 p.m. and 7:00 a.m. and only 10–25 operations between midnight and 7:00 a.m. Approximately 12–18 operations after 10:00 p.m. are by aircraft that exceed the adopted noise limit. These aircraft will no longer be permitted to operate during the night hours. It is possible that the number of operations of complying aircraft will increase. Some commuter air carriers may provide late night and early morning scheduled connecting services with complying aircraft. This could add an estimated 4 to 16 operations to National. However, FAA does not expect any significant increase in nighttime air carrier traffic.

Compliance will be determined at the time the aircraft is cleared for takeoff or at the time the aircraft is cleared for approach. The half-hour grace period for scheduled arrivals will allow for delays en route. The FAA expects that air carriers will schedule operations realistically to arrive before the 10:00 p.m. time period. An operation which frequently arrives past its scheduled time of arrival will not meet this criterion. If monitoring reveals that the carriers are abusing the grace period, the FAA may take additional regulatory action.

It must be emphasized that this limited exception will only apply to arrivals. The noise limits applicable to departures are based upon the actual time of departure, not the scheduled time. Therefore, to assure that their aircraft can comply with the rule, the air carriers may be expected not to schedule operations close to 10:00 p.m. This should have the effect of further reducing noise in the 9:00 p.m. to 10:00 p.m. hours.

Some commenters stated that the strict arrival and departure time deadlines do not take into account air traffic delays or weather problems. However, the carriers can make scheduling adjustments to anticipate these types of problems. Carriers often take similar types of restraints into consideration when they schedule operations. Those carriers that anticipate that it will be difficult to schedule late night operations as a result of these requirements are reminded that those operations can be accommodated at Dulles or BWI.

Several commenters suggested that the nighttime noise limits be replaced by voluntary agreement. Recent experience has clearly shown that some air carriers are not reluctant to ignore voluntary agreements. Thus, such an agreement in lieu of a rule does not provide any assurance that the stated noise objectives would be accomplished. Moreover, under the present "voluntary" agreement, the carriers do not schedule operations after 10:00 p.m. However, they often operate well after this time. These late operations will be reduced under this rule, unless the aircraft complies with the established noise limits.

In order to help explain the operation of noise level limitations, the following examples are provided:

1. Airline X (or commuter or a general aviation operator) has an operation scheduled to arrive at 8:50 p.m. and the airplane arrives on time. That aircraft is not subject to a noise level restriction.

2. Airline X has an operation scheduled to depart at 9:45 p.m. and does depart as scheduled. No noise limit applies for that particular aircraft.

3. Airline X has an operation scheduled to arrive before 10:00 p.m. and the aircraft has not been cleared for its approach until 10:35 p.m. That aircraft must be able to meet the 85 dBA noise limit as generated on approach. If the aircraft is not capable of meeting that noise limit, then the operator would be required to divert to another airport. Had the aircraft been cleared for its approach before 10:30 p.m., no noise limit would apply.

Persons who violate the regulation by operating an aircraft type or model that does not meet the applicable noise level would be subject to civil penalties as well as arrest and criminal penalties of up to a $500 fine and up to 6 months imprisonment. Section 4 of the Act of June 29, 1940, under 54 Stat. 686; as amended by the Act of May 15, 1947, 61 Stat. 94; and the Federal Aviation Act of 1958 as amended, 49 U.S.C. 1301, et seq.

Some commenters have stated that the noise proposal is inconsistent with Federal Noise Abatement Regulatory Procedures as established in the Aviation Safety and Noise Abatement Act (ASNA Act), Section 105, which requires preparation of noise exposure maps and noise compatibility programs for National and Dulles by February 28, 1982. That requirement does not prohibit establishment of an operating policy prior to those actions. The policy is consistent with FAR, Part 150, mandated by the ASNA Act. FAR Part 150 specifically established A-Weighted Sound Level as the unit for measurement of single event noise at airports, not SEL (Sound Exposure Level). Further, there has been no evidence presented to FAA which shows that Part 150 fails to establish a highly reliable system of measuring noise. Therefore, this criticism is unfounded.

Other commenters stated that these standards are inconsistent with the Federal Aviation Act. The statutory tests of Section 611(d) of the Act were considered in adopting the noise limitations. They are consistent with the public interest in maintaining a responsive system of air transportation in the face of local opposition to the amount of noise at National; they are technologically practicable, inasmuch as the noise reduction technology, to satisfy the noise limits, has been demonstrated and is available; and they are effective in reducing noise.

ATA comments that the Draft Supplemental EIS is deficient in that it does not evaluate the "real costs" of the proposed policy. Monetary costs and benefits are assessed in the Regulatory Evaluation, not the EIS. The intent of the EIS is to evaluate the environmental consequences of alternative actions (policies), but not necessarily expressed in monetary terms. In response to comments that the apparent differences in the noise impacts found in the August 1980 EIS and the July 1981 Draft Supplemental EIS are not explained, these differences are explained in the Final Supplemental EIS (page III–1, *et seq.*). ATA comments that all reasonable alternatives were not analyzed, and that those not considered were not identified. The August 1980 and the Supplemental EIS's identified 35 alternatives and provided full analysis of 8 of these. In keeping with CEQ regulations, the Final Supplemental EIS is concise and no longer than necessary to meet regulations (40 CFR 1502.2(c)). ATA also believes that the proposed "scatter plan" for National should have been considered, along with "the encouragement of compatible land-use controls and voluntary limits on operations during hours sensitive to noise." The "scatter plan" was explicitly excluded from consideration (Final Supplemental EIS, page III–11) since its benefits, if any, will be equally effective under whichever policy may be adopted. The encouragement of land-use controls and the voluntary curfew have already been in effect and proven unsatisfactory.

Since the implementation of the nighttime noise levels will require some adjustment to air carrier schedules, these levels will not become effective immediately. Approximately 90 days, the same lead time necessary for submittal of schedules under the Interim Operations Plan, is a sufficient amount of time to complete the necessary adjustments required by this rule. Therefore, the noise levels contained in § 159.40 will become effective on March 1, 1982.

4. New Technology and Wide-Body Aircraft

Section 159.59(a) provides that air carrier aircraft not currently in regular operation at National will not be allowed to operate at National until the Administrator has determined that operation of the aircraft at National meets appropriate safety concerns. If such a determination is made, such aircraft can operate only if the Director of the Metropolitan Washington Airports determines that the proposed operation is compatible with the airport's facilities. This means that new model aircraft and the existing wide-body aircraft, such as the A–300, DC–10 and L–1011, remain precluded from operating at National.

A sufficient number of questions remain about these aircraft to warrant their review on a model-by-model basis. First, the public interest requires greater knowledge of aircraft performance on National's short runways in rain and in poor visibility. There is also concern over the appropriateness of these aircraft consistently using the curving approach to National's Runway 18 which, due to wind conditions, is used for approximately 45 percent of all arrivals. Also, there are possible groundside problems. The maneuvering areas required for these aircraft could pose wing-tip clearance problems at National. Also, the ramp and taxiway areas affected by the engine exhaust velocities of the larger aircraft are significant. These areas are already extremely limited at National. The terminal and roadways currently experience extreme pedestrian and vehicle congestion during peak hours. The additional surge of passengers occasioned by wide-body aircraft and persons meeting them or accompanying them to the airport has the potential to swell the peak hour demands on the airport's facilities to cause even greater delays. While the facility problems might be corrected with physical redevelopment, that remedy is at least several years away from fruition.

Some commenters have asked whether the FAA's standards for use of wide body aircraft at National will be different from the standards used for other airports. While airports may be similar in many respects, each airport presents unique operational considerations which must be independently assessed in connection with proposed aircraft service into that airport. Although many of the standards to be applied for the acceptance of service at National will be similar to those used at other airports, there are considerations such as the curved approach from the North that are peculiar to National that the Administrator will weigh in making his determinations.

Consequently, wide-body and new technology aircraft will not be allowed to use National until these critical safety issues are resolved to the satisfaction of the Administrator. Moreover, the Director will have the authority to request the air carrier to submit a plan describing how the aircraft operation would be compatible with the airport's facilities, including a description of the scheduling and gate positions to be used. The Director may withhold permission to use the airport for wide-body operations until the compatibility of the operation with National Airport's apron, gate, baggage and passenger handling, or roadway facilities is resolved.

5. Nonstop Service Restrictions

The amendment to § 159.60 establishes the nonstop perimeter for Washington National at 1,000 statute miles, with no exceptions. This will change the existing regulation, which prohibits nonstop operations to and from National beyond 650 miles except for seven cities located between 650 miles and 1,000 miles away. This would permit cities beyond 650 statute miles, but closer than the grandfathered cities, to have nonstop service via National. Cities of equal distance would be treated equally. The perimeter would maintain the long-haul nonstop service at Dulles and BWI which otherwise would preempt shorter haul service at National. This is most consistent with the roles proposed for National Airport as a short/medium-haul facility and for Dulles as an unrestricted facility available for all types of operations.

The existing 650 mile regulation was adopted on May 26, 1981 as interim measure to preserve the longstanding voluntary nonstop restrictions pending this Department's review of the entire MWA Policy including the 1,000 mile proposal (46 FR 28632; May 28 1981). That amendment was in response to announcements by various carriers that they intended to commence new nonstop service in violation of a longstanding agreement to limit nonstop operations to and from National. Prior to that date, and since 1966, the 650-mile perimeter with seven exceptions existed by agreement between the FAA and the air carriers. In 1966, concern over the introduction into National of jet aircraft such as the Boeing 727 led to the perimeter agreement that was approved

by the Civil Aeronautics Board on May 25, 1966. The agreement was intended to avoid conflict with the further development of Dulles Airport. Dulles opened in 1962 and was designed for a long-haul jet aircraft services. The airlines agreed to the 650 mile perimeter in order to preserve the long-haul and short-haul roles prescribed for Dulles and National. Cities that were beyond 650 miles, but within 1,000 miles, were permitted to maintain nonstop service to National if they had nonstop service as of December 1, 1965. These cities to which service has been maintained to the present, are Minneapolis, St. Louis, Memphis, Miami, Orlando, Tampa, and West Palm Beach.

The 1,000-mile rule eliminates the potential inequity that comes from the continued grandfathering of these seven cities. In recent years other cities beyond 650 miles and within 1,000 miles have sought nonstop service to Washington via National. A city such as Ft. Lauderdale, Florida, has been denied nonstop service via National while adjacent Miami has not; Birmingham, Alabama, which is slightly beyond 650 miles from National has not had nonstop service while Minneapolis, approximately 1,000 miles away, has had such service. In addition to Ft. Lauderdale and Birmingham, Kansas City, New Orleans and others may now receive consideration by airlines for nonstop service. For these cities, this decision removes a legal prohibition regarding nonstop service via National Airport. Of course, the decision to provide nonstop service to any point remains that of the individual airlines.

