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Thursday
December 17, 1981

Highlights

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Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Limitation of Shipments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment establishes a total limitation of shipment regulation for fresh Florida oranges, grapefruit, tangerines, and tangelos during the period beginning at 6:00 p.m., e.s.t. December 23, 1981, and ending 12:01 a.m., e.s.t., December 29, 1981. The regulation is needed to assist in preventing the accumulation of excessive market supplies of the specified fruits during the Christmas Holiday period specified, in which it is anticipated there will be a greatly reduced market demand.

EFFECTIVE TIME: 6:00 p.m., e.s.t. December 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 rule is issued under the marketing agreement, as amended, and marketing Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines and tangelos grown in Florida, hereinafter referred to collectively as the order. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Citrus Administrative Committee established under the order and other available information. It is found that this action will tend to effectuate the declared policy of the act.

This amendment reflects the Department's appraisal of the marketing situation during the period immediately prior to the week in which Christmas Day occurs and for the period immediately following. It is anticipated that shipments of fresh oranges, grapefruit, tangerines, and tangelos prior to Christmas Day will result in market supplies in excess of market needs. An accumulation of excessive quantities of any variety of citrus fruit in the markets during the period immediately prior to and following Christmas contributes to unstable marketing conditions. It is reported that, absent the shipping holiday, excessive shipments of the specified fruits would occur, causing an accumulation of these varieties of fruit in the market prior to and during the post-holiday period, a period in which there is a drop in consumer demand. Hence the curtailment of orange, grapefruit, tangerine and tangelo shipments, as hereinafter specified, would contribute to a better-managed supply situation and in turn to the establishment of orderly marketing.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment 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. A reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions of this amendment effective at the time specified. Determination as to the need for, and extent of, regulation under § 905.52(a)(3) must await the development of the crop and the availability of information about market supplies and the demand for such fruits. The recommendation and supporting information for such regulation were promptly submitted to the Department after an open meeting of the committee, after notice to growers, shippers, and interested persons had been given, and all present were afforded an opportunity to submit information and views. Information regarding specifications of the regulation has been provided to shippers, and the regulation is identical with the recommendations of the committee. Compliance with the regulation will not require any special preparation on the part of persons subject thereto which cannot be completed on or before the effective time.

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Accordingly, in § 905.306 (Orange, Grapefruit, Tangerine and Tangelo Regulation 6; December 8, 1981, 46 FR 60170) paragraph (d) is redesignated as paragraph (e) and a new paragraph (d) is added to read as follows:

§ 905.306 Orange, Grapefruit, Tangerine and Tangelo Regulation 6.

* * * * *

(d) Notwithstanding the provisions of Table 1 in paragraph (a) of this section during the period beginning at 6:00 p.m. e.s.t., December 23, 1981, and ending at 12:01 a.m. e.s.t., December 29, 1981, no handler shall ship between the production area and any point outside thereof in the continental U.S., Canada, or Mexico, any oranges, grapefruit, tangerines, or tangelos, of the varieties or types, specified in paragraph (a) Table I of this section, grown in the production area.

* * * * *

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

Dated: December 11, 1981.

D. S. Kuryloski,

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

[FR Doc. 81–36074 Filed 12–16–81; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 907

[Navel Orange Reg. 532]

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

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period December 18–24, 1981. Such action is needed to provide for orderly marketing of fresh navel oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: December 18, 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 is issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 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 December 15, 1981 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navels deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges is good.

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 is 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. It is necessary to effectuate the declared policy of the act to make this regulatory provision effective as specified, and handlers have been apprised of such provisions and the effective time.

In accordance with the Paperwork Reduction Act of 1980, (44 U.S.C. 3507), the reporting or recordkeeping provisions that are included in this final rule have been or will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained.

1. Section 907.832 is added as follows:

§ 907.832 Navel Orange Regulation 532.

The quantities of navel oranges grown in Arizona and California which may be handled during the period December 18, 1981, through December 24, 1981, are established as follows:

(1) District 1: 623,000 cartons;
(2) District 2: Unlimited cartons;
(3) District 3: 77,000 cartons;
(4) District 4: Unlimited cartons.

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

Dated: December 16, 1981.

D. S. Kuryloski,

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

[FR Doc. 81–36246 Filed 12–16–81; 11:28 am]

BILLING CODE 3410–02–M

Commodity Credit Corporation

7 CFR Part 1403

Interest on Delinquent Debts

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Interim rule.

SUMMARY: The Commodity Credit Corporation (CCC) is announcing that interest will be charged on delinquent debts. The imposition of interest with respect to delinquent debts will encourage producers to repay their debts and thus reduce the cost to CCC for additional borrowings from the United States Treasury.

DATE: Effective date: December 17, 1981.

COMMENTS BY: February 16, 1982.

ADDRESS: Interested persons may send comments to the Director, Fiscal Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Sally Nunn, Claims Specialist, Fiscal Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013, (202) 447–6613.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed in conformance with Executive Order 12291 and the Secretary's Memorandum 1512–1 and has been classified as "not major." It has been determined that the provisions of this interim rule will not result in: (1) an annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This action will not have a major 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 rule since CCC is not required by 5 U.S.C. § 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this interim rule.

The Attorney General and Comptroller General have jointly promulgated the Federal Claims Collection Standards (FCCS) in 4 CFR Parts 101–105 as mandated by the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 951–953). CCC is generally exempt from the provisions of the FCCS, since CCC has the authority under Section 4(k) of the CCC Charter Act (15 U.S.C. 714b(k)) to make final and conclusive settlement and adjustment of all its claims. However, the Board of Directors, CCC, has administratively determined that the FCCS shall be applicable to all claims by CCC regardless of the amount (CCC Claims Policy Docket CZ 161a, Revision 4). The FCCS requires that interest be charged on delinquent debts. Accordingly, CCC will establish an interest rate which shall be charged on delinquent debts and publish such rate as a notice in the **Federal Register.**

Since it is imperative for effective money management and claims

collection to impose a rate of interest to be charged by CCC with respect to delinquent debts in order to encourage the repayment of such debts, it has been determined that this interim rule shall be effective upon date of publication in the **Federal Register** without opportunity for prior public comment.

However, the public is invited to submit written comments with respect to this interim rule to the Director, Fiscal Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. Comments must be received not later than February 16, 1982 in order to be assured of consideration. This interim rule will be evaluated in view of the comments received and a final rule will be published in the **Federal Register** discussing the comments received and any further amendments to these regulations which may be deemed necessary.

Accordingly, the regulations at Chapter XIV, Subchapter A of Title 7 of the Code of Federal Regulations are amended by adding a new Part 1403 to read as follows:

PART 1403—INTEREST ON DELINQUENT DEBTS

Sec.
1403.1 Purpose.
1403.2 Definitions.
1403.3 Late payment charge.
1403.4 Partial payments.
1403.5 Amount of late payment charge.
1403.6 Applicability.

Authority: Sec. 4, PL 80–89, 62 Stat. 1070, as amended (15 U.S.C. 714b), 4 CFR Parts 101–105.

§ 1403.1 Purpose.

It is the policy of Commodity Credit Corporation (hereafter referred to as "CCC") to apply a late payment charge to the full amount of delinquent debts. This part sets forth the terms and conditions under which such late payment charge will be calculated and assessed.

§ 1403.2 Definitions.

(a) The term "late payment charge" means the amount of interest charged on delinquent debts.

(b) The term "demand for payment" means a written request for payment made by CCC to the debtor when it is determined that any monies which are due and owing by the debtor to CCC are delinquent.

(c) The term "full amount of the delinquent debt" means the sum of the principal, accrued interest, and any other charges which are otherwise due and owing to CCC with respect to the delinquent debt at the time the late payment charge is applied.

(d) The term "delinquent debt(s)" means: (1) A payment that is overdue in accordance with the terms of an arrangement for payment as provided for in the contract, agreement or notification of indebtedness, and (2) Any overdue amount owed to CCC by a debtor which is the subject of an arrangement whereby the debtor agrees to pay any such overdue amount in installments.

§ 1403.3 Late payment charge.

(a) A late payment charge is assessed on the full amount of any delinquent debt.

(b) The method for assessing a late payment charge is as follows:

(1) When a debt results from a contract or agreement containing a provision for a late payment charge, a late payment charge will be assessed by CCC on the amount of the delinquent debt from the day the debt became delinquent unless otherwise provided for by such contract or agreement.

(2) When the debt did not result from a contract or agreement containing a provision for a late payment charge, a late payment charge will be assessed by CCC on the amount of any delinquent debt 30 days after CCC issued a demand letter to the debtor notifying the debtor of such delinquency.

(c) The late payment charge will be applied to the delinquent debt for each 30-day period. In addition, the full amount of the late payment charge will also be applicable to periods of less than 30 days.

§ 1403.4 Partial payments.

When a partial payment of a delinquent debt is made to CCC by a debtor, the partial payment will first be applied against the amount of any late payment charge which has been assessed by CCC against the amount of the delinquent debt. Any sum remaining of such partial payment will then be applied against the full amount of the delinquent debt.

§ 1403.5 Amount of late payment charge.

The late payment charge shall be expressed as a rate of interest which CCC charges on a delinquent debt. CCC will publish such rate of interest as a notice in the **Federal Register**.

§ 1403.6 Applicability.

This part shall only be applicable to: (a) Any debt incurred after the effective date of this part and which subsequently becomes a delinquent debt; (b) Delinquent debts originally incurred before the effective date of this part, the repayment of which is rescheduled by agreement of CCC and the debtor after the effective date of this part; and (c) Any other debt or delinquent debt to which the debtor and CCC agree that this part will be applicable.

Signed at Washington, D.C., on December 1, 1981.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 81-35981 Filed 12-16-81; 8:45 am]
BILLING CODE 3410-05-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 81-NW-27-AD; Amdt. 39-4282]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) that requires eddy current or dye-penetrant inspection for cracks in the upper fuselage skin in the area of the aft pressure bulkhead tee on McDonnell Douglas Models DC-9 and C-9 series airplanes. This AD is needed to determine the existence of skin cracks and to prevent crack propagation which, if left unattended, could result in structural failure of the fuselage shell and rapid decompression of the aircraft.

DATE: Effective date January 21, 1982. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Blvd., Long Beach, California 90846, Attention: Director, Publications and Training, C1–750 (54–60). This information also may be examined at FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108, or 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548–2826.

FOR FURTHER INFORMATION CONTACT:

Harry Irwin, Aerospace Engineer, Airframe Branch, ANM–120L, Federal Aviation Administration, Northwest Mountain Region, Los Angeles Area Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548–2826.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an Airworthiness Directive requiring eddy current or dye-penetrant inspection for cracks in the upper fuselage skin in the area of the aft pressure bulkhead tee on McDonnell Douglas Models DC-9 and C-9 series airplanes was published in the **Federal Register** on June 15, 1981 (46 FR 31268). This proposal was prompted by the following:

Operators have reported instances of cracks in the upper skin and improperly seated attachments on the upper skin splice area at the fuselage aft pressure bulkhead tees between longerons 14 left and 14 right. Alert Service Bulletin No. A53-147 which was issued by Douglas Aircraft Company on September 2, 1980, requesting fleetwide inspection of these areas, resulted in 128 aircraft being inspected, with 7 found to have cracks in the inspected area. All 7 of these aircraft had accumulated over 43,500 landings. Analysis of the skin panel sections revealed no evidence of overload. Thus it was concluded that the failures were caused by fatigue due to flexing of the lightweight fuselage shell adjacent to the relatively rigid tee frame at the bulkhead. If not repaired, these cracks could propagate and result in a possible loss of pressurization with attendant structural damage. Inspection of high cycle aircraft and accomplishment of the required repairs will ensure structural integrity of the pressure vessel.

Interested parties have been afforded an opportunity to participate in the making of this amendment.

Three comments were submitted by the Air Transport Association on behalf of U.S. air carriers. They are discussed below.

1. Repetitive Inspection Interval of 2,000 Landings for Airplanes With 40,000 Landings and Above

ATA objected to the shortening of the inspection interval for aircraft with 40,000 landings and over, from the 4,000 landings of the McDonnell Douglas Alert Service Bulletin A53-147, to 2,000 landings in the NPRM, as being arbitrary and unjustified. FAA does not agree with ATA for the following reason:

Skin cracking along circumferential rivet rows in the region of the aft pressure bulkhead tees has occurred between longerons 14 left and 14 right. These cracks occurred at multiple sites simultaneously due to similarity of stress level over a wide area. Normally, propagation of a single crack is not influenced by secondary effects which are functions of aircraft life. However, in this case the crack propagation rate can be influenced by crack tip stress intensity factor interaction. This interaction is caused by multiple site cracking occurring at each fastener in a row of fasteners. The length of each of these multiple cracks, each of which may not be of detectable length, is a function of aircraft life. Thus, crack tip stress intensity factor interaction between multiple site cracks can cause the cracks to suddenly join together to form a single long crack of critical proportions. Since the point at which this joining occurs is influenced by aircraft life, the repetitive interval should be on a sliding scale which diminishes as the aircraft age increases.

Consequently, FAA considers a reduction in the inspection interval necessary on aircraft with the higher accumulation of landings but, in order to simplify the procedure, has chosen only two different repetitions—4,000 and 2,000 landings.

2. Acceptability of Interim Repairs

ATA pointed out that the proposed interim repairs would have to be replaced at the time of initial inspection by a permanent or preventive repair. This was not intended by the NPRM. An interim repair by reason of the added .090" band (Douglas Service Rework Drawing J060143) has transferred the flexing line of the skin approximately 2 inches forward to virtually undamaged skin with a considerable life extension. This repair differs from the permanent and preventive repairs primarily in not having the .025" finger doublers (Douglas Service Rework Drawing J060143-7) which relieves the sharp edge effect on the skin at the point of flexure.

In response to this comment, the rule, as adopted, requires the conversion of the interim to the terminating repair within the 4,000 landings time span of the repetitive inspection.

3. Terminating Action

ATA commented that the AD should clearly indicate which modifications constitute terminating action. The AD has been changed to state: Preventive repairs covering the periphery of the fuselage from longeron 14L to longeron 14R constitute terminating action.

Permanent repairs which cover only a section of the periphery 14L to 14R, constitute terminating action for that section of the periphery only. Interim repairs are not determined to be terminating action.

After careful review of available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the proposed rule with the changes previously noted.

Adoption of the Amendment

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

McDonnell Douglas: Applies to all Model DC-9 Series and C-9 Series aircraft, certificated in all categories, with 30,000 or more landings accumulated on and after the effective date of this AD. Compliance required as indicated, unless already accomplished. To prevent crack propagation which could result in structural failure of the fuselage shall, accomplish the following:

A. *Inspection Requirements.* Inspect the upper skin splice area for cracks at the tee cap in the aft fuselage pressure bulkhead between longerons 14 left and 14 right. Use either eddy current inspection procedures in accordance with paragraph 5 or use dye-penetrant inspection procedures in accordance with paragraph 6, both listed in the Accomplishment Instructions of McDonnell Douglas Service Sketch No. 3145 as provided in DC-9 Alert Service Bulletin A53-147 Revision 1 dated February 3, 1981 (hereinafter referred to as ASB 53-147). The inspections shall be performed in accordance with the compliance schedule shown in the following tabulation:

Accumulated landings (on effective date of this AD)	Initial inspection landings (from effective date of AD)
30,000 to 39,999	4,000
40,000 to 49,999	1,200
50,000 and over	400

Note.—For airplanes with less than 30,000 landings on the effective date of this AD, inspect before the accumulation of 34,000 landings.

Accumulated landings on date of last inspection	Repetitive inspection (landings)
39,999 or less	4,000
40,000 and over	2,000

B. *Modification Requirements.*

1. Condition 1. If no cracks are found: Accomplish preventive modifications per paragraph 2A of Service Bulletin 53-147, dated March 31, 1981 (hereinafter referred to as SB 53-147), as applicable to Service Rework Drawing No. J060138. This will constitute terminating action, or

Continue repetitive inspections as called for in paragraph A above.

2. Condition 2. If skin cracks were previously repaired by interim repairs specified in ASB 53-147 per Service Rework Drawing J060143:

(a) Remove existing interim repair(s) and accomplish preventive modifications per

paragraph 2A of SB 53-147, as applicable to Service Rework Drawing 1060138. This will constitute terminating action; or

(b) Remove existing interim repair(s) and accomplish permanent repairs of all cracked areas per Table I or II of Service Bulletin 53-147, as applicable to Service Rework Drawing 1060138. For the segments repaired, this will constitute terminating action. Continue repetitive inspections of areas which did not have cracks, in accordance with ASB 53-147, at the intervals listed above until further preventive modification is accomplished per paragraph 2A of Service Bulletin 53-147.

3. Condition 3. If skin cracks have not been repaired:

(a) Accomplish preventive modifications per paragraph 2A of Service Bulletin 53-147, as applicable to Service Rework. This will constitute terminating action; or

(b) Accomplish permanent repair(s) of all cracked areas per Table I or II of Service Bulletin 53-147. For the segments repaired, this will constitute terminating action. Continue repetitive inspection of areas which did not have cracks, in accordance with ASB 53-147, at the intervals listed above until further permanent repairs cover the region 14L to 14R, or the preventive repair has been accomplished per Service Bulletin 53-147.

C. For the purpose of complying with this AD, with approval of the assigned FAA Maintenance Inspector, the number of landings may be determined by dividing each airplane's total hours time-in-service by the operator's model fleet average time from takeoff to landing.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes unpressurized to a base in order to comply with the requirements of this AD.

E. Alternative means of compliance or other actions which provide an equivalent level of safety may be used when approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest 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 McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). These documents also may be examined at FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108, or 4344 Donald Douglas Drive, Long Beach, California 90808.

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

Note.—The FAA has determined that this document involves a regulation which is not considered to be 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 effect on a substantial number of small entities under the criteria of the Regulatory Flexibility Act, since it involves few, if any, such entities. A final evaluation has been prepared for this 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."

This rule is a final order of the Administrator. Under section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review 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 December 7, 1981.

Robert O. Brown,

Acting Director, Northwest Mountain Region.

[FR Doc. 81-35754 Filed 12-16-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 81-NM-86-AD; Amdt. 39-4281]

Airworthiness Directive; McDonnell Douglas Model DC-9-80 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document amends an existing Airworthiness Directive applicable to McDonnell Douglas Model DC-9-81 airplanes, which requires disengagement of the autothrottles prior to reaching 50 feet AGL during approach. This action was necessary to prevent unscheduled reverser deployment. This amendment provides operators with an optional modification which, if they choose to accomplish it, terminates the operating restrictions imposed by the original AD. This amendment also expands the applicability of the original AD to include the Model DC-9-82, but imposes no burden on these aircraft since the AD has been incorporated in all Model DC-9-82 aircraft during production.

DATE: Effective date December 28, 1981. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). This information also may be examined at FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108, or 4344 Donald Douglas Drive, Long Beach, California 90808.

FOR FURTHER INFORMATION CONTACT: Duane A. Naff, Supervisory Aerospace Engineer, Propulsion Branch, ANM-140L, Federal Aviation Administration, Northwest Mountain Region, Los Angeles Area Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach California 90808, telephone (213) 548-2835.

SUPPLEMENTARY INFORMATION: AD 81-04-51, Amendment 39-4107 (46 FR 24933, April 30, 1981), requires disengagement of the autothrottle during approach prior to reaching 50 feet AGL to prevent unscheduled deployment of the thrust reversers prior to touchdown on DC-9-81 Series airplanes. The AD requires placarding of each aircraft and revision of the FAA approved Airplane Flight Manual Limitations Section.

After issuing Amendment 39-4107, the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Mountain Region, evaluated substantiating data and additional service instructions submitted by the manufacturer. It was determined that the procedures and modifications specified in McDonnell Doulgas DC-9 Super 80 Service Bulletin 78-47 dated August 4, 1981, to: (1) Adjust the clearance between the throttle interlock cam and the throttle interlock crank to prevent thrust reverser lever movement until throttles are fully against the pedestal idle stop, (2) verify and/or increase the gap between the pushrod assembly and lever assembly to ensure overcenter condition of thrust reverser levers when stowed, and (3) replace the one-piece cam assembly to provide adjustment of the reverse thrust switches independent of the low-limit switches, provides an acceptable alternate means of compliance and, thus, terminating action for the original AD. The adjustment allows proper separation between the reverse thrust switch actuation point (which disconnects the autothrottles) and the point at which the thrust reversers are deployed.

The requirements of Amendment 39-4107 have been incorporated in production by McDonnell Douglas in all Model DC-9-82 airplanes. This amendment also makes AD 81-04-51 applicable to the Model DC-9-82 by amending applicability to McDonnell Douglas DC-9-80 Series airplanes. This action will make the terminating action

provided herein applicable to all DC-9-80 Series airplanes.

Since this amendment provides an alternate means of compliance and requires no additional action by any operator, it has no adverse economic impact and imposes no additional burden on any person. Therefore, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending AD 81-04-51, Amendment 39-4107 (46 FR 24933, April 30, 1981) by amending the applicability and by adding a new paragraph D, as follows:

McDonnell Douglas: Applies to McDonnell Douglas Model DC-9-80 series airplanes, fuselage numbers 924 through 1017 inclusive, certificated in all categories. Compliance required as noted in the body of this AD, unless already accomplished. To prevent unscheduled deployment of the thrust reversers during approach prior to touchdown, accomplish the following:

D. Incorporation of the modifications in accordance with Part 2, Accomplishment Instructions, of McDonnell Douglas DC-9 Super 80 Service Bulletin 78-47 dated August 4, 1981, or later revisions approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Mountain Region, constitutes terminating action. Following such modification, both the placard and the Airplane Flight Manual limitation required by A. and B. above may be removed.

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 McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60).

This document also may be examined at FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108; or the Los Angeles Area Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808.

This amendment becomes effective December 28, 1981.

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

Note.—The Federal Aviation Administration has determined that this document involves an amendment that is relieving in nature and does not impose any additional burden on any person. It therefore is: (1) Not a major rule under Executive Order 12291 (46 FR 13193; February 19, 1981); and (2) not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Because its anticipated impact is so minimal, it does not warrant preparation of a regulatory evaluation and will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

This rule is a final order of the Administrator. Under section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review 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 December 7, 1981.

Robert O. Brown,

Acting Director, Northwest Mountain Region.

[FR Doc. 81-35753 Filed 12-16-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Airworthiness Docket No. 81-ASW-28; Amdt. 39-4280]

Airworthiness Directives; Societe Nationale Industrielle Aerospatiale (SNIAS) Models AS350 and AS355 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing Airworthiness Directive (AD) applicable to Aerospatiale Models AS350 and AS355 series helicopters. The amendment is needed to remove the daily inspection and to include a recently approved increased life for an improved design tail rotor blade pitch horn.

DATE: Effective December 18, 1981. Compliance schedule as required by the AD.

ADDRESSES: A copy of the service information may be examined at Office of Regional Counsel, FAA, Southwest Region, FAA, 4400 Blue Mound Road, Fort Worth, Texas. A copy of the service information may be obtained from Aerospatiale Helicopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75051, Attention: Customer Support.

FOR FURTHER INFORMATION CONTACT: Chris Christie, Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium, or James H. Major, Helicopter Policy and Procedures Staff, Aircraft Certification Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone (817) 624-4911, extension 502.

SUPPLEMENTARY INFORMATION: This amendment amends Amendment 39-4175 (46 FR 38902), AD 81-13-09 which requires daily inspections of the tail rotor pitch horns and requires removal of pitch horns on or before attaining 450 hours' total time in service for Aerospatiale Models AS350 and AS355 series helicopters. After issuing amendment 39-4175, the improved design tail rotor pitch horn assembly, P/N 350A-12-1368-02 was substantiated and approved for 1,250 hours' retirement time without any mandatory daily inspection. Approved Service Bulletin No. 01.07 Revision 2 for Model AS350 series and Service Bulletin No. 01.01 Revision 1 for Model AS355 series were issued with this information. The daily inspections and 450 hours' retirement time requirements for pitch horn assemblies, P/N 350A-12-1368-01, were not changed by the revised bulletins. Therefore, the FAA is amending Amendment 39-4175 by removing the daily inspection requirement and increasing the retirement time for pitch horn asembly, P/N 350A-12-1368-02, from 450 to 1,250 hours' total time in service.

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending amendment 39-4175, July 30, 1981, (46 FR 38902) AD 81-13-09, by:

1. Revising, as follows, paragraph (d) to apply to pitch horns, P/N 350A-12-1368-01 thereby retaining the requirements of subparagraphs (d)(1), (2), and (3) without change for the original design pitch horn:

"(d) For pitch horns, P/N 350A-12-1368-01, after initial compliance with paragraphs (a) and (c) of this AD and prior to the first flight of each day, conduct the following:"

2. Revising paragraphs (g)(1) and (2) to apply to only pitch horns, P/N 350A-12-1368-01, as follows:

"(g) For pitch horns, P/N 350A-12-1368-01, accomplish the following:

(1) Horns with 400 hours' or more total time in service on July 31, 1981, remove from service within the next 50 hours' time in service.

(2) Horns with less than 400 hours' total time in service on July 31, 1981, remove from service before attaining 450 hours' total time in service."

3. Adding new paragraph (h) to apply to pitch horns, P/N 350A-12-1368-02, as follows:

"(h) For pitch horns, P/N 350A-12-1368-02, remove from service on or before attaining 1,250 hours' total time in service."

4. Adding new paragraph (i) to allow compliance with recent service bulletins in place of TELEX Service No. 01.07A, as follows:

"(i) AS350 Service Bulletin No. 01.07 Revision 2 and AS355 Service Bulletin No. 01.01 Revision 1 may be used instead of TELEX Service No. 01.07A."

This amendment becomes effective December 18, 1981.

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

Note.—The FAA has determined that this document involves a regulation that is not considered to be major under Section 8 of Executive Order 12291, or significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). A copy of the final regulatory evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified 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 various courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Fort Worth, Texas, on December 4, 1981.

Henry N. Stewart,

Acting Director, Southwest Region.

[FR Doc. 81-35836 Filed 12-16-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Airworthiness Docket No. 81-ASW-57; Amdt. 39-4278]

Airworthiness Directives; Societe Nationale Industrielle Aerospatiale (SNIAS) Models SA360C and SA365C Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires reinforcement or strengthening of the tail boom at the stabilizer spar tube mount within 200 hours' time in service and requires initial and repetitive inspections of the stabilizer spar/spar tube junction for certain Aerospatiale SA360C and SA365C series helicopters. The AD is needed to preclude cracking and weakening of the tail boom and to detect possible cracks in the spar tube and thereby preclude failure of this stabilizer tube. Failure of the tail boom or stabilizer spar tube may result in possible loss of helicopter control.

DATES: Effective December 21, 1981. Compliance required as indicated in the AD. Comments must be received on or before January 21, 1982.

ADDRESSES: Send comments on the rule in triplicate to Office of Regional Counsel, Airworthiness Docket No. 81-ASW-57, Federal Aviation Administration, Southwest Region, P.O. Box 1689, Fort Worth, Texas 76101.

A copy of the service information may be examined at Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas. A copy of the service information may be obtained from Aerospatiale Helicopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75051, Attention: Customer Support.

FOR FURTHER INFORMATION CONTACT: Chris Christie, Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium, or James H. Major, Helicopter Policy and Procedures Staff, Aircraft Certification Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone (817) 624-4911, extension 502.

SUPPLEMENTARY INFORMATION: Reports of cracked tail booms were received by Aerospatiale. Service Bulletin No. 05.01 was issued to require an initial and repetitive inspections for cracks in the tail boom structure in the area of the stabilizer spar tube at 20-hour intervals for certain Aerospatiale Model SA360C and SA365C helicopters.

Installation of the tail boom modification, AMS365A.07.1310 contained in Service Bulletin No. 53.01 eliminates the need for repetitive inspections of this area of the tail boom for Model SA360C series helicopters up to S/N 1035 and Model SA365C S/N 5003 helicopter. Model SA360C series helicopters S/N 1035 and subsequent, and Model SA365C series helicopters S/N 5004 and subsequent were equipped with modified tail booms prior to delivery from the factory.

In addition, three recent cases of cracked stabilizer spar tubes have been reported at 440, 880, and 1030 hours' total time in service. Separation of the stabilizer from the helicopter did not occur and only the right side of each stabilizer was affected. Telex Service 05-06 Dauphin was issued by Aerospatiale to require an initial and 50-hour interval repetitive inspections for cracks in the spar tube.

Since cracks are likely to occur in the tail boom structure at the stabilizer spar tube mount for certain Model SA360C and SA365C series helicopters and since cracks are likely to occur in the stabilizer spar tube on Model SA360C and SA365C series helicopters an airworthiness directive is being adopted to require, within 200 hours' time in service, modification of the tail boom for certain helicopters as specified in Aerospatiale Service Bulletin No. 53-01 dated July 17, 1978, rather than requiring repetitive inspections of the tail boom at 20-hour intervals. The AD additionally requires an initial and repetitive inspection at 50-hour intervals for cracks in the stabilizer spar for all Aerospatiale Model SA360C and SA365C series helicopters.

Cracks in unmodified tail booms may occur at the stabilizer attachments and significantly weaken the tail boom structure. Cracks in the stabilizer spar may result in separation of the stabilizer from the helicopter. Loss of the stabilizer may cause possible loss of helicopter control. Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists, for making the amendment effective in less than 30 days.

Request for Comments on the Rule

Although this action is in the form of a final rule, and was not preceded by notice and public procedure, comments are 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. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule.

All comments submitted will be available, both before and after the closing date for comments, in the Office of Regional Counsel, Federal Aviation Administration, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas, for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the AD, will be filed in the docket.

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:

Societe Nationale Industrielle Aerospatiale (SNIAS). Applies to Models SA360C and SA365C series helicopters certificated in all categories.

Compliance is required as indicated.

To improve fatigue resistance and prevent possible cracks in the tail boom stabilizer spar attachment structure and to detect possible cracks in the stabilizer spar, accomplish the following:

(a) For Model SA360C series helicopters S/N up to and including 1034 and SA365C helicopter S/N 5003 only, comply with the following within 200 hours' time in service after the effective date of this AD unless already accomplished.

Modify the tail boom at the stabilizer tube mount in accordance with Aerospatiale Service Bulletin No. 53.01 dated July 17, 1978, by installing modification AMS 365A.07.1310 or by installing an equivalent modification approved by Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Office.