It was not FAA's intention to cause significant changes in service patterns as eliminating the perimeter, or as establishing a 500 mile or 650 mile perimeter, without the grandfather cities, would do. Although more cities will now be eligible for nonstop service via National, the intermediate stop eliminated by the carriers is most likely to be at one of the heavily served hub airports at Atlanta, Chicago or St. Louis. Therefore, this amendment is not expected to create a significant change in service patterns or to affect service to smaller communities. It is not an expansion of the perimeter beyond the 1,000 mile nonstop distance permitted today. The longer haul nonstop flights from Washington to markets such as Denver, Colorado, Dallas and Houston, Texas, and beyond will remain at Dulles or BWI.

Both the 650 mile and the 1,000 mile perimeter regulations have been challenged in a lawsuit brought by various parties. (*City of Houston v. FAA*, Fifth Cir. No. 80-2030, and consolidated cases Nos. 80-2251 and 81-4194). The principal legal issues are whether the FAA has authority to restrict the stage length of commercial air carrier flights to and from National, whether that authority is being exercised in a reasonable fashion, whether certain constitutional provisions are being violated, and whether the FAA's rulemaking procedures were proper. As proprietor of both National and Dulles Airports, FAA is empowered to promulgate regulations differentiating between the kind of air service provided at those airports. Furthermore, this amendment is not in violation of either the constitutionally protected right to travel or the constitutional prohibition against laws giving preference to the ports of one State over the ports of another.

It must be noted that by letter dated October 14, 1981, Pan American World Airways, one of the litigants challenging the existing perimeter rule in Court, has reversed its position. Pan Am stated that:

> it finds the proposal (NPRM) to represent a fair and reasonable approach that will resolve the future of National and permit air carriers to make long-range plans concerning equipment purchases and route structuring * * * Pan Am initially had opposed the proposed 1,000 miles nonstop perimeter at National among other features of the proposed policy, because of its desire to provide nonstop service between National and such mid-continent cities as Houston, Texas. While Pan Am still hopes that nonstop Washington National/Houston service may one day be possible, it has concluded that DOT's overall policy is equitable and deserves Pan Am's support.

The City of Houston and several airlines have contended that the regulation discriminates against the cities that lie beyond the perimeter and imposes a competitive disadvantage on the airlines that serve them by requiring an uneconomical stop. The City of Houston has also contended that the perimeter fails to accomplish FAA's objective of maintaining distinctive long-haul and short-haul roles because many travelers prefer one stop and multiple stop flights from National to points beyond the perimeter rather than nonstop flights from Dulles.

The institution of the 1,000 mile perimeter in this amendment is not inconsistent with the Airline Deregulation Act of 1978 since Dulles, which is also under the direct control of the FAA, is available to any carrier wishing to serve Washington, D.C., from a point outside the perimeter. FAA is charged by law with the proprietary responsibility for National and Dulles Airports and has been granted the power to regulate for the protection of the airports. As stated in the NPRM, "It is FAA's responsibility and not the responsibility of distant communities to ameliorate the Washington area's local problems of noise and congestion created by National Airport." The differentiation between Dulles and National, as fostered by the perimeter, is a proper way of preventing the imbalances in the use of the Washington's airports. DOT's commitment to provide the Airport services needed for Washington, D.C., is not diminished by the perimeter. As the proprietor of both airports FAA can legally assure the availability of Dulles Airport (there are no restrictions on service at Dulles) to serve the needs of air commerce to and from the Washington Metropolitan Area. Also, the perimeter rule does not preclude nonstop service to Washington from anywhere in the country via Dulles Airport or BWI. Points beyond the perimeter currently receive one stop service via National and nonstop service via Dulles or BWI; nothing in ths rulemaking should cause any deterioration of that service.

It should also be noted that the FAA has long recognized that an airport proprietor with control of two or more airports serving the same area can take reasonable action to determine the nature of service provided to one airport so long as the proprietor's other airport(s) remains available to accommodate fully the other types of operations.

Further, the perimeter is important to maintaining domestic traffic patterns at Dulles. The airlines indicated in their comments on the perimeter rule, and by their scheduling practices, that they will leave Dulles to concentrate their activity at National to the extent permitted by the FAA. For example, in July, 1981 (prior to the air traffic controllers strike), there were 94 nonstop flights daily between the grandfather cities and National, and there was not one nonstop flight available at Dulles to these seven major markets. Due to the perimeter the nonstop flights to Dallas-Fort Worth, Houston and Denver remain at Dulles and constitute approximately one third of all of the daily domestic service at that Airport. In the absence of the perimeter, it is likely that the one stop flights to these cities from National will become nonstop flights and the nonstop service will be moved from Dulles. The loss of service to these cities could cripple the domestic service patterns at Dulles thereby leading FAA away from the purposes of this MWA Policy:

Finding a solution to the over concentration of activity at National.

Finally, FAA does not agree with the contention that National is the airport of preference for almost all air travelers to and from the Washington area. FAA believes that a significant number of travelers would prefer to use Dulles if the flights were available. For example, the flights by American Airlines from National to Dallas-Fort Worth via Dulles have produced significant load factors at Dulles. On an average, 42.5 percent of the passengers board or disembark at Dulles, indicating that Dulles is the preferred airport for a significant number of travelers in this market.

National Airport will always be more convenient to downtown Washington. However, the population growth in the areas west of the District of Columbia has been very substantial and that growth trend will continue. The COG forecasts show that Montgomery County, Maryland, and other northern Virginia communities will experience rapid and substantial growth. And while the District will remain the employment center, for the foreseeable future, COG forecasts that there will be approximately 300,000 employees in Fairfax County in 1990. It will be the most populous jurisdiction in area is 45 minutes or less. It is now approximately 50 to 60 minutes from the downtown area, and this time will be reduced when the access highway and Interstate 66 are connected as envisioned when the Dulles Airport was planned. FAA will continue to make efforts to improve travel time to Dulles, but FAA does not consider today's travel times to be excessive or burdensome.

6. Nonregulatory Aspects

The nonregulatory aspects of the policy proposed here are essentially the same as the policy adopted in August 1980. Appropriate master planning and small scale rehabilitation and improvement of the facilities at National will be undertaken by the Director of the Metropolitan Washington Airports, and FAA will continue with plans to improve ground access to Dulles.

General Comments

Slot Allocation

The reduction in air carrier slots from 40 per hour to 37 has been criticized for exacerbating the already stressed slot allocation issues surrounding National. Although some commenters stated that implementation of an allocation mechanism should be a part of this policy, DOT notes that the slot allocation issues are being addressed through the mechanism of a separate rulemaking which is currently open. In the meantime, DOT hopes that the airline scheduling committee process will continue to function until the Department completes analysis of the alternatives. If the scheduling committee does not agree upon a slot allocation for a scheduling period, then DOT reserves the right to allocate the slots by direct allocation, by a slot auction, or by other appropriate procedures. These allocation alternatives are discussed in a separate rulemaking (Notice 80–16) issued by DOT on October 21, 1980.

If DOT is forced to allocate slots directly, a procedure will be utilized which provides sufficient flexibility to meet the demands for existing service. The establishment of a base period for any necessary allocation will reflect the concerns expressed by the House of Representatives in the FY 1982 DOT Appropriations Bill passed by the House on September 10, 1981. Therefore, DOT will be considering the average daily number of operations conducted by each carrier during the week of July 26, 1981, as the basis for any slot allocation as opposed to any prior slot assignments.

Any DOT allocation, consistent with concern expressed in Senate Report No. 97–253 on the Department of Transportation and Related Agencies Appropriation Bill, 1982, will strive to minimize shifts in existing service which might be detrimental to the travelling public. At the same time, DOT is committed to competitive access at National Airport. Under its present rules, the Airline Scheduling Committee provides for access by new carriers every six months; the Committee rule of unanimous consent means that any carrier dissatisfied with the number of slots it would receive can veto an agreement. If the Committee fails to reach agreement and DOT is obliged to allocate slots, access by any new carriers will likewise be given every consideration. In addition, DOT will move towards adopting a method of allocation consistent with a competitive air transportation system by completing the outstanding rulemaking on this subject. In any allocation system which offers access to all new entrants and permits reallocation among incumbent carriers (as does the system for Washington National), carrier management will find it necessary to make economic decisions regarding the most efficient use of their Washington National slots. Thus, if they find their slot allocations reduced, for example to accommodate a new entrant, they must choose which points they will continue to serve from National and those for which service must be shifted to another Washington Airport. These decisions, however, are not inconsistent with a competitive air transportation system since they are made by carrier management in its sole discretion.

Small Community Service

Commenters expressed concern over maintaining slots for carriers who serve small communities. The Department is aware of the trend of the larger air carriers to discontinue service to such markets in favor of the higher volume markets. However, this trend by the carriers to concentrate on larger markets is national in scope and is clearly not a result of the Metropolitan Washington Airports Policy. The amendment will not produce a substantial reduction in the number of actual operations occurring today. There can be no assurance, however, that any additional air carrier or air taxis slots at National Airport would be used to serve smaller communities.

Even with slot reductions at National, no community will be deprived of air service to Washington, D.C., because of an unavailability of airport facilities. Dulles Airport will remain available to accommodate all air service to the Washington metropolitan area.

Precedential Effect

Several commenters raise questions about the proposals in general. Some commenters suggest that other airport proprietors might issue limitations similar to those promulgated for National. They argue that this could have national implications. These rules, however, are issued under unique circumstances. They are being issued by the Federal proprietor of two airports serving the same metropolitan area. The nighttime noise limits at National are tailored for the conditions existing there and are not necessarily appropriate for other airports nor do they create any new authority for other proprietors. Similar regulations could violate constitutional, statutory, or contractural requirements if imposed at particular airports.

Air Traffic Controllers Strike

Several commenters have suggested that because the air controllers' strike has reduced the number of flights at National below the level which the policy would authorize, there is no need to put the policy into effect. The FAA disagrees. A policy for Washington airports has been under consideration for years and its goals are long term goals, transcending the effects of the temporary air traffic reductions due to the strike. All aspects of the policy have been thoroughly considered. After all of

the effort, including a vast amount of public input, postponement, even temporarily, would be inconsistent with achieving the long term goals of the policy.

In addition, promulgation of these rules at this date will have a minimal affect on the system. No carrier will have to reduce flights, since the current number of operations at National is below the number that will be available under the policy. Therefore, immediate implementation of the policy will not result in any disruption or hardship. This would not be the case if the policy were deferred until after operations return to their pre-strike level. Furthermore, there are aspects of the policy, such as the nighttime noise level restrictions, that will have an immediate effect even with the current reductions. For these reasons, issuance of this policy will not be further delayed.

Petition of New York Air For Clarification or Interpretation

On February 20, 1981, New York Air petitioned the FAA to clarify or interpret the High Density Rule (FAR Part 93, Subpart K) to give high priority access to operations in the Northeast Corridor. While not specifying the changes sought, New York Air's petition essentially seeks to have slots for the Northeast Corridor set aside or not counted in the regulation which restricts the number of scheduled operations at LaGuardia Airport as well as at Washington National. The petition asserted that there is extensive demand for air service within the corridor and criticized the regulation as being biased in favor of the Eastern Airlines Shuttle because extra section operations do not require a slot.