(b) For all Model SA360C series and SA365C series helicopters equipped with spar tubes, P/N 360A13.0012.01, comply with the following within 10 hours' time in service after the effective date of this AD unless already accomplished and thereafter at intervals not to exceed 50 hours' time in service from the last inspection.

(1) Remove the stabilizer spar tube, from the helicopter and inspect the spar tube for cracks at the location of the weld beads for spacers and spar tube junction using a dye penetrant or equivalent inspection method.

(2) If the spar tube is cracked discard the tube and install a serviceable tube before further flight and conduct repetitive inspections as specified in subparagraph (b).

(c) Equivalent means of compliance with the AD may be approved by the Chief Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Offices.

(Aerospatiale SA360 Dauphin Service Bulletin No. 05.01 pertains to tail boom inspections. Telex Service 05–06 Dauphin pertains to the stabilizer spar tube inspections. Modification No. AMS07–3255 may improve the spar tube to spacer weld joint.)

This amendment becomes effective December 21, 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 Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. 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 may be obtained by contacting the person identified 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 various courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Fort Worth, Texas, on December 4, 1981.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 81-35637 Filed 12-16-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-ASW-46]

Alteration of Transition Area: Austin, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will alter the transition area at Austin, TX. The intended effect of the amendment is to provide additional controlled airspace for aircraft executing new instrument approach procedures to the Lakeway Airpark, Austin, TX. This amendment is necessary to provide controlled airspace for aircraft using the Austin VORTAC and RNAV procedures. Coincident with this action, the airport is changed from visual flight rules (VFR) to instrument flight rules (IFR).

EFFECTIVE DATE: March 18, 1982.

FOR FURTHER INFORMATION CONTACT: James L. Owens, Airspace and Procedures Branch (ASW–536), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, telephone (817) 624–4911, extension 302.

SUPPLEMENTARY INFORMATION: On October 15, 1981, a notice of proposed rulemaking was published in the **Federal Register** (46 FR 50806) stating that the Federal Aviation Administration proposed to alter the Austin, TX, transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. One comment was received from the Air Transport Association of America (ATA). They interposed no objection provided the instrument approach procedures to the Lakeway Airpark do not affect operations at the Robert Mueller Airport. This comment was given due consideration, and it has been determined that VFR and IFR operations at Lakeway Airpark will not have any effect on VFR or IFR procedures at Robert Mueller Airport. Except for editorial changes, this amendment is that proposed in the notice.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR § 71–181) as republished (46 FR Part 540) is amended, effective 0901 GMT, March 18, 1982, by adding the following:

Austin, TX

* * * and within a 6.5-mile radius of the Lakeway Airpark (latitude 30°21'30" N., longitude 97°59'46" W.), and within 2.5 miles each side of the 349° bearing from the Lakeway Airpark extending from the 6.5-mile radius area to 8.5 miles north, and within 3 miles each side of the 284° bearing from the Lakeway Airpark extending to 13 miles west of the Lakeway Airpark.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c))

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 1103; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal.

Issued in Fort Worth, TX, on December 7, 1981.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 81-35635 Filed 12-16-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-AWP-28]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Revocation of Control Zones

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revokes the control zones at Flagstaff, Arizona, (Pulliam Airport), and San Diego, California (Brown Field). This amendment will return to public use airspace no longer required for the protection of aircraft arriving/departing Pulliam and Brown Field Municipal Airports.

EFFECTIVE DATE: December 17, 1981.

FOR FURTHER INFORMATION CONTACT: Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; telephone (213) 536-6181.

SUPPLEMENTARY INFORMATION:

History

The purpose of this amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to revoke the designated airspace associated with Pulliam Field and Brown Field Municipal Airports. This amendment is necessary since the airport traffic control towers have been temporarily closed because of the necessity of the FAA to redeploy all available resources and the discontinuance of weather reporting. The basic requirements for establishing or retaining a control zone are that there must be communication capability to the surface of the primary airport, and weather observations, both hourly and special, be taken and reported to the air traffic control facility having jurisdiction of the controlled airspace.

The Rule

This amendment to Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) revokes the Flagstaff, Arizona (Pulliam Field), and San Diego, California (Brown Field), control zones. Because this action reduces a burden on the public by reducing controlled airspace, I find notice and public procedure and publication 30 days before the effective date are unnecessary. Part 71 of the Federal Aviation Administration Regulations (14 CFR Part 71) was republished in the **Federal Register** on January 2, 1981 (46 FR 455).

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR Part 455) is amended, effective 0901 GMT, December 15, 1981, to read:

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510, Executive Order 10845 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.69)

Flagstaff, Arizona (Pulliam Airport)

San Diego, California (Brown Field)

Revoked.

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); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Los Angeles, California, on December 7, 1981.

H. C. McClure,

Director, Western Pacific Region.

[FR Doc. 81-35838 Filed 12-16-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-NE-07]

Alteration of the Brunswick, Maine Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The description of the Brunswick, Maine, Control Zone serving Brunswick Naval Air Station is amended by adding protected airspace for aircraft executing a new VOR/DME or TACAN Runway 19L Standard Instrument Approach Procedure (SIAP).

DATES: Effective December 21, 1981. Comments on the Rule must be received on or before February 21, 1982.

FOR FURTHER INFORMATION CONTACT: Richard Carlson, Operations Procedures and Airspace Branch, ANE-535, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7285.

SUPPLEMENTAL INFORMATION: As a result of the addition of a new approach procedure serving the Brunswick Naval Air Station, it is necessary to change the present description of the Brunswick, Maine, Control Zone, by adding protected airspace for aircraft executing a new VOR/DME or TACAN Runway 19L Standard Instrument Approach Procedure (SIAP).

Since this amendment is minor in nature and imposes no additional burden on any person, notice and public procedure herein are unnecessary.

Request for Comments on the Rule

Although this action is in the form of a Final Rule, which was not preceded by notice and public procedure, comments are 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. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the Rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the Rule that might suggest the need to modify the Rule.

The Rule

The FAA is amending subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by amending the description of the Brunswick, Maine, Control Zone.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR of Part 71) as follows:

1. Section 71.171 of Part 71 of the Federal Aviation Regulations is amended by changing the Brunswick, Maine, Control Zone to read as follows:

Within a 5-mile radius of NAS Brunswick (latitude 43°53'35" N, longitude 69°56'20" W) within 2 miles each side of the NAS Brunswick VORTAC 166° radial, extending from the 5-mile radius zone to 8 miles south of the VORTAC within 2 miles each side of the NAS Brunswick VORTAC 015° radial, extending from the 5-mile radius zone to 10 miles northeast of the VORTAC.

(Secs. 307(a) and 313(c), Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a) and 1354(c); sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c) and 14 CFR 11.69))

Note.—The FAA has determined that this document 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; and (4) will not have a significant economic impact on a substantial number of

small entities under the criteria of the Regulatory Flexibility Act.

Issued in Burlington, Massachusetts, on December 4, 1981.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 81-36036 Filed 12-16-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 121

[Docket No. 21269; Amdt. No. 121-176]

Certification and Operations: Domestic, Flag, and Supplemental Air Carriers and Commercial Operators of Large Aircraft; Emergency Evacuation Demonstration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment allows a Part 121 certificate holder to use the results of a successful emergency evacuation demonstration conducted either by a manufacturer under Part 25 of the Federal Aviation Regulations (FAR), or by another Part 121 certificate holder, and to conduct a partial demonstration of emergency evacuation procedures, if certain conditions are met. This amendment reduces the number of demonstrations, reduces the exposure to injury of participants required in those demonstrations, and still maintains the highest level of safety in air transportation. In addition, it reduces burdens on air carrier certificate holders and, therefore, is consistent with Executive Order 12291 and the Regulatory Flexibility Act.

EFFECTIVE DATE: January 18, 1982.

FOR FURTHER INFORMATION CONTACT: Marvin J. Walker, Regulatory Review Branch, AVS-22, Safety Regulations Staff, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 775-8714.

SUPPLEMENTARY INFORMATION:

Background

In the early 1960's National Transportation Safety Board (NTSB) accident reports showed that many deaths and injuries to passengers resulted from post-accident asphyxiation because passengers were unable to evacuate the airplane quickly. The problem of airplane emergency evacuation was further highlighted during an FAA public hearing on June 23, 1964, which led to the issuance of Amendment No. 121-2 (30 FR 3200; March 9, 1965), requiring emergency evacuation demonstrations. Although the amendment achieved the desired result of showing that the airplane could be successfully evacuated within an acceptable time, the demonstrations often resulted in injuries to participants, raising questions about the need for repeated demonstrations. Since the amendment took effect, the FAA has issued over one hundred exemptions from the requirement for emergency evacuation demonstrations. These exemptions proved to be effective in reducing injuries resulting from emergency evacuation demonstrations without compromising passenger safety. Although there is no injury reporting requirement associated with an air carrier's or manufacturer's demonstration of an emergency evacuation, FAA records reveal 169 injuries to participants in a sampling of eight emergency evacuation demonstrations conducted during the past 9 years.

An examination of aircraft evacuations in actual emergency situations provides useful insight into the nature and severity of evacuation-related injuries. Based on data obtained from the FAA and the NTSB, the FAA Civil Aeromedical Institute (CAMI) accident and incident data bank lists 112 evacuations involving 8,886 persons, with 57 of these evacuations producing 157 serious and 465 minor evacuation-related injuries during the 5-year period of 1970-1974. These evacuations were prompted by bomb threats, tire failures, smoke in the cabin, and other abnormal operating situations. Injuries to passengers ranged from simple abrasions to slide burns, lacerations, and fractures.

Based on the number of evacuation-related injuries sustained during repeated evacuation demonstrations conducted under Parts 25 and 121, the FAA issued Notice of Proposed Rulemaking No. 81-1 which was published in the **Federal Register** on January 19, 1981 (46 FR 5484). Proposal number 11-3 would allow a Part 121 certificate holder to use the results of a successful demonstration conducted either by a manufacturer under Part 25, or by another Part 121 certificate holder, rather than to conduct a demonstration of emergency evacuation procedures, if certain conditions are met. The certificate holder instead would conduct a partial demonstration by: (1) opening 50 percent of the floor-level exits; (2) opening 50 percent of the non-floor-level exits whose opening by a flight attendant is defined as an emergency evacuation duty under § 121.397; and (3) deploying 50 percent of the exit slides all within 15 seconds. The flight attendants would be selected by the FAA at random and they would not be coached on the procedures just before the demonstration. However, if a demonstration had not been previously conducted, the rule would continue to require a demonstration upon: (1) the initial introduction of a type and model of airplane into passenger-carrying operations; (2) upon increasing the passenger seating capacity by more than 5 percent; and (3) following any alteration that significantly changes the passenger cabin seating configuration or emergency exits.

Proposal number 11-3 also recognized the regulatory action taken in Airworthiness Review Amendment No. 7 (43 FR 50578; October 30, 1978), in which the emergency evacuation demonstration requirements of § 25.803 were upgraded to those required by Part 121 so that one demonstration would suffice for the issuance of, or changes to, an aircraft type certificate, and also for compliance with the operational requirement in § 121.291.

Proposal number 11-3 also would clarify the requirements concerning successfully demonstrating ditching procedures for those certificate holders who are operating a type and model of airplane for which a successful ditching demonstration had been previously conducted by another Part 121 operator. Finally, proposal 11-3 would provide for the inflation of only one life raft since such a demonstration provides a sufficient test of safety procedures. The FAA is processing proposal 11-3 separately from the others contained in Notice No. 81-1 due to the public interest it has generated.

Discussion

This amendment is the result of a number of significant items raised in the comments on proposal number 11-3 and a recently completed FAA study of the emergency evacuation demonstrations conducted over the past 10 years. The comments and study show the need for a change in the presentation of the final rule, but not its overall effect. Specifics concerning the comments and the study will be discussed separately. In general, the study has shown that there are three problems in ensuring that an aircraft can be safety evacuated: (1) having an aircraft which has the capability of being evacuated within the established time limit; (2) providing training to enable the crewmembers to perform emergency evacuation duties which will ensure that the evacuation is conducted as efficiently and effectively as possible; and (3) having a proper maintenance program to ensure that the aircraft equipment will function properly. Under

proposal 11–3 and this amendment, problem (1) is resolved by a demonstration conducted by the manufacturer during aircraft certification or by a Part 121 operator. Problems (2) and (3) are resolved by a partial demonstration. This demonstration shows that crewmembers who have been trained by the carrier and randomly selected for the demonstration can prepare the aircraft within a 15-second time limit. This time limit has been shown to be more conservative than the average time needed to prepare the aricraft in past evacuation demonstrations. The partial demonstration also provides a test to ensure that all aircraft equipment functions within its standards.

Under paragraphs (a)(1) thru (a)(3) of proposal 11–3, a Part 121 demonstration would be required if there was an increase in passenger seating capacity by more than 5 percent, or following the rebuilding or alteration of an aircraft, or the introduction of a new aircraft. Basing the need for a full demonstration upon these occurrences is unnecessary, since a demonstration would have already been required under § 25.803 if any of these conditions occur. For example, if an operator desired to change the seating configuration of its aircraft, it would be required as part of obtaining FAA approval of the change, to show the emergency evacuation capabilities under the provisions of § 25.803. To require an emergency evacuation demonstration under Part 121 would be redundant and inconsistent with the provisions of Executive Order 12291. Similar provisions in proposed paragraphs (b) and (c) have been revised to ensure the purpose of the partial demonstration is achieved. That purpose is to show that the carrier's procedures, training program, and maintenance programs are capable of preparing the aircraft and deploying the emergency equipment within 15 seconds.

With the revisions just described, clarification has been provided as to when a partial demonstration needs to be repeated by a carrier. The partial demonstration must be conducted upon initial introduction of an aircraft and any time there is a change in the number, location, or emergency evacuation duties or procedures of flight attendants who are required by § 121.391; or a change in the number, location, type of emergency exits, or type of opening mechanism on emergency exits available for evacuation. However, it is not intended that this rule would be applied in the case of a minor change in the flight attendant emergency evacuation duties or procedures which would not affect the outcome of the demonstration. Through this clarification, the carrier has the flexibility to make modifications to its operation while maintaining safety by ensuring that a partial demonstration has shown that the operation will result in preparing the aircraft within the 15-second safety tolerance.

Comments

Six persons submitted written views on proposal number 11–3. Three of these persons represented flight attendant unions. One person represented an aviation consumer group. These individuals representing their respective interest groups state that the proposal, if adopted, would reduce the level of safety afforded the public. These organizations did not submit specific information of data to substantiate their positions. Two commenters generally favor the proposal but offer suggested changes discussed later.

One commenter opposes the proposal, claiming it will bring an end to the assurance that an airline crew can evacuate an airplane in the very short time after crash before escape becomes difficult, if not impossible. The commenter contends that crew training in emergency evacuation can vary from airline to airline, arguing that because one airline can evacuate an airplane in the required time does not mean that another can do the same. This commenter asserts that this may especially be the case when one airline has no experience in wide-body airplanes, or when a new carrier has no history of crew training or evacuation experience. This amendment meets those concerns. Each Part 121 certificate holder must conduct a partial demonstration of emergency evacuation procedures: (1) upon the initial introduction of a type and model of airplane into passenger carrying operations; (2) upon changing the number, location, or emergency evacuation duties or procedures of flight attendants required by § 121.391; or (3) upon changing the number, location, type of emergency exits, or type of opening mechanism on emergency exits available for evacuation. Thus, the rule assures the FAA and the traveling public that the crew training and procedures of each operator for each type of airplane are tested and that the crew is adequately trained to prepare each airplane, whether narrow- or wide-bodied, for an emergency evacuation.