The petition was treated as a petition for rulemaking in accordance with 14 CFR 11.25. As such, it was published in the **Federal Register** (46 FR 21187; April 9, 1981). A number of comments were submitted in response to the publication. All comments submitted were in opposition to the petition.

Petitioner's contention that the extra section provision was adopted in order to allow airlines operating in the Northeast Corridor to have a priority access over other airlines serving these airports is incorrect. The purpose of this provision is explained above. The extra section provision, while utilized by the Eastern Shuttle, was not created for Northeast Corridor operations and is, in fact, applicable to operations at other high density airports, including Chicago O'Hare.

As to petitioner's complaint that the exemption for extra sections has been misused, FAA intends to make certain that such misuse does not occur. But FAA does not view the fact that Eastern has chosen to operate a shuttle, in a way that the rule permits, as placing New York Air at an unfair competitive disadvantage. The rule's provisions, its exceptions, as well as its restrictions, are available to all carriers.

For these reasons, New York Air's petition is denied.

Revocation of Prior Metropolitan Washington Airports Policy

FAA has decided that to minimize any possible confusion, it will not amend the policy issued in August 1980. Rather, that policy, and implementing regulations issued on September 15, 1980 which were to be effective on November 30, 1981, are hereby revoked, and replaced with this policy statement and implementing regulations. Therefore, Amendments 93-37 and 159-20 (45 FR 62406; September 18, 1980) are revoked.

Effective Date

These regulations are effective on December 6, 1981, except that § 159.40 (Nighttime Noise Limitations) is effective on February 2, 1982. The revocation of Amendments 93-37 and 159-20 is effective on November 19, 1981. In large measure, these actions will relieve restrictions. If these actions were delayed further, the former policy would become effective for a limited period of time or would have to be delayed for a limited period of time on an emergency basis. Therefore, good cause is found for making this amendment and revocation effective less than 30 days after **Federal Register** publication.

Final Rules

Accordingly, Subpart K of Part 93 of the Federal Aviation Regulations (14 CFR Part 93) and Subpart C of Part 159 of the Federal Aviation Regulations (14 CFR Part 159) are amended, effective December 6, 1981, except § 159.40 is effective March 1, 1982.

Amendments 93-37 and 159-20 (45 FR 62406; September 18, 1980) are revoked, effective November 23, 1981, and

PART 93—SPECIAL AIR TRAFFIC RULES AND AIRPORT TRAFFIC PATTERNS

§ 93.123 [Amended]

1. In § 93.123(a), the IFR Operations Per Hour chart is revised to read as follows:

§ 93.123 High Density Traffic Airports.

(a) * * *

IFR OPERATIONS PER HOUR

Class of user	Airport				
	John F. Kennedy	La Guardia	Newark	O'Hare	Washington National [1]
Air Carrier Except Air Taxis	70	48	40	115	37
Scheduled Air Taxis	5	6	10	10	11
Other	5	6	10	10	12

[1] Washington National Airport operations are subject to modifications per § 93.124.

* * * * *

§ 93.123 [Amended]

2. By revising § 93.123(b)(3) and (b)(4) to read as follows:

* * * * *

(b) * * *

(3) The allocation of 37 IFR reservations per hour for air carriers except air taxis at Washington National Airport does not include charter flights, or other nonscheduled flights of scheduled or supplemental air carriers. These flights may be conducted without regard to the limitation of 37 IFR reservations per hour.

(4) The allocation of IFR reservations for air carriers except air taxis at LaGuardia, Newark, O'Hare, and Washington National Airports does not include extra sections of scheduled flights. The allocation of IFR reservations for scheduled air taxis at Washington National Airport does not include extra sections of scheduled flights. These flights may be conducted without regard to the limitation upon the hourly IFR reservations at those airports.

§ 93.123 [Amended]

3. By adding new paragraph (c) to § 93.123 to read as follows:

* * * * *

(c) For operations at Washington National Airport—

(1) The number of operations allocated to "air carriers except air taxis," under paragraph (a) of this section and § 93.124, refers to the number of operations conducted by air carriers with aircraft having a certificated maximum passenger seating capacity of 56 or more or, if used for cargo service in air transportation, with aircraft having a maximum payload capacity of 18,000 pounds or more.

(2) The number of operations allocated to "scheduled air taxis," as used in paragraph (a) of this section and § 93.124, refers to the number of operations conducted by air carriers with aircraft having a certificated maximum passenger seating capacity of

less than 56 or, if used for cargo service in air transportation, with aircraft having a maximum payload capacity of less than 18,000 pounds.

§ 93.124 [New]

4. By adding new § 93.124 as follows:

§ 93.124 Modification of Allocation: Washington National Airport.

(a) Each January, the projected number of passengers enplaning and deplaning at Washington National Airport will be forecast and published by FAA for a 12-month period, from April to April.

(b) The hourly number of reservations allocated to air carriers except air taxis at Washington National Airport, in accordance with § 93.123, shall be adjusted up or down, as necessary, so that the hourly number of reservations will be one less than the number of hourly reservations that is forecast to produce an annual passenger level of 16 million. This adjustment shall be published with the forecast described in paragraph (a) of this section. In no event shall the number of hourly reservations allocated to air carriers except air taxis exceed 37. Any reservations removed from air carriers except air taxis shall be added to the number of reservations allocated to scheduled air taxis. Any reservations to be added to the allocations for air carriers except air taxis shall be taken from those allocated to scheduled air taxis.

(c) Any change in the number of reservations made as a result of paragraph (b) of this section shall be effective on the last Sunday of the April following the forecast.

§ 93.129 [Amended]

5. By amending § 93.129(a) to insert the words "the operation is not a scheduled operation to or from Washington National Airport and" after the word "if" and before the word "he" in the first sentence.

§ 93.129 [Amended]

6. By amending § 93.129 to add paragraphs (c) and (d) to read as follows:

* * * * *

(c) For the purpose of this section, a "scheduled operation to or from Washington National Airport" is any operation regularly conducted by an air carrier between Washington National Airport and another point served by that air carrier unless the service is conducted pursuant to irregular charter or hiring of aircraft or is a nonpassenger flight.

(d) An aircraft operator must obtain an IFR reservation in accordance with procedures established by the Administrator. For IFR flights to or from Washington National Airport, reservations for takeoff and arrival shall be obtained prior to takeoff.

PART 159—NATIONAL CAPITAL AIRPORTS

§ 159.40 [New]

7. By adding to Part 159 new § 159.40, Subpart C, as follows:

§ 159.40 Nighttime noise limitations.

(a) Except in an emergency, and except as allowed by paragraph (b) of this section, no person may operate an aircraft at Washington National Airport after 9:59 p.m. and before 7:00 a.m. if the noise levels for the aircraft type and model set out in FAA Advisory Circular 36–3B, which is incorporated into this Part by reference, exceed the applicable noise limit set forth below. No adjustment for gross weight will be allowed:

Arrivals: 85 dBA as generated on approach.
Departures: 72dBA as generated on takeoff.

(b) An operation scheduled to arrive before 10:00 p.m. and which is cleared for its approach before 10:30 p.m. shall not be subject to the noise limit for arrivals set forth in paragraph (a) of this section.

(c) Aircraft types and models which are not listed in Advisory Circular 36–3B may be operated at Washington National Airport if the FAA determines that the aircraft type and model would meet the noise limits of paragraph (a) if it were tested in accordance with the procedures of Part 36 Appendix C of this chapter and the operator obtains approvals required by § 159.59(a).

(d) *Availability of advisory circular.* Advisory Circular 36–3B may be inspected and copied at any FAA Regional Office or General Aviation District Office. Copies of the circular are available free of charge and may be obtained from any of those offices or from the DOT Distribution Unit, M–443.1, Washington, D.C. 20590.

§ 159.59 [Amended]

8. By amending § 159.59 by redesignating paragraphs "(a)," "(b)" and "(c)" as "(b)," "(c)" and "(d)" and by adding new paragraph (a) as follows:

(a) No person may operate at Washington National Airport an air carrier aircraft of a type not regularly operated at that airport as of July 1, 1981, unless approved by the Administrator, on a safety basis, and the Director of Metropolitan Washington Airports. The Director may request the person proposing to operate aircraft of this type at Washington National to submit a plan describing how the aircraft operation will be compatible with the airport facilities, including a description of the aircraft type, the schedule, and the gate positions proposed to be used. The Director shall base his approval or denial on the compatibility of the operation with National Airport's apron, gate, baggage, passenger handling, and roadway facilities.

§ 159.60 [Amended]

9. By revising § 159.60 to read as follows:

§ 159.60 Nonstop operations.

No person may operate an air carrier aircraft nonstop between Washington National Airport and any airport that is more than 1,000 statute miles away from Washington National Airport.

(Secs. 103, 307(a), (b) and (c), 313(a), of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1303, 1348(a), (b) and (c), and 1354(a)); secs. 2 and 5 of the Act for the Administration of Washington National Airport, 54 Stat. 688 as amended by 61 Stat. 94; sec. 4 of the Second Washington Airport Act, 64 Stat. 770; sec. 6 of the Department of Transportation Act (49 U.S.C. 1655))

Note.—As a result of a request by the Director of the Office of Management and Budget under the criteria of Executive Order 12291, this regulation is classified as a "major" regulation. The Director has given a waiver from certain of the requirements of the Executive Order for this rulemaking. Since the regulation would make minor changes to an issued regulation, it is not considered to be significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A final, regulatory evaluation is included in the rules docket. Finally, it will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on November 23, 1981.

J. Lynn Helms,

Administrator.

[FR Doc. 81-34141 Filed 11-24-81; 8:45 am]

BILLING CODE 4910-13-M

federal register

Friday
November 27, 1981

Part V

Department of Energy

Economic Regulatory Administration

Powerplant and Industrial Fuel Use Regulations; Proposed Rulemaking

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Parts 500, 501, and 504

Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Energy (DOE) is proposing additional revisions to its final rules implementing the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA), to implement certain amendments to Title III of FUA (existing facilities) made by the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97-35 (OBRA). Section 1021 of OBRA eliminated DOE's authority to order the involuntay conversion of existing powerplants to coal or another alternate fuel. OBRA now permits DOE to issue prohibition orders *only* where the owner or operator of a powerplant commences the proceeding by filing a certification as to both the technical capability and financial feasibility of the conversion.

DATE: Written comments are due by December 28, 1981.

ADDRESS: All comments should be addressed to the Office of Fuels Conversion, Economic Regulatory Administration (ERA), Docket No. ERA-FC-81-023, Department of Energy, Room 6114, 2000 M Street, NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Jack Vandenberg (Office of Public Information), Economic Regulatory Administration, Department of Energy, Room 7120, 12th Street and Pennsylvania Ave., N.W., Washington, D.C. 20461 (202) 633-9451

Robert L. Davies (Office of Fuels Conversion), Economic Regulatory Administration, Department of Energy, Room 6128, 2000 M Street, N.W., Washington, D.C. 20461 (202) 653-3372

Henry K. Garson (Office of the General Counsel), Department of Energy, Room 6B-178, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585 (202) 252-2967

SUPPLEMENTARY INFORMATION:

I. Background

OBRA amended Title III of FUA in several important respects. Section 1021 of OBRA amended section 301(a) of FUA to delete the so-called "off gas" provisions of FUA or the mandatory prohibitions against the use of natural gas by existing electric powerplants, and provides the authority to the Secretary of Energy to prohibit the use of petroleum or natural gas as a primary energy source in certain existing electric powerplants only where the owner or operator commences a proceeding by filing an affirmative certification, which must be concurred in by ERA. Under former law (section 301 of FUA and section 2 of the Energy Supply and Environmental Coordination Act of 1974, as amended, 15 U.S.C. 791 *et seq.* (ESECA)), the Secretary could order the involuntary conversion of such powerplant's technical capability to use coal or another alternate fuel and the financial feasibility to use coal or another alternate fuel as a primary energy source in the powerplant.

On October 1, 1981 (46 FR 48118), ERA issued final and interim rules pursuant to OBRA which provide the procedures whereby any existing electric powerplant issued a proposed prohibition order under former section 301 (b) or (c) of FUA or which has an order pending aginst it under section 2 of ESECA, as of August 13, 1981, the date of enactment of OBRA, may elect to continue the current prohibition order proceeding under provisions of the former section 301 of FUA or section 2 of ESECA rather than under the amended section 301 of FUA. These elections must be filed with DOE by November 30, 1981 in the case of FUA orders and by January 14, 1982 in the case of ESECA orders.

Note.—That if such an election is not made within the specified periods, the pending order proceedings shall be considered terminated as of the date of the expiration of the appropriate election period.

The prohibition order procedures for facilities that make the election for continued coverage under section 2 of ESECA are found at 10 CFR Parts 303 and 305. If the owners or operators of all powerplants presently covered under ESECA determine not to elect continued coverage under ESECA, DOE will consider the rescission of the regulations applicable to such powerplants.

The prohibition order process for powerplants that make the election for continued coverage under former section 301 of FUA (electing powerplants) and major fuel burning installations (MFBIs) has not been changed. See 10 CFR 501.51. The Department will review these regulations at a later date. If the owners or operators of all powerplants presently covered under former section 301 of FUA determine not to elect continued coverage under the former section 301, DOE will consider the rescission of the regulations applicable to such powerplants.

The proposed rules provide a substantially revised prohibition order process for existing electric powerplants that wish to make the certification required under section 301 of FUA, as amended by OBRA (certifying powerplants). (Note, if a powerplant is eligible to make the election for continued coverage under former section 301 of FUA or section 2 of ESECA and does not, the powerplant owner or operator may submit, at any time, a voluntary certification under section 301 of FUA, as amended.)

The proposed prohibition order process for certifying powerplants under the amended section 301 of FUA is described in § 501.52. Upon submission of a certification with prohibition order compliance schedule to ERA under §§ 504.5, 504.6, and 504.8 of the regulations, the prohibition order process commences. ERA will review all the information submitted within 60 days after receipt by ERA. If the certification is complete, ERA will, within 30 days after the end of the 60 day review period, publish a Notice of Acceptance and proposed prohibition order in the **Federal Register**, if ERA believes it is able to concur in the certification. If ERA does not believe it is able to concur in the certification, ERA shall publish in the **Federal Register** a Notice of Proposed Non-Concurrence within 30 days after the end of the 60 day review period. If ERA finds during the 60 day review period that the certification is incomplete, ERA will notify the proposed prohibition order recipient as to the deficiencies and allow an additional period of 30 days for submission of an amended certification. The publication of the Notice of Acceptance or Notice of Proposed Non-Concurrence commences a period of 45 days during which interested persons may submit written comments or request a public hearing. In the case of a Notice of Acceptance, as provided in § 504.9, a final prohibition order cannot be issued until any necessary environmental review pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* (NEPA) has been completed. Upon completion of the required NEPA review and unless ERA determines from information obtained during the proceeding that the certification fails to meet the standards set forth at §§ 504.5, 504.6 and 504.8, ERA will publish a final prohibition order. In the case of a Notice of

Proposed Non-Concurrence, at the end of the 45 day comment period, ERA, if it believes it cannot concur in the certification, will publish a final Notice of Non-Concurrence.

The following section summarizes the substance and rationale behind the revisions proposed herein.

II. Proposals

A. General Definitions (Part 500)

ERA proposes to add new definitions for "certifying powerplant" and "electing powerplant" in § 500.2. The latter term refers only to those powerplants electing continued coverage under former section 301 of FUA and does not include powerplants electing continued coverage under section 2 of ESECA since the regulations implementing ESECA are found at 10 CFR Part 303 and 305.

B. Administrative Procedures and Sanctions (Part 501)

1. *Written comments and requests for a public hearing.* Sections 501.31 and 501.33 set forth the general time periods for the submission of written comments and requests for a public hearing. These sections are proposed to be amended to add provisions containing time periods for submission of written comments and requests for public hearing for proposed prohibition orders to be issued to certifying powerplants under section 301 of FUA, as amended by OBRA.

2. *Procedure for prohibitions by order—existing major fuel burning installations and electing powerplants.* Currently, § 501.51 prescribes the procedures for prohibition order proceedings and time periods for submission of written comments and requests for public hearings for existing MFBIs and powerplants. Proposed revisions to § 501.51 are designed to make it clear that these provisions apply only to existing MFBIs and existing powerplants which have elected continued coverage under former section 301 of FUA. Otherwise, the section remains unchanged.

3. *Procedure for prohibition by order—certifying powerplants.* ERA proposes to add a new § 501.52 to prescribe different prohibition procedures and time periods applicable to certifying powerplants under section 301 of FUA, as amended by OBRA. Section 501.52(b) provides for a conference to be held upon the request of a person seeking a proposed order to discuss any questions regarding the required certification under section 301 of FUA, as amended, and the prohibition order compliance schedule. ERA will review all the information submitted within 60 days after receipt by ERA. If the certification is complete, ERA will, within 30 days after the end of the 60 day review period, publish a Notice of Acceptance of the certification, and the proposed prohibition order in the **Federal Register**, if, after examining the basis for the certification, ERA believes it is able to concur in the certification. If ERA does not believe it is able to concur, ERA shall publish in the **Federal Register**, within 30 days after the end of the 60 day review period, a Notice of Proposed Non-Concurrence. If ERA finds that the certification is incomplete, ERA will notify the powerplant owner or operator as to the deficiencies and provide an additional period of 30 days for the certification to be amended and resubmitted. Interested persons will have a period of 45 days after the publication of the Notice of Acceptance or Notice of Proposed Non-Concurrence to submit written comments or to request a public hearing. In the case of a Notice of Acceptance, as provided in § 504.9, ERA must also complete any necessary environmental review under NEPA before a final order can be issued. After completion of the NEPA review, and if ERA determines from information obtained during the proceeding that the certification meets the standards set forth in §§ 504.5, 504.6, and 504.8, ERA shall publish a final prohibition order, including a statement of the basis for the issuance of the order and ERA's concurrence in the certification. In the case of a Notice of Proposed Non-Concurrence, at the end of the 45 day comment period, ERA will publish a final Notice of Non-Concurrence, if ERA determines it cannot concur in the certification based upon additional information submitted during the proceeding. If, at the end of the 45 day period, ERA believes it can concur in the certification, ERA will publish a Notice of Acceptance followed by a new 45 day comment period.

A proposed order recipient may amend or withdraw its certification in order to take into account changes in relevant facts and circumstances at any time prior to the effective date of a final prohibition order. Provision is also made for rescission or modification of outstanding final prohibition orders under section 301 of FUA, as amended. See § 501.52(d).

C. Prohibitions (Part 504)

1. *Mandatory prohibitions and system compliance option.* This subpart is proposed to be substantially amended and reorganized. ERA proposes to revise § 504.2, which explains the program, to reflect the new statutory scheme for prohibition orders that may be issued to certifying powerplants. Section 504.2 also contains explanatory information currently contained in § 504.5, regarding prohibition orders that may be issued to electing powerplants and existing MFBIs. Since section 1021 of OBRA eliminated the Secretary's authority to order involuntary prohibitions, § 504.3, which describes those prohibitions, would be deleted. The related system compliance option described in § 504.4 is the subject of another separate proposed rulemaking in which it was proposed to delete the section since the off-gas requirements of former section 301 of FUA have been eliminated, and therefore, the section is no longer needed (see 46 FR 54753, November 4, 1981).

2. *Prohibitions by order.* In accordance with section 301 of FUA, as amended by section 1021 of OBRA, ERA proposes to revise § 504.5 to describe the certification which must be presented to ERA by the powerplant's owner or operator. The certification relates to whether the powerplant has the technical capability to use coal or another alternate fuel and the financial feasibility to use coal or another alternate fuel as a primary energy source in the unit. ERA will summarily review the basis for this certification and concur in it prior to the issuance of any final prohibition order in appropriate cases. The information requirements necessary to support the certification are found in § 504.6.

ERA proposes to require certifying owners or operators of powerplants to submit a prohibition order compliance schedule as part of their certification required under §§ 504.5, 504.6 and 504.8. Any prohibition order issued to a certifying powerplant may be subject to appropriate conditions subsequent so as to delay implementation of the prohibition order and permit a powerplant to operate on oil or natural gas until it is able to negotiate all construction and fuel production or purchase contracts, complete any construction or renovation of facilities or equipment, and obtain all necessary Federal, state or local permits and approvals required in order to burn an alternate fuel.

ERA proposes to amend § 504.6 by adding a reference which indicates the section also applies to certifying powerplants.

3. *Excessive use in fuel mixtures prohibitions.* ERA proposes to have two separate sections of the regulations, § 504.7 and 504.8, set forth the procedures under which prohibitions against the excessive use of petroleum or natural gas in a mixture with an

alternate fuel may be issued to MFBIs and electing powerplants, and certifying powerplants, respectively. Certifying powerplants must submit, as part of their certification, a prohibition order compliance schedule. The certification relates to the powerplant's technical capability and financial feasibility to use coal or another alternate fuel in a mixture with natural gas or petroleum.

4. *Environmental information—certifying powerplants.* In § 504.9 ERA proposes to provide that certifying powerplants, which either have not received proposed prohibition orders under former section 301 of FUA or have pending orders under section 2 of ESECA, will be responsible for the direct payment of the costs associated with preparing any site specific documentation necessary for ERA to comply with NEPA. No final prohibition order can be issued unless the environmental review process required by NEPA is completed by ERA and the appropriate NEPA documentation is issued. Under § 504.9, the utility would enter into a contractual agreement with an independent third party, selected by ERA, who is qualified to conduct an environmental review and prepare an Environmental Assessment (EA) or Environmental Impact Statement (EIS) and who does not have a financial or other interest in the outcome of the proceeding, to conduct the necessary environmental review under the supervision of ERA.