Another commenter objects to the need to conduct partial demonstrations without passengers under any circumstances when an evacuation has been satisfactorily demonstrated by either the manufacturer or a Part 121 certificate holder on the specific type and model of airplane having no more passenger seats than the number demonstrated. The commenter contends that the FAA inspector who oversees the carrier can assure that its training program and procedures meet the level of proficiency required for safety without heeding to conduct a partial demonstration. On the contrary, demonstration of emergency evacuation procedures is the final dress rehearsal for an emergency evacuation. The demonstration assures the FAA and the traveling public that a Part 121 certificate holder's flight attendant training program provides a successful evacuation if an emergency occurs. The adequacy of the certificate holder's training program is reflected in the crew's performance during the demonstration.

Another commenter states that flight attendant training varies from airline to airline and that some operators are better able than others to meet the present full-scale emergency evacuation requirements. The commenter claims that a requirement for only one demonstration conducted by either the manufacturer or a Part 121 certificate holder is totally inadequate. This is not so. While some variation exists in flight attendant training programs among the airlines, all training programs must ensure the level of safety as required by the regulations. There is no evidence (and the commenter submits none) to show that requiring a single emergency evacuation demonstration is inadequate. No substantive data or information exist to indicate that repetitive emergency evacuation demonstrations offer a greater level of safety to the air traveler.

Two commenters suggest changing proposal number 11–3 to authorize the use of analysis to show that an airplane can be successfully evacuated within 90 seconds. This is not necessary because the manufacturer or a Part 121 certificate holder will already have shown that the airplane is capable of being evacuated within 90 seconds. Under this amendment, however, the operator must show that the airplane maintenance and crew training programs result in the airplane being ready for evacuation within 15 seconds.

One commenter supports proposals number 11–3, but suggests that the reference to aisle width and seat pitch be deleted because seating capacity changes are accomplished by varying these and other parameters. This comment has merit. Cabin configuration, including seat pitch and aisle width, are

varied to reduce or increase the passenger seating capacity. The operator cannot increase the seating capacity beyond the maximum passenger seating capacity certificated for the type and model. In addition, Parts 25 and 121 require a minimum aisle width as well as accessibility to the emergency exists. Thus, the references to passenger cabin seating configuration, seat pitch, and aisle width are not necessary and are deleted from § 121.291, as adopted. The commenter also suggests that the acceptable time limit for the exits and slides to be ready should be 15 seconds. The commenter claims that it is inappropriate to refer to a shorter period which may have been achieved during a demonstration conducted under Part 25. This comment has merit, since a time limit of 15 seconds is adequate to ready the exists and slides, as discussed later under "FAA Study." The reference to a lesser period is deleted from § 121.291 as adopted.

In addition to the changes mentioned above, other changes are adopted in this amendment. Section 121.291(a) is changed to incorporate the current § 121.291(c). This editorial change recognizes the amendment to § 25.803 made in 1978 which made the demonstration required of a manufacturer and the demonstration required of a Part 121 certificate holder essentially equivalent. Thus, a demonstration conducted under § 25.803 by a manufacturer after November 30, 1978, or a demonstration conducted by a Part 121 certificate holder under § 121.291 after October 23, 1967, (the date at which the rule was amended to provide for a 90-second time limit as opposed to a 120-second time limit) is acceptable under § 121.291(a) as adopted. In addition, any change in the type design of an airplane must be accomplished under Part 25. Thus, the emergency evacuation requirements of § 25.803 must be met if the type design change affects the emergency evacuation procedures.

Section 121.291, as adopted, also allows a Part 121 certificate holder to increase the seating capacity of an airplane up to the maximum number of passengers certificated for the airplane under Part 25. The limitation to no more than a 5 percent increase in seating capacity (proposed in §§ 121.291(a)(1) and 121.291(b)(1)) is unnecessary and, therefore, deleted. Repeating a demonstration due to increased seating capacity alone is not required, unless the increase is more than the maximum number approved in the type certificate for the airplane. This is because the ability to evacuate the entire aircraft at its maximum capacity has already been demonstrated. However, after an airplane type and model is introduced into passenger-carrying operations, the certificate holder must conduct a partial demonstration upon either changing the number, location, or emergency evacuation duties or procedures of flight attendants required by § 121.391; or upon changing the number, location, type of emergency exits, or the type of opening mechanism on emergency exits available for evacuation. Section 121.391(a) requires an additional flight attendant for each unit (or part of a unit) of 50 passenger seats. Thus, any seating capacity change from one unit of 50 to the next unit would mean an increase in the number of flight attendants which, in turn, would require another partial demonstration. For example, an operator who conducted a partial demonstration of an airplane with 130 passengers could, without repeating the demonstration, either reduce the number of passengers or increase the number of passengers up to 150 without changing the number of flight attendants. Of course, the conditions stipulated in § 121.291(b) (2) and (3) must be met and the airplane must be certificated for 150 passengers. If the airplane was certificated for more than 150 passengers, the operator may wish to increase the passenger seating capacity from 130 to more than 150 passengers. Then, § 121.391 requires an additional flight attendant and this, in turn, would require another partial demonstration. This is because of the addition of one required flight attendant, and because of probable changes in the duties and location of the three flight attendants already required on the airplane.

The use of a practical examination is authorized under § 121.291(c)(3) as adopted. A practical examination, given to flight attendants before they conduct a partial demonstration, will produce results equivalent to those achieved in a written examination on airplane emergency equipment and procedures. Current § 121.291(b), which contains simulated ditching requirements, is redesignated § 121.291(d). No comments were received on proposed § 121.291(e) which simplified the simulated ditching requirements for Part 121 certificate holders seeking to operate airplanes on which one or more successful ditching demonstrations had been previously conducted. An editorial change is made to § 121.291(e), as adopted, to differentiate between airplanes with stowed life rafts and those equipped with the combination slide/life raft. Section 121.391(b) refers to the use of additional flight attendants in an emergency evacuation demonstration. That section is revised editorially to add a refernece to § 121.291(b) for consistency, whether the demonstration is conducted under either § 121.291(a) or § 121.291(b).

FAA Study

The FAA conducted a study to ensure that the safety standards in this amendment are equivalent to those provided by the current regulation. The FAA examined over 10 years of data on emergency evacuation demonstrations. The data consisted of 251 evacuation demonstrations conducted before 1967 when § 121.291 required total evacuation within 120 seconds; 259 evacuation demonstrations conducted under the current rule which requires total evacuation within 90 seconds; and 90 partial demonstrated conducted under exemption where flight attendants demonstrated their ability to ready the exits and slides within 15 seconds with no passengers involved.

Data on evacuation demonstrations conducted under the current rule (total evacuation within 90 seconds), was analyzed and compared to demonstrations conducted under exemptions (exits and slides ready within 15 seconds). In 136 evacuation demonstrations conducted under the current rule, the average time taken to ready the exits and slides for the first passenger to evacuate was 19.5 seconds. By comparison, in 60 partial evacuations conducted under exemptions, the average time to ready the exits and slides was 13.4 seconds. This is 6.1 seconds less than the average time to ready the exits and slides during a demonstration conducted under the current rule.

The reduced time to ready the exits and slides in a partial evacuation may be explained in part by the lack of passenger interference. However, 134 total evacuation demonstrations under the current rule were examined to determine the average time to evacuate the last person when the exits and slides were ready in 15 seconds or less and when they were ready in more than 15 seconds. In the 53 evacuation demonstrations where the exits and slides were ready in 15 seconds or less, the average time to evacuate the last person was 75.9 seconds. In the 81 remaining evacuations where the exits and slides were ready in more than 15 seconds, the average time to evacuate the last person was 78.6 seconds.

Thus, when the exits and slides were ready in 15 seconds or less, a savings of 2.7 seconds was achieved in the average

time to evacuate the airplane as compared to those tests in which it took more than 15 seconds to ready the exits and slides. Thus, the partial demonstration under the exemptions required the air carrier to exhibit faster execution of a vital phase of the evacuation process than is exhibited under the current rule. Concentration and compression of the crucial exit/slide preparation phase allows more time for the passenger evacuation phase and, therefore, establishes a more stringent safety standard than the current rule.

Research tests and evacuation demonstrations show that passengers tend to form continuous lines at available exits when evacuating an airplane. The time to ready the exits and slides allows passengers to gather at the exits, resulting in a continuous flow rate for each type of exit until the last person has evacuated. An examination of 89 evacuation demonstrations revealed an average continuous flow rate of 52.2 persons each minute through Type I floor-level door exits (24x48 inches); 85.8 persons each minute through Type A floor-level door exits (42x72 inches); 39.2 persons each minute through Type III window exits (20x36 inches); and 36 persons each minute through Type IV window exits (19x26 inches). The rate of passenger egress from the same type exit on different make and model airplanes reveals consistent flow rates. Thus, the study concludes that with rare exception, the rates of passenger egress are not significantly different within each type of exit and that changes in the passenger cabin configuration, seat pitch, and aisle width have no significant bearing on the egress rates if the aircraft certification requirements for minimum aisle width and exit accessibility are met.

Furthermore, summary statistics from 20 model evacuation runs computed by the FAA Civil Aeromedical Institute in Oklahoma City revealed predictable patterns of exit utilization and average overall escape times for each exit. Calculations for overall escape times for each exit can be performed by using the total time from test start to the last passenger leaving that exit. This recently gained knowledge on flow patterns and exit utilization, with Part 25 and Part 121 requirements for minimum aisle width and accessibility to emergency exits, lends support to adopting this rule.

Conclusion

Interested persons have been given an opportunity to participate in the making of this amendment and due consideration has been given to all comments presented. This rule requires the carrier to exhibit a faster execution of a vital phase of the evacuation process than has been required until now. This rule, with concentration and compression of the crucial exit/slide preparation phase, allows more time for the passenger evacuation phase. Also, this rule provides an immediate test "failure" when any of the designated airplane exits fail to open properly or when any of the slides fail to extend fully. The rules now allow utilization of the remaining exits for evacuation. In this regard, the rule adopted here is more stringent than a test conducted under today's rule, which provides that the demonstration is unsatisfactory only if the 90-second time limit is not met.

The partial demonstrations required by this rule demonstrate the effectiveness of the flight crewmember and flight attendant training programs, the evacuation procedures, and the airplane equipment serviceability. Partial evacuation demonstrations show how the airplane is prepared for evacuation by the flight crewmember and flight attendants, while the capability to evacuate a particular airplane is shown by the previously demonstrated evacuation.

This rule eliminates the risk of injury to passengers which occurs in emergency evacuation demonstrations. The risk of injury during repetitive emergency evacuations is very real and significant. For instance, two jumbo jet evacuations, each involving 345 passengers, resulted in 35 injuries in one demonstration and 46 injuries in the other. These injuries included friction burns, abrasions, fractures, and sprains. The rule, as adopted, is a reasonable standard which provides the highest level of passenger safety in air transportation.

Adoption of the Amendment

Accordingly, Part 121 of the Federal Aviation Regulations (14 CFR Part 121) is amended as follows, effective January 18, 1982.

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

1. By revising § 121.291 to read as follows:

§ 121.291 Demonstration of emergency evacuation procedures.

(a) Each certificate holder must conduct an actual demonstration of emergency evacuation procedures in accordance with paragraph (a) of Appendix D to this part to show that each type and model of airplane with a seating capacity of more than 44 passengers to be used in its passenger-carrying operations allows the evacuation of the full seating capacity, including crewmembers, in 90 seconds or less, if that airplane type and model has not been shown to be in compliance with:

(1) Section 25.803 of this chapter in effect on December 1, 1978, during type certification; or

(2) Section 121.291(a) of this chapter in effect on October 24, 1967.

(b) Each certificate holder must conduct a partial demonstration of emergency evacuation procedures in accordance with paragraph (c) of this section upon:

(1) Initial introduction of a type and model of airplane into passenger/carrying operation, if the certificate holder has not conducted an actual demonstration under paragraph (a) of this section;

(2) Changing the number, location, or emergency evacuation duties or procedures of flight attendants who are required by § 121.391; or

(3) Changing the number, location, type of emergency exits, or type of opening mechanism on emergency exits available for evacuation.

(c) In conducting a partial demonstration each certificate holder must:

(1) Demonstrate the effectiveness of its crewmember emergency training and evacuation procedures by conducting a demonstration, not requiring passengers and observed by the Administrator, in which the flight attendants for that type and model of airplane, using that operator's line operating procedures, open 50 percent of the required floor-level emergency exits and 50 percent of the required non-floor-level emergency exits whose opening by a flight attendant is defined as an emergency evacuation duty under § 121.397, and deploy 50 percent of the exit slides. The exits and slides will be selected by the administrator and must be ready for use within 15 seconds;

(2) Apply for and obtain approval from the Flight Standards District Office maintaining surveillance of its operations before conducting the demonstration;

(3) Use flight attendants in this demonstration who have been selected at random by the Administrator, have completed the certificate holder's FAA-approved training program for the type and model of airplane, and have passed a written or practical examination on

the emergency equipment and procedures; and

(4) Apply for and obtain approval from the FAA certificate-holding office having jurisdiction over its operations before commencing operations with this type and model airplane.

(d) Each certificate holder operating or proposing to operate one or more landplanes in extended overwater operations, or otherwise required to have certain equipment under § 121.339, must show, by simulated ditching conducted in accordance with paragraph (b) of Appendix D to this part, that it has the ability to efficiently carry out its ditching procedures.

(e) For a type and model airplane for which the simulated ditching specified in paragraph (d) has been conducted by a Part 121 certificate holder, the requirements of paragraphs (b)(2), (b)(4), and (b)(5) of Appendix D to this part are complied with if each life raft is removed from stowage, one life raft is launched and inflated (or one slide life raft is inflated) and crewmembers assigned to the inflated life raft display and describe the use of each item of required emergency equipment. The life raft or slide life raft to be inflated will be selected by the Administrator.

2. By revising the introductory text of § 121.391(b) to read as follows:

§ 121.391 Flight attendants.

* * * * *

(b) If, in conducting the emergency evacuation demonstration required under § 121.291 (a) or (b), the certificate holder used more flight attendants than is required under paragraph (a) of this section for the maximum seating capacity of the airplane used in the demonstration, he may not, thereafter, take off that airplane—

* * * * *

(Secs. 313, 314, and 601 through 610 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354, 1355, and 1421 through 1430); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.45)

Note.—Since this amendment is relaxatory in nature, it has been determined that this document: (1) involves a regulation which is not a major rule under Executive Order 12291; (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) under the criteria of the Regulatory Flexibility Act, I certify that the rule will not have a significant economic impact on a substantial number of small entities since this rule reduces the number of full-scale emergency evacuation demonstrations that need to be conducted, without compromising safety. This in turn reduces the exposure to injury caused by the evacuation demonstrations. A copy of the final regulatory evaluation for this action is contained in the public docket. A copy of that evaluation may be obtained by contacting the person identified above under the caption "For Further Information Contact."