III. Procedural Matters

A. Section 102 of the National Environmental Policy Act (NEPA)

DOE has determined that these proposed regulations, if finalized, will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of NEPA since there are no significant substantive alterations to the existing program. The changes in these regulations reflect the elimination of the DOE's authority to issue prohibition orders involuntarily. In view of the foregoing, the preparation of an EIS is not required. The environmental impacts resulting from initial implementation of FUA are addressed in a final Environmental Impact Statement prepared pursuant to the requirements of NEPA (DOE/EIS 0038, April 1979).

B. Regulatory Flexibility Act

In accordance with the statutory provisions of the OBRA amendments to FUA, ERA cannot institute a prohibition order proceeding against an existing powerplant unless the powerplant's owner or operator voluntarily submits the required certification. Thus, the proposals will have no negative impact on any entities, since they impose no involuntary regulatory burdens. Very few small entities within the meaning of the Regulatory Flexibility Act will be affected in any manner by these proposals. DOE hereby certifies that these proposals, if adopted, are not likely to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act. Therefore, DOE is not required to publish an initial regulatory flexibility analysis under section 603 of that Act.

C. Executive Order No. 12291

DOE has determined that these proposed regulations are not a major rule under Executive Order No. 12291, which requires the preparation of a Regulatory Impact Analysis for proposed major regulations. These proposals will not be likely to result in an annual effect on the economy of $100 million or more. DOE foresees no major increase in costs or prices for consumers, industries, geographic regions, or Federal, State or local government agencies. DOE does not consider it likely that the proposals will result in significant adverse effects on competition, employment, investment, or productivity. Therefore, no Regulatory Impact Analysis is required.

The proposals were submitted to the Office of Management and Budget for review at least 10 days prior to publication in the **Federal Register.**

D. Paperwork Reduction Act of 1980

These proposed rules must be submitted to the Office of Management and Budget for clearance under the provisions of the Paperwork Reduction Act of 1980, Pub. L. 96–511. Any compliance with the data collection provisions of the final rules may require revision or additions as a result of any OMB action.

(Department of Energy Organization Act, Pub. L. 95–91, 42 U.S.C. 7101 *et seq.*; Energy Supply and Environmental Coordination Act of 1974, Pub. L. 93–319, as amended by Pub. L. 94–163, Pub. L. 95–70, and Pub. L. 95–620, 15 U.S.C. § 791 *et seq.*; Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95–620, as amended by Pub. L. 97–35, 42 U.S.C. 8301 *et seq.*; Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35)

In consideration of the foregoing, Parts 500, 501 and 504, Subchapter E, "Alternate Fuels" of Chapter II, Title 10 of the Code of Federal Regulations, are proposed to be amended as set forth below.

Issued in Washington, D.C. on the 19 day of Nov., 1981.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

For reasons set out in the preamble, Part 500 of Chapter II, Title 10 of the Code of Federal Regulations is proposed to be amended as shown.

1. By adding a definition of "certifying powerplant" under § 500.2 to read as follows:

"Certifying powerplant" means an existing powerplant whose owner or operator seeks to obtain a prohibition order against the use of natural gas or petroleum either totally or in a mixture with coal or an alternate fuel by filing a certification as to both the technical capability and financial feasibility of conversion to coal or another alternate fuel pursuant to section 301 of FUA, as amended.

By adding a definition of "electing powerplant" under § 500.2 to read as follows:

"Electing powerplant" means an existing powerplant, which (1) has been issued a proposed prohibition order under former section 301 (b) or (c) of FUA prior to August 13, 1981, the date of enactment of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35 (OBRA); and (2) files an election to continue the current prohibition order proceeding under provisions of the former section 301 of FUA, rather than under amended section 301 of FUA. (The election provisions are published at 46 FR 48118 (October 1, 1981) and will not be codified in the Code of Federal Regulations.) Under the election provisions, an existing powerplant which has an order pending against it under section 2 of the Energy Supply Environmental Coordination Act of 1974, as amended, 15 U.S.C. 791 *et seq.* (ESECA), as of August 13, 1981, may also elect to continue the current proceeding under section 2 of ESECA. Electing powerplants under ESECA are not included in the FUA definition of "electing powerplant". Relevant regulations governing ESECA proceedings are found at 10 CFR Part 303 and 305.

For the reasons set out in the preamble, Part 501 of Chapter II, Title 10 of the Code of Federal Regulations is proposed to be amended as shown.

1. By revising the table of contents as follows:

PART 501—ADMINISTRATIVE PROCEDURES AND SANCTIONS

* * * * *

Subpart E—Prohibition Rules and Orders

* * * * *

Sec.

* * * * *

2. Sections 501.31 and 501.33 are amended by revising paragraph (b) to read as follows:

§ 501.31 Written comments.

* * * * *

(b) Existing facilities. Except as may be provided elsewhere in these regulations, ERA shall provide a period of at least 45 days for submission of written comments concerning a proposed prohibition rule or order or a petition for an exemption or permit. This period shall commence, in the case of a petition for a noncertification exemption, on the day after publication of the Notice of Acceptance, and in the case of a certification exemption, on the day after publication of the Notice of Acceptance and Availability of Certification in the **Federal Register**, in accordance with § 501.63(a). In the case of proposed prohibition rules or orders to be issued to existing major fuel-burning installations (MFBIs) and electing powerplants, ERA shall also provide for a period of at least 45 days for submission of written comments concerning a Tentative Staff Analysis. This period shall commence on the day after publication of the Notice of Availability of the Tentative Staff Analysis in the **Federal Register**. In the case of prohibition order proceedings for certifying powerplants under section 301 of FUA, as amended, ERA shall provide a period of at least 45 days, beginning the day after the Notice of Acceptance of certification is published, for submission of written comments concerning the certification and ERA's proposed prohibition order, and requests for public hearings. Prohibition order proceedings under section 301, as amended by OBRA, will have only one period of 45 days, since no Tentative Staff Analysis will be prepared. The comment period may be extended by ERA in accordance with § 501.7. See §§ 501.51(b) and 501.52(b) of this Part with respect to the comment periods applicable to prohibitions by order to existing facilities and the extension of such comment periods. Written comments shall be filed in accordance with § 501.7.

§ 501.33 Requests for a public hearing.

* * * * *

(b) *Existing facilities.* In the case of a petition for an exemption from a prohibition imposed either by the Act or by a final rule or order issued by ERA to an existing facility under former section of Title III of FUA or Title III of FUA, as amended, or a petition for an exemption or permit, if applicable, any interested person may submit a written request that ERA convene a public hearing in accordance with section 701 of FUA withing 45 days after the notice of the filing of a petition is published in the **Federal Register**. In the case of a proposed prohibition rule or order to be issued to existing MFBIs, and electing powerplants under former section 301, the 45 day period in which to request a public hearing shall commence upon the publication of the Notice of Availability or the Tentative Staff Analysis. In the case of a proposed prohibition order to be issued to certifying powerplants under section 301 of FUA, as amended, the 45 day period in which to request a public hearing commences upon publication of the Notice of Acceptance of certification. This time limit may be extended at the discretion of ERA in accordance with § 501.7.

* * * * *

3. Section 501.51 is amended by revising the introductory text of paragraph (a) and paragraphs (b)(2), (3), and (d)(2)(ii) to read as follows:

§ 501.51 Prohibitions by order—existing major fuel-burning installations and electing powerplants.

(a) ERA may prohibit by order the use of petroleum or natural gas as a primary energy source or in amounts in excess of the minimum amount necessary to maintain reliability of operation consistent with reasonable fuel efficiency in an existing MFBI, or electing powerplant, if:

* * * * *

(b) * * *

(2) Pursuant to section 701 of FUA, prior to the issuance of a final order to an existing MFBI or electing powerplant, ERA shall publish a proposed order in the **Federal Register** together with a statement of the reasons for the order. In the case of a proposed order that would prohibit the use of petroleum or natural gas as a primary energy source, the finding required by former section 301(b)(1) of the Act in the case of a powerplant or the finding required by section 302(a)(1) of the Act in the case of an installation shall be published with such proposed order.

(3) ERA shall provide a period for the submission of written comments of at least 3 months after the date of the proposed order. During this period, the recipient of the proposed order and any other interested person must submit any evidence relating to each of the findings that ERA is required to make under former section 301(b) of the Act in the case of a powerplant, or the findings required by section 302(a) of the Act in the case of an installation. A proposed order recipient may submit additional new evidence at any time prior to the close of the public comment period which follows publication of the Tentative Staff Analysis or prior to the close of the record of any public hearing, whichever occurs later. A request by the proposed order recipient for an extension of the 3-month period may be granted at ERA's discretion.

* * * * *

(d) * * *

(2) * * *

(ii) Sufficient information for ERA to make the findings required by former section 301(b) of FUA in the case of a powerplant and section 302(b) of FUA in the case of an installation.

* * * * *

4. By adding a new § 501.52 to read as follows:

§ 501.52 Prohibitions by order—certifying powerplants.

(a) ERA may prohibit by order the use of petroleum or natural gas as a primary energy source or in amounts in excess of the minimum amount necessary to maintain reliability of operation consistent with maintaining reasonable fuel efficiency in an existing powerplant if the owner or operator of the powerplant certifies, and ERA concurs in such certification in accordance with the requirements of §§ 504.5, 504.6 and 504.8.

(b) *Notice of order and participation.* (1) ERA may hold a conference with the proposed order recipient, at the recipient's election, prior to issuing the proposed order. The conference may resolve any questions regarding the certification required by section 301 of the Act, as amended, and §§ 504.5, 504.6, and 504.8, and ERA's review and concurrence therein.

(2) Pursuant to section 701(b) of FUA, prior to the issuance of a final order to a certifying powerplant owner or operator, ERA must publish in the **Federal Register**, a proposed prohibition order stating the reasons for such order. ERA will review all of the information submitted by a proposed order recipient within 60 days after receipt by ERA. If the certification is complete, ERA will, within 30 days after the end of the 60-day review period, publish in the **Federal Register** a Notice of Acceptance of certification together with a proposed prohibition order stating therein the

reasons for such order. This commences the prohibition order proceeding. If ERA does not believe it is able to concur in the certification, ERA shall publish a Notice of Proposed Non-Concurrence in the **Federal Register** within 30 days after the end of the 60-day review period. If ERA finds that the certification with compliance schedule is incomplete, ERA will notify the proposed prohibition order recipient as to the deficiencies, and provide an additional period of 30 days for the certification to be amended and resubmitted. If a complete certification is not submitted within this period, the proceeding shall be terminated in accordance with § 501.52(b)(5). ERA, on its own motion, may extend any period of time by publishing a notice to that effect in the **Federal Register.**

(3) The publication of the Notice of Acceptance or Notice of Proposed Non-Concurrence commences a period of 45 days during which interested persons may submit written comments or request a public hearing. During this period, the recipient of the proposed order and any other interested person may submit any evidence that they have available relating to the proposed order, the certification or the concurrence that ERA must make. A proposed order recipient may submit additional new evidence at any time prior to the close of the public comment period which follows the commencement of the proceeding or prior to the close of the record of any public hearing, whichever occurs later. A request for an extension of the 45-day period may be granted at ERA's discretion. In the case of a Notice of Acceptance, as set forth in § 504.9, no final prohibition order can be issued until any necessary environmental review pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* (NEPA) has been completed. Upon completion on the NEPA review and unless ERA determines on the basis of the record of the proceeding that the certification fails to meet the requirements of §§ 504.5, 504.6, and 504.8, ERA shall publish a final prohibition order, together with the information required by paragraph (c) of this section. In the case of a Notice of Proposed Non-Concurrence, at the end of the 45-day comment period, ERA will publish a final Notice of Non-Concurrence in the **Federal Register**, if ERA determines it cannot concur in the certification based upon additional information submitted during the proceeding. If, at the end of the 45-day period, ERA believes it can concur in the certification, ERA will publish a Notice of Acceptance followed by a new 45-day comment period.