Issued in Washington, D.C., on November 10, 1981.

J. Lynn Helms,

Administrator.

[FR Doc. 81-36040 Filed 12-16-81; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-18321; File No. S7-904]

Recordkeeping by Brokers and Dealers

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting a rule under the Securities Exchange Act of 1934 (the "Exchange Act") which requires brokers and dealers to file reports and make and preserve records pursuant to the Currency and Foreign Transactions Reporting Act of 1970 (the "Currency Act") and the regulations of the Department of the Treasury promulgated thereunder.

EFFECTIVE DATE: January 18, 1982.

FOR FURTHER INFORMATION CONTACT: Elizabeth S. York, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, (202) 272-2376.

SUPPLEMENTARY INFORMATION: The Commission solicited comments to proposed rule 17a-8 in Securities Exchange Act Release No. 34-18073 (August 31, 1981).[1] No comments were received by the Commission in response to the rule proposal. This action adopts the rule as previously proposed.

Background

The Currency and Foreign Transactions Reporting Act of 1970 (the "Currency Act")[2] and the Department of the Treasury regulations (the "Treasury regulations") promulgated thereunder[3] require that certain financial institutions, including securities brokers and dealers, make reports and maintain records on, among other things, domestic currency transactions of more than $10,000 and the import and export of currency and monetary instruments of $5,000 or more.

According to the Currency Act, the Treasury is responsible for implementing and administering the reporting and recordkeeping requirements of the Currency Act. With respect to securities brokers and dealers, the Treasury has delegated to the Commission the responsibility for assuring compliance with the Currency Act and Treasury regulations.[4]

The most effective means of enforcing compliance with the reporting and recordkeeping requirements is through on-site examinations of broker-dealer firms conducted by the Commission and the self-regulatory organizations (the "SROs"). In order to assure compliance and effective oversight by the SROs, the Commission is adopting Rule 17a-8 under the Exchange Act. This rule requires brokers and dealers to file reports and make and retain the records specified in the Treasury regulations. Moreover, brokers and dealers are required to make and retain their records in a manner which identifies the receipt and disbursement of currency in connection with securities transactions.[5]

The Currency Act and Treasury Regulations

The Currency Act requires brokers and dealers to file three types of reports. First, domestic financial institutions are required to report the payment, receipt, or transfer of United States currency or other monetary instruments.[6] Second, any person who exports or imports monetary instruments in an amount exceeding $5,000 is required to file with the Treasury.[7] Finally, any resident or citizen of the United States or person doing business therein who engages in any transaction or maintains any relationship with a foreign financial agency is required to file with the Treasury regarding such relationship.[8]

The Treasury regulations were adopted in 1972, in order to implement the above provisions of the Currency Act. Currently, the Treasury regulations require brokers and dealers to file three different reports. First, they must file a report with the Internal Revenue Service (the "IRS")[9] of any transaction in currency exceeding $10,000.[10] Second, a report must be filed with the Commissioner of Customs[11] when a person exports or imports currency or monetary instruments in an amount

[1] 46 FR 44775 (September 8, 1981).

[2] Pub. L. 91-508, 84 Stat. 1114, 12 U.S.C. 1730d, 1829b, 1951-1959, 31 U.S.C. 1051-1122.

[3] 31 CFR 103.11-103.51, 37 FR 6912 (April 5, 1972).

[4] 31 CFR 103.46(a)(6).

[5] 17 CFR 240.17a-3(a)(1).

[6] 31 U.S.C. 1081.

[7] 31 U.S.C. 1101.

[8] 31 U.S.C. 1121.

[9] 31CFR 103.25(a).

[10] 31 CFR 103.22.

[11] 31 CFR 103.25 (b) and (c).

exceeding $5,000.[12] A final reporting provision requires all persons subject to the jurisdiction of the United States to file a report with the Treasury regarding any financial interest or authority over a bank, securities or other financial account in a foreign country.[13]

In addition to the above reporting requirements, the Treasury regulations require financial institutions to make and preserve certain records. For example, a record of extensions of credit in excess of $5,000, a record of transactions involving the transfer of funds of more than $10,000 to outside the United States and a record of financial interests in foreign financial accounts must be made and retained for five years.[14]

The Treasury regulations also require certain additional records to be made and retained by brokers and dealers. Specifically, a broker or dealer must maintain for a period of five years: (1) a record of its customer's taxpayer identification number; (2) a copy of each document granting authority over a customer's account; (3) each record described in rule 17a–3(a)(1)–(9); and (4) a record of any transaction exceeding $10,000 to or from a person, account or place outside the United States.[15]

Rule 17a–8

Rule 17a–8 requires brokers and dealers to make the records and reports required by the Treasury regulations as outlined above. The rule does not specify the required reports and records so as to allow for any revisions the Treasury may adopt in the future.

Rule 17a–8 requires brokers and dealers to retain the records required by the Currency Act for the time specified in the Treasury regulations. Currently, that time period is 5 years. However, where an Exchange Act rule and Treasury regulation require the retention of identical records for varying periods of time, brokers and dealers are required to retain the records for the longer period of time so as to satisfy the requirements of both the Exchange Act and the Currency Act.

The Commission believes that the rule is consistent with the purposes of the Exchange Act and the Commission's obligation to enforce broker-dealer recordkeeping requirements. Adoption of this rule by the Commission will clarify the authority of the SROs to assure compliance by brokers and dealers with the recordkeeping and retention requirements of the Currency Act.

Statutory Basis and Competitive Considerations

All brokers and dealers affected by this rule are already subject to identical Treasury regulations. Therefore, it appears to the Commission that no burden on competition will be imposed by this rule.

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

The Securities and Exchange Commission, acting pursuant to the Securities Exchange Act of 1934, and particularly sections 3, 10, 15, 17 and 23 thereof, hereby amends Part 240 of Chapter II of Title 17 of the Code of Federal Regulations by adding § 240.17a–8 to read as follows:

§ 240.17a–8 Financial recordkeeping and reporting of currency and foreign transactions.

Every registered broker or dealer who is subject to the requirements of the Currency and Foreign Transactions Reporting Act of 1970 shall comply with the reporting, recordkeeping and record retention requirements of Part 103 of Title 31 of the Code of Federal Regulations. Where Part 103 of Title 31 of the Code of Federal Regulations and § 240.17a–4 of this chapter require the same records or reports to be preserved for different periods of time, such records or reports shall be preserved for the longer period of time.

Regulatory Flexibility Act Considerations

Pursuant to 5 U.S.C. 601 et seq., notice was published on September 8, 1981, that the Chairman of the Commission had certified that the proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act. No comments were received concerning the certification. Therefore, the Commission does not believe that the rule adopted herein will have a significant impact on small, or any other, broker-dealers.

By the Commission.

George A. Fitzsimmons,

Secretary.

December 10, 1981.

[FR Doc. 81–36105 Filed 12–16–81; 8:45 am]

BILLING CODE 8010–01–M

[12] 31 CFR 103.23.

[13] 31 CFR 103.24.

[14] See, 31 CFR 103.31, 103.32, 103.33 and 103.36.

[15] 31 CFR 103.35.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 235

[Docket No. R–81–936]

Financial Assistance—Nonimmigrant Student-Aliens; Correction

AGENCY: Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Correction of interim rule.

SUMMARY: This document corrects an error in § 235.325 contained in the Interim Rule published on November 17, 1981, 46 FR 56421, Docket No. R–81–936.

FOR FURTHER INFORMATION CONTACT: John Coonts, Single Family Development Division, Office of Single Family Housing, Department of Housing and Urban Development, Washington, D.C. 20410, telephone (202) 755–6720.

Correction of Publication

The following correction is made to the Interim Rule in FR Docket No. R–81–936 appearing at 46 FR 56421 in the issue of November 17, 1981.

§ 235.325 [Corrected]

On page 56422, § 235.325 *Qualified cooperative members*, paragraph (e) is corrected to read paragraph (c).

Issued at Washington, D.C., December 11, 1981.

Philip D. Winn,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 81–36062 Filed 12–16–81; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF JUSTICE

28 CFR Part 16

[AAG/A Order No. 79–81]

Exemption of Records Systems Under the Privacy Act

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The Federal Bureau of Investigation is amending its Privacy Act regulations by removing the exemption for the FBI Alcoholism Program (JUSTICE/FBI–014) system.

DATE: This rule will be effective December 17, 1981.

ADDRESS: All comments should be addressed to the Administrative

Counsel, Justice Management Division, Department of Justice, Room 6239, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

FOR FURTHER INFORMATION CONTACT: William J. Snider (202–633–3452).

SUPPLEMENTARY INFORMATION: This rule amends 28 CFR 16.96 by removing the exemption of this system from subsection (d) of the Privacy Act.

Since removal of this exemption would be in the public interest, it has been determined that it is impracticable and unnecessary to provide opportunity for public comment and that it is contrary to the public interest to delay the effective date of this rule. This determination is made in accordance with 5 U.S.C. 553(b)(B). Further, this rule is exempt from the application of Executive Order 12291 pursuant to section 1(a)(3) thereof.

Accordingly, pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order No. 793–78, 28 CFR 16.96 is hereby amended as described below.

Dated: December 1, 1981.

Kevin D. Rooney,

Assistant Attorney General for Administration.

PART 16—PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION

§ 16.96 [Amended]

Section 16.96 of Title 28 of the Code of Federal Regulations is amended by removing paragraphs (j) and (k).

(5 U.S.C. 553(b)(B))

[FR Doc. 81–36016 Filed 12–16–81; 8:45 am]

BILLING CODE 4410–02–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 82

[CGD 81–087]

Disestablishing of COLREGS Demarcation Lines for Puget Sound and Adjacent Waters of Northwest Washington

AGENCY: Coast Guard, DOT.

ACTION: Interim final rule.

SUMMARY: The Coast Guard is amending those regulations which establish a Line of Demarcation in the Strait of Juan de Fuca, Haro Strait, and the Strait of Georgia in western Washington. This Line of Demarcation separates the waters on which the International Rules for the Prevention of Collisions at Sea, 1972 (COLREGS) apply and those waters where the Inland Navigational Rules apply. At present, vessels navigating from the high seas and Canadian waters into the waters of western Washington must comply with COLREGS until they reach the vicinity of Dungeness Spit, and then must comply with the Inland Rules as they continue into Puget Sound and adjacent waters. Elimination of the Line of Demarcation will simplify the transit of all vessels between the high seas, Canadian waters and Puget Sound. This will result in the application of identical or very similar navigation rules in all waters in the area and should enhance the safety of all vessels.

EFFECTIVE DATES: This regulation becomes effective on December 24, 1981.

ADDRESS: Comments should be mailed to Commander Roger Pike, Chief, Port Safety Branch, Thirteenth Coast Guard District, 915 Second Ave., Seattle, Washington, 98174, (206) 442–5537. The comments will be available for inspection and copying at this location. Normal office hours are between 8:00 am and 4:00 pm, Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Commander Roger Pike, Port Safety Branch, Thirteenth Coast Guard District, 915 Second Ave., Seattle, Washington, 98174, (206) 442–5537.

SUPPLEMENTARY INFORMATION: An Advance Notice of Proposed Rulemaking was published on April 16, 1981 (46 FR 22207) under Docket 80–119. This notice announced that the Coast Guard was considering amending the regulations governing vessel operation on the waters of northwestern Washington, including the Puget Sound Vessel Traffic Service Area (VTS). This arose from the increase in vessel traffic in these waters and the increasing number of conflicts between the various users. A public hearing was held in Seattle, Washington, on July 3, 1981, to discuss the means of alleviating the problem. Nearly all of the commenters at the public hearing recommended that an open conference be held to enable the public to fully participate in finding solutions that would have broad support. The Coast Guard adopted this approach and on October 13–14, 1981, conducted an open conference. Working groups were formed from among the conferees to study specific areas. The conference, in plenary session, adopted a number of recommendations, including that the Line of Demarcation between international and inland waters be abolished. The working group for the Rules of the Road, with broad support of the conferees, stated that it would be desirable for the area described as Puget Sound and adjacent waters to be governed by the COLREGS.

Without this rulemaking the existing navigation rules would be replaced on December 24, 1981, by a new set of rules which are modeled on the COLREGS. While quite similar there are several significant differences between the new Inland Navigational Rules and the COLREGS. Among these are different navigational lighting requirements and differing signals between approaching vessels. With the implementation of the new Inland Rules the Puget Sound area would be under the new rules while the adjoining Canadian waters and the approaches to the Sound would remain under the COLREGS. Since many of the vessels using the Sound also navigate in waters where COLREGS apply, the use of two different sets of navigation rules is a possible source of confusion and is an unnecessary burden.

The Coast Guard has determined that the use of the COLREGS throughout Puget Sound will provide a reasonable solution to the problem. Unless implemented promptly, persons navigating in Puget Sound would be operating under three different sets of navigational rules within a short period of time. The current statutory navigation rules would be replaced by the new Inland Navigation Rules on December 24. The subsequent adoption of the COLREGS in Puget Sound would then create the need to learn a third set of rules. Some of the confusion which naturally arises from a change in rules could be reduced by implementing the COLREGS in the waters of western Washington on December 24, instead of the new Inland Navigation Rules.

Although this document is issued as an interim final rule comments are solicited from the public and will be considered by the Coast Guard. Comment is specifically solicited as to any problems which may arise in complying with the technical lighting requirements of the COLREGS. Comments should be directed as indicated under "Address."

DRAFTING INFORMATION: The principal persons involved in this rulemaking are CDR Roger Pike, Thirteenth Coast Guard District, Seattle, Washington, and LT Michael Tagg, Office of the Chief Counsel, U.S. Coast Guard, Washington, D.C.

REGULATORY ANALYSIS: This interim final rule has been reviewed under the Policies and Procedures for Simplification, Analysis and Review of Regulations (DOT Order 2100.5 of May

22, 1980) and found to be non-significant. The implementation of the COLREGS in Puget Sound will affect the same businesses, individuals, and government bodies as would be affected by the new Inland Rules. Most commercial vessels and many of the pleasure vessels operating on Puget Sound also operate on waters that are subject to the COLREGS, and are already equipped to comply with those rules. The greatest impact of the rulemaking will be on the owners of vessels, primarily small pleasure boats, whose operation is limited to Puget Sound and those adjacent waters presently covered by the Inland Rules. Complying with the COLREGS will impose a slightly greater expense on this group than would be imposed by the new Inland Rules, due to the different navigation lights requirements and the lack of a grandfather clause for existing vessels.

The new Inland Rules will require power driven vessels to have a masthead light, sidelights and a sternlight. Those less than 12M (39'4") may exhibit an all-around white light and sidelights as an optional configuration. Except for power driven vessels under 7M (23') whose maximum speed does not exceed 7 knots, COLREGS requires all power driven vessels less than 50M (164') to have a masthead light, sidelights and a sternlight. Under both COLREGS and the new Inland Rules sailboats under 7M need only have a white light available. Sailboats over 7M must have sidelights and a sternlight. On sailboats less than 20M (65'7") combination lights are permitted. A sailboat under power or a combination of sail and power must display the lights required of power driven vessels.