(4) If a hearing has been requested, ERA shall provide interested persons with an opportunity to present oral data, views and arguments at a public hearing held in accordance with Subpart C of this Part. The hearing may consider, among other matters, the sufficiency of the certification of the owner or operator of the powerplant required by section 301 of FUA, as amended, and §§ 504.5, 504.6, and 504.8 of these regulations.

(5) ERA may terminate a prohibition order proceeding at any time prior to the date upon which a final order becomes effective whenever ERA believes, from any information contained in the record of the proceeding, that the certification required under section 301 of the Act, as amended, or §§ 504.5, 504.6, and 504.8 of these regulations is in some way deficient. If ERA terminates the proceeding, it will notify the proposed order recipient and other parties to the proceeding and publish a notice in the **Federal Register.** In event of termination, the proposed order recipient may submit a new certification under section 301 of the Act, as amended, at a later date.

(c) *Record and decision to issue a final order.* (1) ERA will base its determination to issue an order on consideration of the whole record or those parts thereof cited by a party and supported by and in accordance with reliable, probative and substantial evidence.

(2) ERA shall include in the final order a written statement of the basis upon which the final order is issued, and its concurrence in the required certification. The final order shall state the effective date of the prohibition contained therein.

(3) A copy of the final order and a summary of the basis therefor will be published in the **Federal Register.** Any prohibition order issued under the certification provisions of §§ 504.5, 504.6, and 504.8 may be subject to appropriate conditions subsequent so as to delay implementation of the prohibition order until the events or permits set forth in the prohibition order compliance schedule of § 504.5(d) have occurred or been obtained.

(d) *Amendment to or withdrawal of certifications under §§ 504.5 and 504.6.* The proposed prohibition order recipient may amend its compliance schedule, or its certification under section 301 of FUA, as amended, and §§ 540.5, 504.6 and 504.8 of these regulations in order to take into account changes in relevant facts and circumstances at any time prior to the effective date of the final prohibition order. The proposed order recipient may also withdraw its certification to take into account changes in relevant facts and circumstances, thereby terminating the proceeding, during the same period.

(e) *Rescission of prohibition orders.* The rescission or modification of prohibition orders issued to existing electric powerplants will be governed by the procedure in § 501.101 of these regulations.

For reasons set out in the Preamble, Part 504 of Chapter II, Title 10 of the Code of Federal Regulations is proposed to be amended as shown.

1. By revising the table of contents for Subpart B to read as follows:

PART 504—EXISTING FACILITIES

* * * * *

Subpart B—Prohibitions and System Compliance Option

Sec.

2. By revising § 504.2 to read as follows:

§ 504.2 Purpose and scope.

Sections 504.5, 504.6, and 504.8, below, set forth the prohibitions that ERA, pursuant to section 301 of the Act, as amended, may imposed upon existing powerplants after a review of the certification and prohibition order compliance schedule submitted by the owner or operator of a powerplant. Sections 504.5 and 504.8 are explanatory sections, and § 504.6 provides the informational requirements necessary to support the certification. Sections 504.6 and 504.7, below, also set forth the prohibitions that ERA may impose upon existing MFBIs, pursuant to sections 302 and 303 of the Act, and certain electing powerplants, pursuant to former section 301 (b) and (c) of FUA, where ERA can make the findings as to the unit's technical capability and financial feasibility to use coal or another

alternate fuel as a primary energy source. The prohibitions may be made to apply to existing MFBIs and electing electric powerplants unless an exemption is granted by ERA under Subparts D and E of this Part. Any person who owns, controls, rents or leases an existing installation or electing powerplant may be subject to the prohibitions imposed by and the sanctions provided for in the Act or these regulations, if ERA can make the findings required by former section 301 (b) and (c) of FUA and section 302 (a) and (b) of the Act, as amended.

3. By removing and reserving §504.3.

§ 504.3 [Reserved]

4. By revising § 504.5 to read as follows:

§ 504.5 Prohibitions by order (certifying powerplants under section 301 of FUA, as amended).

(a) In the case of existing powerplants, ERA may prohibit, in accordance with section 301 of the Act, as amended, the use of petroleum or natural gas as a primary energy source where the owner or operator of the powerplant presents a complete certification concurred in by ERA. The certification, which may be presented at any time, pertains to the unit's technical capability and financial feasibility to use coal or another alternate fuel as a primary energy source in the unit. The informational requirements necessary to support a certification are contained in § 504.6 of these regulations. A prohibition compliance schedule which meets the requirements of § 504.5(d) shall also be submitted.

(b) If ERA concurs with the certification, a prohibition order on the powerplant's use of petroleum or natural gas will be issued following the procedure outlined in § 501.52 of these regulations.

(c) The petitioner may seek to amend or withdraw its certification at any time in order to take into account changes in relevant facts and circumstances by following the procedure contained in §501.52(d).

(d) *Prohibition order compliance schedule.* The certification described above, which forms the basis for the issuance of a prohibition order to a powerplant, shall include a prohibition order compliance schedule. The compliance schedule should contain the following:

(1) A schedule of progressive events involved in the conversion project, including construction of any facilities for the production of fuel or fuel handling equipment, and contracts for the purchase of alternate fuels, and estimated date of compliance with the applicable prohibitions of the Act; and

(2) A schedule indicating estimated dates for obtaining necessary federal, state, and local permits and approvals. Any prohibition order issued under the certification provisions of § 504.5, 504.6, and 504.8 may be subject to appropriate conditions subsequent so as to delay implementation of the prohibition order until the above events or permits have occurred or been obtained.

5. Section 504.6 is amended by revising the introductory text of paragraph (a) and paragraphs (b) and (c)(1) and adding introductory text to paragraphs (e) and (f) (retain all footnotes) to read as follows:

§ 504.6 Prohibitions by order (case-by-case).

(a) ERA may prohibit, by order, the use of natural gas or petroleum as a primary energy source in existing MFBIs and existing powerplants under certain circumstances. In the case of certifying powerplants under section 301 of the Act, as amended, the petitioner must present evidence to support the certification, required by § 504.6 (c), (d), (e), and (f). In the case of electing powerplants and in the case of MFBIs, ERA must make the following findings required by § 504.6 (c), (d), (e), and (f), in order to issue a prohibition order to the unit, pursuant to former section 301 (b) or (c), and section 302, respectively:

* * * * *

(b) In the case of MFBIs and electing powerplants, ERA must make a proposed finding regarding the technical capability of a unit to use alternate fuel as identified in subsection (a)(1) above prior to the date of publication of the notice of the proposed prohibition. ERA will publish this finding in the **Federal Register** along with the notice of the proposed prohibition.

(c) *Technical capability.* (1) In the case of MFBIs, and electing and certifying powerplants, ERA will consider "technical capability" on a case-by-case basis in order to make the required finding. In the case of a certifying powerplant, the powerplant should present information to support the certification relevant to the considerations set forth below. ERA will consider the characteristics of the unit itself and will not ordinarily consider the nature or absence of appurtenances outside the unit. ERA's major concern is the ability of the unit, from the point of fuel intake to physically sustain combustion of a given fuel and to maintain heat transfer.[2]

* * * * *

* * *

(d) *Substantial physical modifications.* In the case of existing MFBIs, and electing and certifying powerplants, ERA will make its determination of whether a physical modification to a unit is "substantial" on a case-by-case basis. In the case of certifying powerplants, ERA will consider the following factors set forth below for the purpose of concurrence in the certification. ERA will consider physical modifications made to the unit as "substantial" where warranted by the magnitude and complexity of the engineering task or where the modification would impact severely upon operations at the site.[5] ERA will not, however, assess physical modification on the basis of cost.

(e) *Substantial reduction is rated capacity.* In the case of existing MFBIs, and electing and certifying powerplants, ERA will make this determination on the basis of the following factors. A certifying powerplant should present information to support its certification regarding these factors in order for ERA to make its review for concurrence.

* * * * *

(f) *Financial feasibility.* In the case of existing MFBIs, and certifying and electing powerplants, ERA will make this finding based on the following considerations. A certifying powerplant should present information to support its certification relevant to these factors in order for ERA to make its review for concurrence.

* * * * *

6. Section 504.7 is amended by revising paragraph (a) to read as follows:

§ 504.7 Prohibitions against excessive use of petroleum or natural gas in mixtures—Electing powerplants and major fuel-burning installations.

(a) In the case of existing MFBIs and electing powerplants, if ERA finds that it is technically and financially feasible for a unit to use a mixture of petroleum or natural gas and an alternate fuel as its primary energy source, ERA may prohibit, by order, the use in that unit of petroleum or natural gas, or both, in amounts exceeding the minimum amount necessary to maintain reliability of operation consistent with maintaining reasonable fuel efficiency of the mixture. For installation, such minimum amount determined by ERA shall not be less than 25 percent.

* * * * *

7. By adding a new § 504.8 to read as follows:

* * *

§ 504.8 Prohibitions against excessive use of petroleum or natural gas in mixtures—Certifying powerplants.

(a) In the case of certifying powerplants, ERA may prohibit the use of petroleum or natural gas in such powerplant in amounts exceeding the minimum amount necessary to maintain reliability of operation consistent with maintaining the reasonable fuel efficiency of the mixture. This authority is contained in section 301(c) of the Act, as amended.

The owner or operator of the powerplant may certify at any time to ERA that it is technically capable and financially feasible for the unit to use a mixture of petroleum or natural gas and coal or another alternate fuel as a primary energy source. In assessing whether the unit is technically capable of using a mixture of petroleum or natural gas and coal or another alternate fuel as a primary energy source, for purposes of this section, the extent of any physical modification necessary to convert the unit and any concomitant reduction in rated capacity are not relevant factors. So long as a unit as proposed to be modified would be technically capable of using the mixture as a primary energy source under § 504.6(c), this certification requirement shall be deemed met. The criteria for certification of financial feasibility are found at § 504.6(f). In addition, the powerplant's owner or operator must submit a prohibition compliance schedule, which meets the requirements of § 504.5(d).

(b) If ERA concurs with the certification, a prohibition order against the unit's excessive use of petroleum or natural gas in the mixture will be issued following the procedure outlined in § 501.52 of these regulations.

(c) The petitioner may seek to amend or withdraw its certification in order to take into account changes in relevant facts and circumstances by following the procedure contained in § 501.52(d).

Note.—The authority of ERA implemented under this section should not be confused with the other two fuel mixture provisions of these regulations. One is the general requirement that petitioners for permanent exemptions demonstrate that the use of a mixture of natural gas or petroleum and an alternate fuel is not economically or technically feasible (See § 504.15). The second is the permanent fuel mixtures exemption itself (See § 504.56).

8. By adding § 504.9 to read as follows:

§ 504.9 Environmental requirements for certifying powerplants.

Under §§ 501.52, 504.5 and 504.6 of these regulations, ERA may prohibit, in accordance with section 301 and section 303 (a) or (b) of FUA, as amended, the use of natural gas or petroleum, or both, as a primary energy source in any certifying powerplant. Under sections 301(c) and 303(a) of FUA, as amended, and §§ 501.52, 504.6, and 504.8 of these regulations, ERA may prohibit the excessive use of natural gas or petroleum in a mixture with an alternate fuel as a primary energy source in a certifying powerplant.

(a) *NEPA Compliance.* Where the owner or operator of a powerplant seeks to obtain an ERA prohibition order through the certification procedure, and did not hold either a proposed prohibition order under former section 301 of FUA or pending order under section 2 of ESECA, it will be responsible for the costs of preparing any necessary Environmental Assessment (EA) or Environmental Impact Statement (EIS) arising from ERA's obligation to comply with NEPA. The powerplant owner or operator shall enter into a contract with an independent party selected by ERA, who is qualified to conduct an environmental review and prepare an EA or EIS, as appropriate, and who does not have a financial or other interest in the outcome of the proceedings, under the supervision of ERA. The NEPA process must be completed and approved before ERA will issue a final prohibition order based on the certification.

(b) *Environmental review procedure.* All environmental documents, including the EA and EIS, where necessary, will be prepared utilizing the process set forth above. ERA, the powerplant owner or operator and the independent third party shall enter into an agreement for the owner or operator to engage and pay directly for the services of the qualified third party to prepare the necessary documents. The third party will execute an ERA prepared disclosure document stating that he does not have any conflict of interest, financial or otherwise, in the outcome of either the environmental process or the prohibition order proceeding. The agreement shall outline the responsibilities of each party and his relationship to the other two parties regarding the work to be done or supervised. ERA shall approve the information to be developed and supervise the gathering, analysis and presentation of the information. In addition, ERA will have the authority to approve and modify any statement, analysis, and conclusion contained in the third party prepared environmental documents.

[FR Doc. 81-34210 Filed 11-25-81; 8:45 am]

BILLING CODE 6450-01-M

Reader Aids

Federal Register

Vol. 46, No. 228

Friday, November 27, 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	523-4986
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 Inspection Desk	523-4986
Regulations Writing Seminar	523-5240
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, NOVEMBER

54313-54496.....2
54497-54720.....3
54721-54916.....4
54917-55080.....5
55081-55232.....6
55233-55502.....9
55503-55678.....10
55679-55912.....12
55913-56152.....13
56153-56406.....16
56407-56596.....17
56597-56774.....18
56775-57022.....19
57023-57262.....20
57263-57454.....23
57455-57664.....24
57665-57884.....25
57885-58058.....27

CFR PARTS AFFECTED DURING NOVEMBER

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

Administrative Orders:

Presidential Determinations:

No. 82-1 of October 10, 1981.....55233

Notices:

November 10, 1980 (See Notice of November 12, 1981.....55915

November 12, 1981.....55915

Executive Orders:

10355 (Amended by PLO 6092).....57048

July 2, 1910 (Revoked in part by PLO 6080).....54344

July 2, 1910 (Partially revoked by PLO's 6084, 6086 and 6089).....57289, 57290

October 4, 1910 (Revoked in part by PLO 6078).....54345

October 29, 1900 (Revoked in part by PLO 6083).....56787

5327 (Amended by PLO 6075).....56786

June 13, 1925 (Revoked in part by PLO 6077).....54344

March 6, 1981 (Revoked by PLO 6081).....55265

12170 (See Notice of November 12, 1981).....55915

12332.....55913

Proclamations:

4806 (See Proc. 4884).....56407

4879.....54313

4880.....54315

4881.....54317

4882.....54917

4883.....56153

4884.....56407

5 CFR

Ch. XIV.....56155, 57263

330.....55081

831.....54497

890.....55503, 55679, 55917

Proposed Rules:

Ch. 1.....55533

550.....55119

2429.....57056

7 CFR

2.....56597

29.....56155

53.....54919

226.....57980, 58007

271.....55083

272.....55083

275.....55083

277.....55083

282.....56561

319.....54319, 54321, 55235

330.....54322

331.....55918

354.....54323

624.....56574

905.....55919, 56597, 57885

907.....55680, 56598, 56775, 57455, 57886

910.....55082, 55920, 57023

928.....54920

971.....57023

981.....54921

1421.....57455

1464.....57455

1701.....57456

1822.....57263

1941.....57265

2852.....54497

3015.....55636

Proposed Rules:

331.....55992

418.....56802

932.....56620

1001.....55876

1030.....54564

1032.....55707

1065.....57306

1068.....54366

1133.....55707

1135.....54374

1421.....56624

1701.....55122, 57056, 57057, 57521

1900.....54949

1924.....54751

1942.....54751

1943.....54751

1945.....54751

2851.....57057

8 CFR

103.....54498, 56775, 57025

109.....55920

9 CFR

51.....57026

78.....55235

92.....57307

94.....54322

381.....55922

10 CFR

Ch. II.....54721

1.....57665

2 ... 55083
11 ... 56598
20 ... 57665
30 ... 55085
40 ... 55505
150 ... 55085
436 ... 56716
707 ... 55507

Proposed Rules:
Ch. II ... 54476
Ch. III ... 54476
Ch. X ... 54476
19 ... 54956
20 ... 55271
50 ... 54378, 57521
70 ... 56625
71 ... 55992
205 ... 54499
210 ... 54499
212 ... 54499
456 ... 54499, 55836
478 ... 55628
500 ... 58052
501 ... 58052
504 ... 54753, 58052
508 ... 54753
516 ... 54378

12 CFR

201 ... 55237, 56409
204 ... 57666, 57667
217 ... 55237, 57668
552 ... 54722, 54723
563f ... 54723
569a ... 54922
571 ... 54724
584 ... 57027
611 ... 57308
613 ... 57312
614 ... 54726, 55085, 57313
615 ... 55085, 55088, 57316
616 ... 57319
617 ... 57320
618 ... 57321
701 ... 55922, 57668
721 ... 55922
1204 ... 55507

Proposed Rules:
207 ... 57532
220 ... 55533, 57532
221 ... 57532
225 ... 54565
227 ... 57532
544 ... 54754
563 ... 54566, 54754
563c ... 54566
577 ... 54754
701 ... 57693, 57694
745 ... 57694

13 CFR

121 ... 55680
124 ... 57266

Proposed Rules:
Ch. I ... 55534

14 CFR

11 ... 55682
39 ... 54324, 54922, 55238–55244, 56157–56163, 56776, 56777, 57272, 57887, 57888
71 ... 54325, 54326, 54925–54928, 55685, 56165–56167, 56778, 56779, 57272–57274, 57888–57892
73 ... 54927
75 ... 54928, 57892
91 ... 54928, 55682
93 ... 58036
97 ... 54326, 56168
109 ... 55682
121 ... 55682
127 ... 55682
133 ... 55682
135 ... 55682
137 ... 55682
139 ... 55682
159 ... 58036
183 ... 55682
205 ... 54499
207 ... 56425
208 ... 56425
211 ... 56600, 56601
212 ... 56425
215 ... 56601
294 ... 54328
296 ... 54726
297 ... 56601, 57456
300 ... 55089
380 ... 56425, 56605
385 ... 56611
1245 ... 54328

Proposed Rules:
Ch. I ... 54957, 54958
1 ... 56205, 57322
25 ... 54958, 57442
39 ... 54381, 54383, 55273, 56205, 56206, 57904–57910
43 ... 57322
71 ... 54961, 57323–57325, 57911–57913
73 ... 55708
75 ... 54963
121 ... 57442
312 ... 56625

15 CFR

310 ... 57456
373 ... 56169
377 ... 57030
379 ... 56169
385 ... 57275
390 ... 55508
399 ... 54930, 55508, 56169, 57275
1202 ... 57456, 57457

16 CFR

13 ... 54931, 54932
1205 ... 54932
1301 ... 55923

Proposed Rules:
Ch. I ... 54868
Ch. II ... 56811
13 ... 54756, 54758
1025 ... 56814
1306 ... 56762

17 CFR

1 ... 54500, 55925
4 ... 56171
7 ... 57457
8 ... 54500, 55925
9 ... 54500, 55925
15 ... 54500, 55925
16 ... 54500, 55925
17 ... 54500, 55925
18 ... 54500, 55925
21 ... 54500, 55925
33 ... 54500, 55925
145 ... 54500, 55925
147 ... 54500, 55925
148 ... 57669
155 ... 54500, 55925
166 ... 54500, 55925
180 ... 54500, 55925
210 ... 54332, 56171
240 ... 54332, 56171
251 ... 55510

Proposed Rules:
1 ... 54570, 55944
8 ... 54570, 55944
9 ... 54570, 55944
15 ... 54570, 55944
16 ... 54570, 55944
17 ... 54570, 55944
18 ... 54570, 55944
21 ... 54570, 55944
33 ... 54570, 55944
145 ... 54570, 55944
147 ... 54570, 55944
155 ... 54570, 55944
166 ... 54570, 55944
180 ... 54570, 55944
190 ... 57535
240 ... 56426

18 CFR

1 ... 55245
2 ... 55926
4 ... 55245, 55252, 55926, 55944
5 ... 55926
16 ... 55926, 55944
35 ... 55952
131 ... 55926, 55944
271 ... 57464–57467
274 ... 57464
282 ... 55253, 57469
375 ... 55944

Proposed Rules:
2 ... 55535, 57696
4 ... 55536
35 ... 55535, 57696
271 ... 54384, 55540, 44542, 56428, 56429, 56819–56822
273 ... 55542
274 ... 55542

19 CFR

10 ... 55686
212 ... 56780

Proposed Rules:
10 ... 55273
12 ... 55273

20 CFR

416 ... 57275
655 ... 57031
679 ... 55090

Proposed Rules:
Ch. III ... 55612
404 ... 54963, 55709

21 CFR

5 ... 55090, 57032
74 ... 55510
81 ... 57474
145 ... 57474
155 ... 56409
172 ... 57475
173 ... 57032, 57475
176 ... 57476
177 ... 57033
178 ... 57034
193 ... 54728, 55511, 57035
201 ... 55512
211 ... 56411
310 ... 57893
436 ... 57477
440 ... 57477
442 ... 57477
444 ... 55091
446 ... 57477
510 ... 56412
520 ... 55954, 57477
540 ... 55954
558 ... 54537, 55955, 55956, 56412, 57478
561 ... 55091, 55092, 55512, 57036, 57478, 57479
610 ... 56411
640 ... 57480
1308 ... 55688