Some power driven vessels under 12M that are not presently equipped to meet COLREGS will be required to replace an all-around white light with a masthead light and install a sternlight. Motor boats from 26' through 65' that carried an all-around white light, masthead light and sidelights, as permitted by the Motorboat Act of 1940, will be required to modify the all-around light and/or replace it with a sternlight. The cost of these modifications will vary depending on the size of the vessel and the quality of the equipment installed. On those vessels most likely to be affected, it is anticipated that the maximum cost should be no more than $100 per vessel. This expense will be somewhat offset by the ability of COLREGS equipped vessels to operate in both Inland and COLREGS waters. The Inland Navigational Rules Act considers COLREGS equipped vessels to be in compliance with the Act, whereas vessels equipped under the Motorboat Act of 1940 are not permitted to operate to COLREGS waters.

Because of the time constraints involved in the implementation of the Inland Navigational Act on December 24, 1981, the Coast Guard, for good cause, finds that notice and public procedure thereon are impracticable, and that the effective date of the rulemaking must be in less than 30 days.

The regulation is also non-major under Executive Order 12291. The Order defines a major rule as one which has an annual effect on the economy of $100 million, a major increase in costs, or a significant adverse effect on the economy. As noted above, this regulation will have no such impact.

The Regulatory Flexibility Act (94 Stat. 1164, 5 U.S.C. 601) requires a review of a proposed regulation for its effect on small businesses, organizations and governmental bodies. Although, in this case, a notice of proposed rulemaking is not being issued, it is not anticipated that these regulations will have a significant economic impact on any such entities in the Puget Sound area. The COLREGS requirements are quite similar to those which would be imposed under the Inland Rules. The major difference, as noted, lies in the navigation lights. The cost imposed by the change is minor compared to the overall cost of a vessel.

It is therefore certified, pursuant to section 605(b) of the Regulatory Flexibility Act, that this regulation will not have a significant economic impact on a substantial number of small entities.

PART 82—72 COLREGS; INTERPRETIVE RULES

In consideration of the foregoing, the COLREGS Demarcation Lines, 33 CFR Part 82, are amended as follows:

1. § 82.1385 is revised to read:

§ 82.1385 Strait of Juan de Fuca.

The 72 COLREGS shall apply on all waters of the Strait of Juan de Fuca.

2. § 82.1390 is revised to read:

§ 82.1390 Haro Strait and Strait of Georgia.

The 72 COLREGS shall apply on all waters of the Haro Strait and the Strait of Georgia.

3. § 82.1395 is added to Part 82 to read as follows:

§ 82.1395 Puget Sound and Adjacent Waters.

The 72 COLREGS shall apply on all waters of Puget Sound and adjacent waters, including Lake Union, Lake Washington, Hood Canal, and all tributaries.

(33 U.S.C. 151)

Dated: December 3, 1981.

J. B. Hayes,

Admiral, Coast Guard Commandant.

[FR Doc. 81-36102 Filed 12-16-81; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 110

[CGD05-81-06R]

Elizabeth River, Norfolk, Va.; Anchorage Regulations

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment to the anchorage regulations moves the northern boundary of the anchorage ground (Anchorage K–2) located generally east of the Craney Island and Norfolk Harbor Reaches of the Elizabeth River and across the mouth of the Lafayette River. The northern boundary has been moved in a generally southern direction. Additionally, certain other boundaries of the anchorage ground have been amended to conform the anchorage ground to current channel, shoreline, and use conditions. In the process of correcting the anchorage ground boundaries for these purposes, and for clarity, the shoreward extent of the anchorage has been defined as co-located with the shore in various locations around the perimeter of the anchorage ground. By so doing, the United States does not imply that the included waters are safe for the purpose of anchoring. The United States does not guarantee the non-existence of man-made or natural obstructions in the anchorage ground. This amendment was initiated in response to a proposed project to construct mooring and breasting dolphins in the northwesternmost portion of the anchorage ground. This construction would have encroached into Anchorage K–2 as previously described, thereby interfering with its intended purpose to separate anchored and navigating vessels in order to enhance the safety of both classes. Additional minor boundary revisions were also included by the Coast Guard to realign the boundaries to eliminate areas where the anchorage ground extends into a channel or berthing area, or where it had overlapped a shore area.

This revision specifically exempts from the anchorage ground that portion of the marked, dredged channel entering

the Lafayette River which extends into the anchorage ground.

EFFECTIVE DATE: This amendment is effective on January 18, 1982.

FOR FURTHER INFORMATION CONTACT: Captain E. E. Moran, Chief, Port Safety Branch, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23705, (804) 398-6389.

SUPPLEMENTARY INFORMATION: On April 10, 1981, the U.S. Army Corps of Engineers, Norfolk District, issued a public notice (NAOOP-P 81-0178-01) concerning an application by the Virginia Port Authority (VPA) for a Department of the Army Permit to construct mooring and breasting dolphins south of Norfolk International Terminal, pier number 1. On May 4, 1981, the U.S. Coast Guard objected to this proposed construction. The basis for this objection was the encroachment of these structures into Anchorage K-2. Pursuant to the Coast Guard's request, the U.S. Army Corps of Engineers has acted to place the permit application in an inactive status until the Coast Guard's objection is resolved. Adoption of this final rule resolves the Coast Guard's objection to this proposed construction.

On May 6, 1981, and subsequent dates, the Virginia Port Authority submitted a petition to the Coast Guard to amend the northern boundary of Anchorage K-2 to accommodate the proposed construction. The Coast Guard acted on this petition, and also upon its own initiative (for corrections to the boundaries of Anchorage K-2 other than the change requested by the Virginia Port Authority), and published a notice of proposed rulemaking in the **Federal Register** on September 8, 1981 (46 FR 44782).

This notice proposed the amendments adopted by this final rule. Interested persons were invited to participate in this rulemaking by submitting written views, data, or arguments.

DISCUSSION OF COMMENTS: No comments were received. While the opportunity for a public hearing was announced, none was held because of the lack of comments.

DISCUSSION OF THE RULE: This amendment adjusts the northwesternmost boundaries of Anchorage K-2 to accommodate the proposed mooring and breasting dolphins. The northwesternmost boundary has been aligned so as to be located approximately 50 yards south of the structures when they are erected. This amendment also eliminates that part of Anchorage K-2 which had extended into the Norfolk Harbor Reach of the Elizabeth River Channel. Also eliminated was that portion of Anchorage K-2 which overlapped the dredged berthing and maneuvering area alongside Norfolk International Terminal's property south of their pier number 1. Boundary adjustments of the anchorage to conform it to the existing shoreline have also been included. In the interest of clarity and safety, that portion of the marked, dredged channel entering the Lafayette River has been exempted from the anchorage ground. An environmental assessment completed on this rulemaking resulted in a finding of no significant impact.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are Lieutenant Commander J. G. Kotecki, Port Safety Branch, Fifth Coast Guard District, and Lieutenant D. M. Wrye of the office of the District Legal Officer, Fifth Coast Guard District.

REGULATORY EVALUATION: This regulation has been reviewed under the provisions of Executive Order 12291 and has been determined not to be a major rule. In addition, this regulation is considered to be non-significant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulation (DOT Order 2100.5 of May 22, 1980). The economic impact of this rule on small businesses, non-profit organizations, and government entities is considered to be minimal because the rule results in only (1) small boundary revisions to Anchorage K-2 that eliminate the previous use conflicts, and (2) a minor reduction in the overall size of the anchorage ground, by eliminating a portion of it generally not used by the public. The changes to this anchorage ground are not matters on which there has been substantial public interest or controversy, nor do they involve impacts on competitive business, state or local government, or the regulations of other programs and agencies. In accordance with Section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that this rule will not have a significant economic impact upon a substantial number or small entities.

PART 110—ANCHORAGE REGULATIONS

In consideration of the foregoing, Part 110 of Title 33, Code of Federal Regulations, is amended by revising § 110.168(c)(2) to read as follows:

§ 110.168 Hampton Roads, Va., and adjacent waters.

* * * * *

(c) *East of Norfolk Harbor Channel.*

* * *

(2) *Anchorage K-2.* Except for the waters within the marked, dredged channel which enters the Lafayette River, on the east side of Norfolk Harbor Reach and Craney Island Reach at the mouth of the Lafayette River, and within the boundaries described as follows: Starting at Tanner Point, latitude 36°54'13" N., longitude 76°19'25" W.; across the mouth of the Lafayette River to Boushs Bluff, latitude 36°54'14" N., longitude 76°18'43" W.; thence southerly along the shore to latitude 36°52'58.8" N., longitude 76°19'24.6" W.; thence to a point on the east side of the dredged area alongside Craney Island Reach at latitude 36°53'04.5" N., longitude 76°19'58.5" W.; thence northerly along the side of the dredged area to latitude 36°53'27" N., longitude 76°20'02" W.; thence northerly along the side of the dredged area to latitude 36°53'31" N., longitude 76°20'06" W.; thence northerly along the east side of Craney Island Reach and Norfolk Harbor Reach to latitude 36°54'46" N., longitude 76°20'14.6" W.; thence southeasterly to latitude 36°54'35" N., longitude 76°19'46.7" W.; thence south to latitude 36°54'25" N., longitude 76°19'46" W.; thence east to latitude 36°54'25" N., longitude 76°19'34" W.; thence along the shore to the point of beginning.

* * * * *

(Sec. 7, 38 Stat. 1053, (33 U.S.C. 471); Sec. 6(g)(1)(B), 80 Stat. 937; (49 U.S.C. 1655(g)(1)(B), 49 CFR 1.46(c)(2) and 1.45(b))

Dated: November 2, 1981.

John D. Costello,

Rear Admiral, Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. 81-36103 Filed 12-16-81; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD 81-061]

Drawbridge Operation Regulations; Amite River, Louisiana

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Louisiana Department of Transportation and Development, the Coast Guard is changing the regulations governing the State Route 42 swing span bridge across the Amite River, mile 32.0, at Port Vincent, Louisiana. The bridge now is required to open on signal. The change will require the bridge to open on at least 48 hours advance notice. This change in being made because of the limited number of requests for opening the draw. The action will relieve the

bridge owner of the burden of having a person constantly available to open the draw, while still providing for the reasonable needs of navigation.

EFFECTIVE DATE: This amendment is effective on January 18, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph Irico, Chief, Bridge Administration Branch, Eighth Coast Guard District, Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana 70130—(504) 589–2965.

SUPPLEMENTARY INFORMATION: On 5 October 1981, the Coast Guard published a proposed rule (46 FR 48954) concerning this amendment. The Eighth Coast Guard District also published this proposal as a Public Notice dated 5 October 1981. Interested persons were given until 4 November 1981 to submit comments.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are: Joseph Irico, Project Manager, District Operations Division, and Steve Crawford, General Attorney, District Legal Office.

Discussion of Comments

Three comments were received, offering no objections.

These final regulations have been reviewed under provisions of Executive Order 12291 and have been determined not to be a major rule. They are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 22 May 1980). An economic evaluation has not been conducted since the impact is expected to be minimal for the reasons discussed above.

In accordance with section 605(d) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising paragraph (i)(25) of § 117.245 to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * *

(i) * * *

(25) Amite River, LA: State Highway 16 bridge, mile 21.4, near French Settlement, and State Highway 42 bridge, mile 32.0, at Port Vincent. At least 48 hours advance notice required.

* * * * *

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2), 49 CFR 1.46(c)(5), 33 CFR 1.05–1(g)(3))

Dated: November 18, 1981.

W. H. Stewart,

Rear Admiral, Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 81–36085 Filed 12–16–81; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD 81–055]

Drawbridge Operation Regulations; St. Joseph River, Michigan

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Michigan Department of Transportation, the Coast Guard is revising the regulations governing the operation of the Blossomland (US–33) and Bicentennial (I–94BL) bridges across the St. Joseph River between the Cities of St. Joseph and Benton Harbor, Michigan, by permitting the draws of these bridges to remain closed for extended periods of time during the navigation season. Also, both bridges will require at least twelve hours notice to effect an opening during the winter months. This change is being made in an effort to relieve vehicular traffic tie-ups caused by random bridge openings during periods of time when commuting between the Cities of St. Joseph and Benton Harbor is heaviest. This action will accommodate the needs of vehicular traffic and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: This amendment becomes effective on January 18, 1982.

FOR FURTHER INFORMATION CONTACT: Robert W. Bloom, Jr., Chief, Bridge Branch, 1240 East Ninth Street, Cleveland, Ohio 44199, (216) 522–3993.

SUPPLEMENTARY INFORMATION: On August 31, 1981, the Coast Guard published a proposed rule (46 FR 43699) concerning this amendment. The Commander, Ninth Coast Guard District also published these proposals as a Public Notice dated October 1, 1981. Interested parties were given until September 28, 1981, and October 30, 1981, respectively to submit comments.

DRAFTING INFORMATION: The principal persons involved in drafting this Final Rule are: Robert W. Bloom, Jr., Chief, Bridge Branch, Ninth Coast Guard District, and Lt M. E. Reeves, Project Attorney, Ninth Coast Guard District, Legal Office.

DISCUSSION OF COMMENTS: Three commentors had no objections and supported this change. No other comments were received from the **Federal Register** or public notice.

These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. In addition, these regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). An economic evaluation has not been conducted since its impact is expected to be minimal because these regulations only regulate vessel traffic through the draws of the Blossomland and Bicentennial bridges during periods of time when vehicle traffic between the Cities of St. Joseph and Benton Harbor, Michigan, is heaviest. Also, they relieve the bridge owner of the burden of having a bridgetender on duty during the winter months when navigation on the river is negligible.

In accordance with section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by:

§ 117.641 [Amended]

1. Removing § 117.641(f)(2–a).

2. Adding a new § 117.681 immediately after § 117.680 to read as follows:

§ 117.681 St. Joseph River, Michigan; Blossomland (US–33) and Bicentennial (BL–94) Bridges between St. Joseph and Benton Harbor, Michigan.

(a) The draws shall open on signal from March 1 through May 14 and October 1 through December 15, and from 8 p.m. to 7 a.m. from May 15 through September 30.

(b) From 7 a.m. to 8 p.m. from May 15 through September 30:

(1) The draws of the Blossomland bridge need open only from 3 minutes before to 3 minutes after the hour and half-hour.

(2) The draws of the Bicentennial bridge need open only from 3 minutes before to 3 minutes after the quarter and three-quarter hour.

(c) From December 16 through the last day of February both draws shall open on signal if at least 12 hours notice is given.

(d) Public vessels of the United States, state and local government vessels used for public safety, commercial vessels, and vessels in distress, shall be passed through either draw as soon as possible even though closed periods are in effect.

(e) The owner of or agency controlling these bridges shall keep a copy of these regulations conspicuously posted both upstream and downstream, either on the bridges or elsewhere in such a manner that it can be easily read from an approaching vessel at all times, with instructions stating exactly how notice is to be given to the authorized representative of the bridge owner.

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-(g)(3))

Dated: December 10, 1981.

Henry H. Bell,

Rear Admiral, Coast Guard Commander, Ninth Coast Guard District.