Proposed Rules:
Ch. I ... 55612
20 ... 57568
145 ... 55994
148 ... 55994
345 ... 57914
801 ... 57569
803 ... 57568
899 ... 57569

22 CFR

41 ... 54729
46 ... 55513
223 ... 55957

Proposed Rules:
Ch. II ... 57570

23 CFR

Ch. I ... 55253

Proposed Rules:
1221 ... 56823

24 CFR

200 ... 56413
201 ... 57037
203 ... 56420, 57038
205 ... 57038
207 ... 57038
213 ... 57038
215 ... 56421
220 ... 57038
221 ... 57038
232 ... 57038
234 ... 56420, 57038
235 ... 56421, 57038
236 ... 56421, 57038
241 ... 54339, 57038
242 ... 57038
244 ... 57038
420 ... 56784
570 ... 57256, 57675
800 ... 57277
801 ... 57277
802 ... 57277
803 ... 57277
812 ... 56421
888 ... 57838

Proposed Rules:
15 ... 54571

25 CFR

Proposed Rules:
258 ... 55542

26 CFR

1 ... 57481, 57675

5c..... 54538, 56148
6a..... 55513
22..... 54538
26a..... 54540
301..... 57481, 57482

Proposed Rules:
1..... 55544, 56431, 57325
31..... 57325

27 CFR
9..... 56785

Proposed Rules:
4..... 54963, 55093, 55549
5..... 55093, 55549, 56824, 56826
7..... 55093, 55549
9..... 56827

29 CFR
2619..... 55958
2640..... 55515
2643..... 55515

Proposed Rules:
Ch. V..... 55122
1952..... 57060

30 CFR
Ch. VII..... 54495

Proposed Rules:
55..... 57253, 57570
56..... 57253, 57570
57..... 57253, 57570
221..... 56654
231..... 56433
840..... 54761
915..... 56433
916..... 57327
920..... 57697
925..... 54572
926..... 55275
936..... 55275
946..... 54385

31 CFR

Proposed Rules:
240..... 54763

32 CFR
114..... 55689
199..... 55515
706..... 55254
806b..... 54730

Proposed Rules:
Ch. XVI..... 55550, 56434
631..... 54964

33 CFR
100..... 54935
115..... 54935
117..... 54936
128..... 56181
165..... 54935, 56183
257..... 55516
265..... 55516
266..... 55516
305..... 55516
380..... 55516
384..... 55516

Proposed Rules:
64..... 56829
66..... 56829
117..... 56207, 56208, 56207
161..... 54973
165..... 54973

34 CFR
649..... 55255

Proposed Rules:
Subtitle A..... 54574
Ch. I..... 54574
Ch. II..... 54574
Ch. III..... 54574
Ch. IV..... 54574
Ch. VI..... 54574
Ch. VII..... 54574

35 CFR

Proposed Rules:
Ch. I..... 57915

36 CFR
50..... 55959
60..... 56183

Proposed Rules:
7..... 55709
60..... 56209

37 CFR

Proposed Rules:
1..... 55666
307..... 55276

38 CFR
3..... 55098
6..... 57042
8..... 57042
36..... 57041

Proposed Rules:
3..... 57571
6..... 56213
8..... 56213

39 CFR
111..... 54339, 56611

40 CFR
52..... 54541, 54542, 54730, 54939–54941, 55098–55107, 55517, 55518, 55690, 55967–55972, 56195–56198, 56612, 57043, 57044, 57282, 57480–57490, 57676, 57893
55..... 57491
60..... 55975, 57497
62...55972, 55974, 57893, 57896
65..... 54943
81..... 54340, 55108, 55257, 55261, 56199, 57045, 57046, 57677, 57893
86..... 56615
120..... 55519
122..... 55110
123..... 54544, 54545
180..... 54546, 54944, 55113, 55114, 55693, 57047, 57498
261..... 56582
264..... 55110, 57284
265..... 56592
429..... 57286, 57287

Proposed Rules:
35..... 55220
52..... 54767, 55123, 55550, 55551, 55714–55720, 55994, 56461–56463, 57061, 57572
81..... 54974, 55722, 55994
123..... 54770, 55997, 56464
180..... 54584, 54771, 55725, 55998, 56465
256..... 54772–54776, 56465
723..... 54585, 54688
761..... 56626

41 CFR
Ch. 18..... 54341
Ch. 101..... 55262, 55263
5A–1..... 56786
9–1..... 54732
9–3..... 54732
9–4..... 54732
9–7..... 54732
9–9..... 54732
9–15..... 54732
9–16..... 54732
9–23..... 54732
9–50..... 54732
101–26..... 57287
101–30..... 55991

Proposed Rules:
14–1..... 54777
14–3..... 54777
14–4..... 54777
14–6..... 54777
14–7..... 54777
14–9..... 54777
14–10..... 54777
14–16..... 54777
14–17..... 54777
14–18..... 54777
14–19..... 54777
14–30..... 54777
14–63..... 54777

42 CFR
36..... 54742
54..... 55695
54a..... 55695
401..... 55695
405..... 54743
431..... 54743
433..... 54743
435..... 54743
436..... 54743
440..... 54743
447..... 54743
456..... 54743
563..... 54743
466..... 54743
478..... 54743

Proposed Rules:
Ch. I..... 55612
Ch. II..... 55612
Ch. III..... 55612
Ch. IV..... 55612

43 CFR
4..... 57499
3130..... 55494
3140..... 55494

Public Land Orders:
5169 (Amended by PLO 6092)..... 57048
5170 (Amended by PLO 6092)..... 57048
5171 (Amended by PLO 6092)..... 57048
5172 (Amended by PLO 6092)..... 57048
5173 (Amended by PLO 6092)..... 57048
5174 (Amended by PLO 6092)..... 57048
5176 (Amended by PLO 6092)..... 57048
5178 (Amended by PLO 6092)..... 57048
5179 (Amended by PLO 6092)..... 57048
5180 (Amended by PLO 6092)..... 57048
5191 (See PLO 6092)..... 57048
5192 (See PLO 6092)..... 57048
5193 (See PLO 6092)..... 57048
5213 (See PLO 6092)..... 57048
5214 (See PLO 6092)..... 57048
5242 (Amended by PLO 6092)..... 57048
5250 (See PLO 6092)..... 57048
5251 (See PLO 6092)..... 57048
5253 (See PLO 6092)..... 57048
5255 (See PLO 6092)..... 57048
5256 (See PLO 6092)..... 57048
5257 (See PLO 6092)..... 57048
5321 (See PLO 6092)..... 57048
5353 (Amended by PLO 6092)..... 57048
5389 (See PLO 6092)..... 57048
5391 (See PLO 6092)..... 57048
5392 (See PLO 6092)..... 57048
5393 (See PLO 6092)..... 57048
5395 (See PLO 6092)..... 57048
5396 (See PLO 6092)..... 57048
5411 (See PLO 6092)..... 57048
5418 (See PLO 6092)..... 57048
5428 (See PLO 6092)..... 57048
5442 (See PLO 6092)..... 57048
5450 (See PLO 6092)..... 57048
5501 (See PLO 6092)..... 57048
5556 (See PLO 6092)..... 57048
5557 (See PLO 6092)..... 57048
6005 (Amended by PLO 6092)..... 55264
6041 (Amended by PLO 6092)..... 55991
6048 (Amended by PLO 6092)..... 56200
6075 (Amended by PLO 6092)..... 56786
6076 (Amended by PLO 6092)..... 54345
6077 (Amended by PLO 6092)..... 54344, 56616
6078 (Amended by PLO 6092)..... 54345
6079 (Amended by PLO 6092)..... 54345
6080 (Amended by PLO 6092)..... 54344
6081 (Amended by PLO 6092)..... 55265
6082 (Amended by PLO 6092)..... 55265
6083 (Amended by PLO 6092)..... 56787
6084 (Amended by PLO 6092)..... 57289
6085 (Amended by PLO 6092)..... 57288
6086 (Amended by PLO 6092)..... 57290
6087 (Amended by PLO 6092)..... 57289
6088 (Amended by PLO 6092)..... 57290
6089 (Amended by PLO 6092)..... 57290
6091 (Amended by PLO 6092)..... 57289
6092..... 57048

Proposed Rules:
1600..... 57448

4100 56132

44 CFR

10 ..... 54346, 55116
64 ..... 54547, 56616, 57506–57508
65 ..... 54548, 54553, 57291, 57510, 57897
67 ..... 57517, 57519, 57678
70 ..... 54347–54365, 57292–57299, 57898–57900

Proposed Rules:

Ch. I 54386
67 ..... 54599–54612, 54975, 57329–57332, 57573–57581, 57698

45 CFR

302 54554
303 54554
304 54554
1170 55894

Proposed Rules:

Subtitle A 55612
Ch. II 55612
Ch. III 55612
Ch. XIII 55612
206 54613
223 57065

46 CFR

3 56200
14 56200
24 56200
45 56788
188 56200
189 56200

Proposed Rules:

Ch. II 56988
Ch. IV 57066
42 55278
66 56318
67 56318
68 56318
69 56318
536 ..... 54390, 54391

47 CFR

0 57049
15 55520
73 ..... 55116, 56618, 56788–56797, 57050
90 55701

Proposed Rules:

Ch. I 55279, 55726, 56466
2 ..... 55124, 56473
21 ..... 55124, 56473, 57332
25 57067
73 ..... 54787, 55125, 55283, 56214, 56831–56836, 57078
94 ..... 55124, 57332

48 CFR

Proposed Rules:

22 56223
37 56223
49 56223

49 CFR

Ch. X 54745, 54746
1 55265
173 55266
179 55266
387 56799
399 56799
512 55266
525 55266
537 55266
555 55266
571 57901
1001 54945
1002 54945
1033 ..... 54559–54562, 54747, 55267, 55705, 56799, 57691
1034 54948
1048 56423
1100 57051
1102 55269
1116 54945
1132 57053
1134 57053
1300 55269
1331 57692

Proposed Rules:

Ch. X 54613, 54614
571 ..... 54391, 57939
1044 57706
1310 56629

50 CFR

17 54748
259 54563
671 57302
674 57299

Proposed Rules:

216 57098
611 ..... 55729–55732, 56480
652 57707

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/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

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

REMINDERS

List of Public Laws

Last Listing November 19, 1981

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

S. 1672 / Pub. L. 97–84 To expand the membership of the United States Holocaust Memorial Council from sixty to sixty-five and for other purposes. (Nov. 20, 1981; 95 Stat. 1097) Price: $1.50.

H.J. Res. 368 / Pub. L. 97–85 Making further continuing appropriations for the fiscal year 1982. (Nov. 23, 1981; 95 Stat. 1098) Price: $1.50.