[FR Doc. 81-36104 Filed 12-16-81; 8:45 am]

BILLING CODE 4910-14-M

POSTAL SERVICE

39 CFR Part 111

Amendment of Procedures for Determining Whether Post Office Box or Caller Service Should Be Refused or Terminated

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule amends regulations prescribing the procedures for refusing or terminating box or caller service. Under the former procedures, cases in which termination of service was sought had to be channeled to a single processing office. This caused considerable delay in processing these cases. Moreover, the former procedures required notice to applicants of the grounds for refusing service only when specifically requested by the unsuccessful applicants. The final rule is designed to simplify and expedite the entire determinative process by increasing the authority of local postmasters, requiring notification of every unsuccessful applicant, providing alternative methods of notification, and establishing practical time limits for required action.

EFFECTIVE DATE: January 17, 1982.

FOR FURTHER INFORMATION CONTACT: John F. Ventresco, (202) 245-4385.

SUPPLEMENTARY INFORMATION: On October 26, 1981, the Postal Service published for comment in the **Federal Register**, 46 FR 52136, proposed changes to 951.35, 951.8 and 952.4 of the Domestic Mail Manual to carry out the purposes described in the Summary. We received one letter of comment from a boxholder who believes that postmasters will abuse their new authority, thereby depriving boxholders of their rights without due process, and embroiling the Postal Service in costly disputes.

The Postal Service believes that application of the new regulations is well within the competence of postmasters. If they are in doubt about the propriety of refusing or terminating service in particular cases, postmasters can obtain advice from their Regional Counsel or the General Counsel. The provisions for notifying customers of adverse determinations, and of the availability of complete review by the Judicial Officer Department insure that due process requirements will be observed in each case.

The Postal Service does not anticipate a substantial increase in costs even if the number of petitions for review by aggrieved customers begins to increase substantially. Under the applicable rules of practice (39 CFR Part 958), summary judgment on the pleadings is available to effect prompt correction of any clearly erroneous actions by postmasters. Moreover, the benefit to customers from eliminating delays in determining whether to refuse or terminate service should far outweigh any concomitant increase in costs.

In view of the above considerations, the Postal Service hereby adopts, without change, the following amendments to the Domestic Mail Manual, which is incorporated by reference in the **Federal Register**. 39 CFR 111.1.

Part 951—Post Office Lockbox Service

1. Revise 951.35 to read as follows:

.35 A box may be rented to another customer 15 days after it has been closed by a final decision of the Postal Service (see 951.8) or surrendered pursuant to 951.32b. A box may be rented to another customer immediately following its surrender pursuant to 951.32a or 951.32c.

2. Revise 951.8 to read as follows:

951.8 Refusal to Provide Service; Termination of Service; Surrender of Service.

.81 *Refusal to Provide Service.* A postmaster may refuse to rent a post office box under any of the following circumstances:

a. The applicant has submitted a falsified application for box service.

b. Within the two years immediately preceding submission of the application, the applicant physically abused a box or violated a regulation or contractual provision relating to the care or use of a box.

c. There is substantial reason to believe that the box will be used for purposes which will violate 951.153.

.82 *Termination of Service.* A postmaster may close a post office box when the boxholder has:

a. Falsified the application for the box;

b. Physically abused the box; or

c. Violated any regulation or contractual term or condition relating to the care or use of the box.

.83 *Postmaster's Determination.*

.831 *Basis for Issuance.* When a postmaster is satisfied that an application for commencement of service should be denied pursuant to 951.81, or that service to a boxholder should be terminated pursuant to 951.82, he will issue a written Determination.

.832 *Content.* The Determination shall state the reasons for its issuance, and also shall contain the following statement:

"You may file a Petition opposing this Determination within twenty days (Sundays and holidays included) after the date you receive it. Your Petition must be in writing and include a statement of your reasons for opposing the Determination.

Your Petition, signed by you or your attorney, must be filed in triplicate at the Post Office address given above. This filing may be accomplished by certified mail, or by delivering the Petition to the above address. Obtain and keep a written receipt to show that your Petition was timely filed. Your Petition will be forwarded to the Recorder, Judicial Officer Department, U.S. Postal Service, Washington, D.C. 20260 for appropriate action as set forth in 39 CFR Part 958.

If you do not file a timely Petition, this Determination will become the final decision of the U.S. Postal Service in this matter."

.833 *Delivery.* The postmaster's Determination shall be delivered to the applicant or boxholder via certified mail, or by any other method provided a signed receipt is obtained from the addressee. If such delivery cannot be effected within fifteen days after issuance of the Determination, it shall be delivered as ordinary mail and the postmaster shall make a written record of the date of such delivery and the prior attempts made to deliver it.

.84 *Petition by Applicant or Boxholder.*

.841 *Procedure.*

a. The applicant or boxholder may file a Petition opposing the postmaster's Determination within twenty days (Sundays and holidays included) after delivery, in accordance with the instructions in the postmaster's Determination and with 39 CFR Part 958.

b. The filing of a Petition will prevent the postmaster's Determination from taking effect and will transfer the case to the Judicial Officer Department, U.S. Postal Service. Thereafter, if a final decision on the merits is rendered by the Judicial Officer Department pursuant to 39 CFR Part 958, it will constitute the final decision of the U.S. Postal Service.

.842 *Effect.*

a. After delivery of the Determination, the postmaster will take no action to implement it for the twenty-day-period allowed for filing a Petition, and an additional seven days. If he has not received a Petition by the twenty-seventh day, his Determination will take effect, becoming the final decision of the Postal Service. The postmaster should retain documentation establishing the date and method of delivery of the Determination for at least one year.

b. On receipt of any Petition, even if considered to be late or nonconforming, the postmaster will immediately forward two copies to the Recorder, Judicial Officer Department, U.S. Postal Service, Washington, D.C. 20260. He will also forward to the Assistant General Counsel, Consumer Protection Division, Law Department, U.S. Postal Service, Washington, D.C. 20260, a report which will include the evidence upon which the postmaster's Determination was based and the proof of delivery of the Determination to the customer.

.85 *Surrender of Service.* A post office box will be deemed to have been surrendered when the boxholder:

a. Submits a permanent change of address order;

b. Fails or refuses to pay the pertinent rent due; or

c. Submits a written notice to discontinue the service.

.86 *Mail Addressed to a Closed Box.* When a post office box is closed by a final decision of the Postal Service, the postmaster shall give written notice to the boxholder that mail addressed to him at the box number will thereafter be forwarded pursuant to a valid change of address order, if one has been submitted, or transferred to General Delivery where it will be held the current time limit for forwarding. At the end of the applicable period, all mail so addressed will be handled as undeliverable. However, this procedure will not preclude compliance with the sender's request for a specific retention period in accordance with 122.32.

Part 952—Caller Service

3. Revise 952.4 to read as follows:

952.4 Refusal to Provide Service; Termination of Service; Surrender of Service.

.41 *Refusal to Provide Service.* A postmaster may deny an application for caller service under any of the following circumstances:

a. The applicant has submitted a falsified application for the service.

b. Within the two years immediately preceding submission of the application, the applicant violated a regulation or contractual provision relating to use of the service.

c. There is substantial reason to believe that the service will be used for purposes which will violate 952.191.

.42 *Termination of Service.* A postmaster may terminate caller service when the caller has:

a. Falsified the application for the service; or

b. Violated any regulation or contractual term or condition relating to use of the service.

.43 *Postmaster's Determination.*

.431 *Basis for Issuance.* When a postmaster is satisfied that an application for commencement of caller service should be denied pursuant to 952.41, or that service to a caller should be terminated pursuant to 952.42, he will issue a written Determination.

.432 *Content.* The Determination shall state the reasons for its issuance, and also shall contain the following statement:

"You may file a Petition opposing this Determination within twenty days (Sundays and holidays included) after the date you receive it. Your Petition must be in writing and include a statement of your reasons for opposing the Determination. Your Petition, signed by you or your attorney, must be filed in triplicate at the Post Office address given above. This filing may be accomplished by certified mail, or by delivering the Petition to the above address. Obtain and keep a written receipt to show that your Petition was timely filed. Your Petition will be forwarded to the Recorder, Judicial Officer Department, U.S. Postal Service, Washington, D.C. 20260 for appropriate action as set forth in 39 CFR Part 958.

"If you do not file a timely Petition, this Determination will become the final decision of the U.S. Postal Service in this matter."

.433 *Delivery.* The postmaster's Determination shall be delivered to the applicant or caller via certified mail, or by any other method provided a signed receipt is obtained from the addressee. If such delivery cannot be effected within fifteen days after issuance of the Determination, it shall be delivered as ordinary mail and the postmaster shall make a written record of the date of such delivery and the prior attempts made to deliver it.

.44 *Petition by Applicant or Caller.*

.441 *Procedure.*

a. The applicant or caller may file a Petition opposing the postmaster's Determination within twenty days (Sundays and holidays included) after delivery, in accordance with the instructions in the postmaster's Determination and with 39 CFR Part 958.

b. The filing of a Petition will prevent the postmaster's Determination from taking effect and will transfer the case to the Judicial Officer Department, U.S. Postal Service. Thereafter, if a final decision on the merits is rendered by the Judicial Officer Department pursuant to 39 CFR Part 958, it will constitute the final decision of the U.S. Postal Service.

.442 *Effect.*

a. After delivery of the Determination, the postmaster will take no action to implement it for the twenty-day period allowed for filing a Petition, and an additional seven days. If he has not received a Petition by the twenty-seventh day, his Determination will take effect, becoming the final decision of the Postal Service. The postmaster should retain documentation establishing the date and method of delivery of the Determination for at least one year.

b. On receipt of any Petition, even if considered to be late or nonconforming, the postmaster will immediately forward two copies to the Recorder, Judicial Officer Department, U.S. Postal Service, Washington, D.C. 20260. He will also forward to the Assistant General Counsel, Consumer Protection Division, Law Department, U.S. Postal Service, Washington, D.C. 20260, a report which will include the evidence upon which the postmaster's Determination was based and the proof of delivery of the Determination to the customer.

.45 *Surrender of Service.* Caller service will be deemed to have been surrendered when the caller:

a. Submits a permanent change of address order;

b. Fails or refuses to pay the pertinent fee due; or

c. Submits a written notice to discontinue the service.

.46 *Disposition of Mail.* When caller service is terminated by a final decision of the Postal Service, the postmaster shall give written notice to the caller that mail addressed to him at the caller number will thereafter be forwarded pursuant to a valid change of address order, if one has been submitted, or

transferred to General Delivery where it will be held the current time limit for forwarding. At the end of the applicable period, all mail so addressed will be handled as undeliverable. However, this procedure will not preclude compliance with the sender's request for a specific retention period in accordance with 122.32.

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers automatically. Notice of these changes will be published in the **Federal Register** as provided in 39 CFR 111.3.

(39 U.S.C. 401)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

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DEPARTMENT OF THE INTERIOR

Office of the Secretary

41 CFR Ch. 14

Procurement Regulations

AGENCY: Department of the Interior.

ACTION: Final rule and deferral of effective date.

SUMMARY: This rule adopts miscellaneous changes to the Interior Procurement Regulations (IPR) System which are of interest to business concerns and other interested persons. The changes are in response to a request from Secretary Watts for identification of excessive, burdensome or counter-productive rules. These miscellaneous changes are expected to reduce, or simplify existing procurement regulations.

This rule also defers the effective date of a previously published rulemaking action which was to become effective December 15, 1981. The deferred rules established new procedures for issuance and maintenance of agency procurement regulations, updated provisions regarding procurement authority, mistakes in bids, bid protest, and small business related programs, and removed provisions pertaining to internal agency procedures which are not of interest to business concerns and the general public. These rules are expected to significantly reduce the number of procurement regulations published by the Department since these regulations will be limited to only those deemed necessary for business concerns and the general public to understand basic and significant policies and procedures.

The effective date of the October 8, 1981 rulemaking is being deferred in order to have it coincide with the effective date of the miscellaneous changes discussed above.

EFFECTIVE DATE: January 29, 1982.

FOR FURTHER INFORMATION CONTACT: William Opdyke, (202) 343-6431.

SUPPLEMENTARY INFORMATION:

Final Rule

A proposed rule was published in the **Federal Register** on November 4, 1981 (46 FR 54777-54787), and invited comments by December 4, 1981. This rule was the second of two rulemaking actions which made revisions to eliminate, reduce and simplify the Department's procurement regulations. No comments were received so the proposed rule is adopted as a final rule.

The proposed rule omitted a change to § 14-7.650-7, Examination of records. This change is included in the final rule. In addition, the final rule also makes minor editorial changes including a change to § 14-3.808-6(d) in order to clarify the nature of the programs being described.

Deferral of Effective Date

A final rule was published in the **Federal Register** on October 8, 1981. This rule was the first rulemaking action necessary to establish new procedures for issuance and maintenance of the Department's procurement regulations and to remove internal procedures not of interest to business concerns. These internal procedures have been reviewed and eliminated or revised and will be issued as Interior Procurement Regulation Directives. Copies of the directives are available from the Office of Acquisition and Property Management, Department of the Interior, Washington, D.C. 20240, after January 29, 1982.

The rule was to be effective on December 15, 1981. However, it is necessary to defer its effective date until January 29, 1982, in order to have it coincide with the effective date of the rulemaking action discussed above.

Primary Author

The primary author of this rule is William Opdyke, Office of Acquisition and Property Management, telephone (202) 343-6431.

Impact

The Director, Office of Management and Budget has exempted agency procurement regulations from the requirements of Executive Order 12291. The Department of the Interior certifies that this rule will not have a significant economic effect on a substantial number of small entities.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 406(1) and 5 U.S.C. 301)

Accordingly, the amendments to 41 CFR Chapter 14 are adopted as set forth below.

Dated: December 11, 1981.

Richard R. Hite,

Deputy Assistant Secretary of the Interior.

PART 14-1—GENERAL

1. The Table of Contents for Part 14-1 is amended to remove § 14-1.318-1, add a new § 14-1.318-4, and change the caption of §§ 14-1.318 and 14-1.351 as follows:

Subpart 14-1.3—General Policies

1. The caption for § 14-1.318 is revised to read as follows:

Sec.

* * * * *

14-1.318 Disputes.
14-1.318-1 [Removed]
14-1.318-4 Contracting officer's decision.

* * * * *

14-1.351 Paperwork Reduction Act of 1980.

* * * * *

Subpart 14-1.3—General Policies

§ 14-1.318 Disputes.

2. Section 14-1.318-1 is removed and a new § 14-1.318-4 is added to read as follows:

§ 14-1.318 Disputes.

§ 14-1.318-1 [Removed]

§ 14-1.318-4 Contracting officer's decision.

A final decision issued by a contracting officer shall include the paragraph under FPR § 1-1.318-4(b)(1), except the second sentence shall be modified to read as follows: "This decision may be appealed to the Department of the Interior, Office of Hearings and Appeals, Interior Board of Contract Appeals, 4015 Wilson Boulevard, Arlington, Virginia 22203."

3. Section 14-1.327-5 is amended by removing paragraphs (a) and (b) and the designation for paragraph (c) to read as follows:

§ 14-1.327 Protection of the privacy of individuals.

§ 14-1.327-5 Procedures.

The Privacy Act clause under FPR § 1.327-5(c) shall be supplemented by adding a paragraph (d) as follows:

Privacy Act

* * * * *

(d) The regulations of the Department of the Interior implementing the Privacy Act of 1974 are set forth in 43 CFR Subtitle A, Part 2, Subpart D. A copy of the regulations may be obtained by submitting a written request to the Departmental Privacy Act Officer, Office of the Assistant Secretary—Policy, Budget, and Administration, Department of the Interior, 18th and E Streets, N.W., Washington, D.C. 20240.

4. Section 14–1.350 is amended to remove paragraph (a); redesignate paragraphs (b), (c) and (d) as paragraphs (a), (b) and (c), respectively; revise paragraph (a), and revise the "Release of Claims" clause in paragraph (b). As revised, § 14–1.350 reads as follows:

§ 14–1.350 Obtaining a release of claims.

(a) A release of claims shall be required in all construction contracts and all cost-reimbursement contracts which exceed $10,000. Depending upon the circumstances present, a release of claims may be required in service (including architect-engineer) and supply contracts and fixed-price research and development contracts.

(b) Contracts requiring a release of claims shall include a clause substantially as follows:

Release of Claims

After completion of work, and prior to final payment, the Contractor shall furnish to the Contracting Officer, a release of claims against the United States relating to the contract, other than claims specifically excepted from the operation of the release.

(c) Form DI–137 (see IPR § 14–16.850) shall be used for all contracts requiring a release of claims.

5. Section 14–1.351 is amended by changing its caption and revising paragraphs (a), (b), and (c). As revised, § 14–1.351 reads as follows:

§ 14–1.351 Paperwork Reduction Act of 1980.

(a) *General.* The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires that no federal agency shall conduct or sponsor the collection of information, upon identical items, from ten or more public respondents unless prior approval is obtained from the Office of Management and Budget.

(b) *Procedures.* For contracts which require the collection of information subject to the Paperwork Reduction Act, data requirements shall be defined and clearance obtained prior to issuance of the solicitation, when practical, in accordance with the requirements of Part 305, Chapter 2 of the Department Manual (305 DM 2).

(c) *Clause.* The following clause shall be included in solicitations, and resulting contracts, when performance of the work requires, or may require, collection of information subject to the Paperwork Reduction Act of 1980:

Paperwork Reduction Act

If performance of this contract requires collection of information from ten or more public respondents, no funds shall be expended or any action taken in the solicitation or collection of such information until the contractor has received from the contracting officer written notification that approval has been obtained from the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980. The contractor shall provide the contracting officer with all information necessary to obtain approval from OMB.

PART 14–3—PROCUREMENT BY NEGOTIATION

1. The Table of Contents for Part 14–3 is amended to add new §§ 14–3.808 thru 14–3.808–7 as follows:

Subpart 14–3.8—Price Negotiation Policies and Techniques

Sec.
14–3.808 Profit or fee.
14–3.808–1 Policy.
14–3.808–2 Structured approach.
14–3.808–3 Profit objective.
14–3.808–4 Profit factors.
14–3.808–5 Contractor effort.
14–3.808–6 Other factors.
14–3.808–7 Facilities capital cost of money.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), 5 U.S.C. 301.

2. New §§ 14–3.808 thru 14–3.808–7 are added to read as follows:

Subpart 14–3.8—Price Negotiation Policies and Techniques

§ 14–3.808 Profit or fee.

§ 14–3.808–1 Policy.

(a) *General.* Profit generally is the basic motive of business enterprise and it is the policy of the Department to utilize profit to stimulate efficient contract performance. The Government and its contractors should be concerned with harnessing this motive to work for more effective and economical contract performance. Negotiation of very low profits, the use of historical averages or the automatic application of a predetermined percentage to the total estimated cost of a product, does not provide the motivation to accomplish such performance. Negotiations aimed merely at reducing profits, with no realization of the function of profit are not in the Government's best interest. For each contract in which profit is negotiated as a separate element of the contract price, the aim of negotiation should be to employ the profit motive so as to impel effective contract performance by which overall costs are economically controlled. To this end, the profit objective must be fitted to the circumstances of the particular procurement, giving due weight to contractor effort, risk assumed, investment required, complexity of the work to be performed, and other factors appropriate to the circumstances. However, nothing in this Regulation requires or suggests the use of a profit objective which is higher than that proposed by the contractor.

(b) *Contracts Priced on the Basis of Cost Analysis.* When cost analysis is performed pursuant to FPR § 1–3.807–2, profit consideration shall be in accordance with the objectives set forth below.

The Government should establish a profit objective for contract negotiations which will:

(1) Motivate contractors to undertake more difficult work requiring higher skills and reward those who do so;

(2) allow the contractor an opportunity to earn profits commensurate with the extent of the cost risk it is willing to assume; and

(3) encourage contractors to provide their own facilities and financing and establish their competence through development work undertaken at their own risk and reward those who do so.

The structured approach set forth below for establishing profit objectives is designed to provide guidance in applying these principles. This approach, properly applied, will tailor profits to the circumstances of each contract and provide a spread of profits which is commensurate with varying circumstances. The structured approach shall be used in all contracts where cost analysis is performed except as set forth in § 14–3.808–2(b) below.

(c) *Contracts Priced Without Cost Analysis.* On many contracts and subcontracts, good pricing does not require an examination into costs and profits. Where adequate price competition exists and in other situations where cost analysis is not required (see FPR § 1–3.807), fixed-price type contracts will be awarded to the lowest responsible offerors without regard to the amount of their profits. Under these circumstances, the profit which is anticipated, or in fact earned, should not be of concern to the Government. In such cases, if a low offeror earns a large profit, it should be considered the normal reward of efficiency in a competitive system and efforts should not be made to reduce such profits.

(d) *The Cost of Money for Facilities Capital.* When profit analysis is required, the cost of money for facilities capital (FPR § 1–15.205–51) shall not be included when measuring the

contractor's effort. Contract effort for this purpose shall be restricted to normal, booked costs. Further, a reduction in the profit objective shall be made in an amount equal to the amount of facilities capital cost of money allowed in accordance with FPR § 1–15.205–51. This policy shall apply to any tier subcontract or modifications thereto.

§ 14–3.808–2 Structured approach.

(a) *General.* (1) The structured approach provides contracting officers with a technique that will insure consideration of the relative value of the appropriate profit factors described in § 14–3.808–4 in the establishment of a profit objective for the conduct of negotiations. The contracting officer's analysis of these profit factors is based on information available to him prior to negotiations. Such information is furnished in proposals, audit data, performance reports, pre-award surveys and the like. The structured approach also provides a basis for documentation of this objective, including an explanation of any significant departure from this objective in reaching a final agreement. The extent of documentation should be directly related to the dollar value importance, and complexity of the proposed procurement.

(2) The contractor's proposal will include cost information for evaluation and a total proposed profit. Contractors shall not be required to submit the details of their profit objectives but they shall not be prohibited from doing so if they desire. Elaborate and voluminous presentations are neither required nor desired.

(3) The negotiation process does not contemplate or require agreement on either estimated cost elements or profit elements. The profit objective is a part of an overall negotiation objective which, as a going-in objective, bears a distinct relationship to the target cost objective and any proposed sharing arrangement. Since the profit is merely one of several interrelated variables, the Government negotiator shall not complete the profit negotiation without prior agreement on the other variables. Specific agreement on the exact weights or values of the individual factors is not required and should not be attempted.

(b) *Exceptions.* (1) Under the following listed circumstances, other methods for establishing profit objectives may be used. Generally, it is expected that such methods will be supported in a manner similar to that used in the structured approach (profit factor breakdown and documentation of profit objective); however, factors within the structured approach considered inapplicable to the procurement will be excluded from the profit objective.

(i) All procurements where cost analysis is not required;

(ii) architect-engineer contracts;

(iii) management contracts for operation and/or maintenance of Government facilities;

(iv) construction contracts;

(v) contracts primarily requiring delivery of material supplied by subcontractors;

(vi) termination settlements; and

(vii) cost-plus-award-fee contracts (however, contracting officers may find it advantageous to perform a structured profit analysis as an aid in arriving at an appropriate fee arrangement).

(2) Other exceptions may be made in the negotiation of contracts having unusual pricing situations. Such exceptions shall be justified in writing and authorized by the head of the procuring activity or designee in situations where the structured approach is determined to be unsuitable.

(c) *Limitation.* In the event this or any other method would result in establishing a fee objective in violation of limitations established by Statute or this Regulation, the maximum fee objective shall be the percentage allowed pursuant to such limitations (see FPR § 1–3.405–5).

§ 14–3.808–3 Profit objective.

(a) A profit objective is that part of the estimated contract price objective or value which, in the judgment of the contracting officer, is appropriate for the procurement being considered. This objective should realistically reflect the total overall task to be performed and the requirements placed on the contractor. Prior to the negotiation of a contract, change order, or contract modification, where cost analysis is undertaken, the negotiator shall develop a profit objective. The structured approach, if applicable, shall be used for developing this profit objective. If a change or modification is of a relatively small dollar amount and is basically the same type of work as required in the basic contract, the application of the structured approach will generally result in a profit objective similar to the profit objective in the basic contract, and therefore, this basic rate may be applied to the contract change or modification. However, in cases where the change or modification calls for substantially different work, or if the dollar amount of the change or contract modification is significant, a detailed analysis should be made.

(b) Development of a profit objective should not begin until after (1) a thorough review of proposed contract work; (2) review of all available knowledge regarding the contractor, pursuant to FPR Subpart 1–1.12 including capability reports, audit data, pre-award survey reports and financial statements, as appropriate; and (3) analysis of the contractor's cost estimate and comparison with the Government's estimate or projection of cost.

§ 14–3.808–4 Profit factors.

(a) The following factors shall be considered in all cases in which profit is to be specifically negotiated. The weight ranges listed after each factor shall be used in all instances where the structured approach is used.

Profit factors	Weight range (percent)
1. Contractor effort:	
Material Acquisition	1 to 4.
Direct Labor	4 to 12.
Overhead	3 to 8.
Other Costs	1 to 3.
General Management	4 to 8.
2. Other factors:	
Cost Risk	0 to 7.
Investment	−2 to +2.
Performance	−1 to +1.
Socio-Economic Programs	−5 to +5.
Special Situations	

(b) Under the structured approach the contracting officer shall first measure the "Contractor Effort" by the assignment of a profit percentage within the designated weight ranges to each element of contract cost recognized by the contracting officer. Not to be included for the computation of profit as part of the cost base is the amount calculated for the cost of money for facilities capital.

(c) The suggested categories under the Contractor Effort are for reference purposes only. Often individual proposals will be in a different format; but since these categories are broad and basic, they provide sufficient guidance to evaluate all other items of cost.

(d) After computing a total dollar profit for the Contractor Effort, the contracting officer shall then calculate the specific profit dollars assigned for cost risk, investment, performance, business development programs, and special situations. This is accomplished by multiplying the total Government Cost Objective, exclusive of any cost of money for facilities capital, by the specific weight assigned to the elements within the Other Factors category.

(e) In making a judgment of the value of each factor, the contracting officer should be governed by the definition, description, and purpose of the factors together with considerations for

evaluating them as set forth in §§ 14–3.808–5 and 14–3.808–6.

(f) The structured approach was designed for arriving at profit or fee objectives for other than nonprofit organizations. However, if appropriate adjustments are made to reflect differences between profit and nonprofit organizations, the structured approach can be used as a basis for arriving at fee objectives for nonprofit organizations. Therefore, the structured approach, as modified in (f)(2) of this section shall be used to establish fee objectives for nonprofit organizations. The modifications should not be applied as deductions against historical fee levels, but rather, to the fee objective for such a contract as calculated under the structured approach.

(1) For purposes of this subparagraph, nonprofit organizations are defined as those business entities organized and operated exclusively for charitable, scientific, or educational purposes, no part of the net earnings of which accrue to the benefit of any private shareholder or individual, and which are exempt from Federal income taxation under Section 501 of the Internal Revenue Code.

(2) For contracts with nonprofit organizations where fees are involved, an adjustment of up to 3% will be subtracted from the total profit/fee objective. In developing this adjustment, it will be necessary to consider the following factors:

(i) Tax position benefits;

(ii) granting of financing through letters of credit;

(iii) facility requirements of the nonprofit organization; and

(iv) other pertinent factors which may work to either the advantage or disadvantage of the contractor in its position as a nonprofit organization.

§ 14–3.808–5 Contractor effort.

(a) *General.* This factor is a measure of how much the contractor is expected to contribute to the overall effort necessary to meet the contract performance requirements in an efficient manner. This factor, which is apart from the contractor's responsibility for contract performance, takes into account what resources are necessary and what the contractor must do to accomplish a conversion of ideas and materials into the final product called for in the contract. This is a recognition that within a given performance output, or within a given sales dollar figure, necessary efforts on the part of individual contractors can vary widely in both value and quantity, and that the profit objective should reflect the extent and nature of the contractor's contribution to total performance. A major consideration, particularly in connection with experimental, developmental, or research work, is the difficulty or complexity of the work to be performed, and the unusual demands of the contract, such as whether the project involves a new approach unrelated to existing equipment or only refinements on existing equipment. The evaluation of this factor requires an analysis of the cost content of the proposed contract as follows.

(b) *Material Acquisition (Subcontracted Items, Purchased Parts, and Other Material).* Analysis of these cost items shall include an evaluation of the managerial and technical effort necessary to obtain the required purchased parts, subcontracted items, and other materials, including special tooling. This evaluation shall include consideration of the number of orders and suppliers, and whether established sources are available or new sources must be developed. The contracting officer shall also determine whether the contractor will, for example, obtain the material and tooling by routine orders from readily available supplies (particularly those of substantial value in relation to the total contract cost), or by detailed subcontracts for which the prime contractor will be required to develop complex specifications involving creative design or close tolerance manufacturing requirements. Consideration should be given to the managerial and technical efforts necessary for the prime contractor to administer subcontracts, and select subcontractors, including efforts to break out subcontracts from sole sources, through the introduction of competition. These determinations should be made for purchases of raw materials or basic commodities, purchases of processed material including all types of components of standard or near standard characteristics, and purchases of pieces, assemblies, subassemblies, special tooling, and other products special to the end-item. In the application of this criterion, it should be recognized that the contractor's purchasing program might make a substantial contribution to the performance of the contract. This might be applicable in the management of subcontracting programs involving many sources, involving new complex components and instrumentation, incomplete specifications, and close surveillance by the prime contractor's representative. Recognized costs proposed as direct material costs such as scrap charges shall be treated as material for profit evaluation. If intracompany transfers are accepted at price, in accordance with FPR § 1–15.205–22(e), they shall be evaluated as material. Other intracompany transfers shall be evaluated by individual components of cost, i.e., material, labor, and overhead.

(c) *Direct Labor (Engineering, Service, Manufacturing, and Other Labor).* Analysis of the various labor items of the cost content of the contract should include evaluation of the comparative quality and level of the engineering talents, service contract labor, manufacturing, skills, and experience to be employed. In evaluating engineering labor for the purpose of assigning profit dollars, consideration should be given to the amount of notable scientific talent or unusual or scarce engineering talent needed in contrast to journeyman engineering effort or supporting personnel. The diversity, or lack thereof, of scientific and engineering specialties required for contract performance and the corresponding need for engineering supervision and coordination should be evaluated. Such circumstances as whether the caliber or class of engineer involved is that of an "idea-man," or whether the contractor is required by the contract to assign to the work, because of its nature, unusually skilled talent should be considered as part of the evaluation. Service contract labor should be evaluated in a like manner by assigning higher weights to engineering or professional type skills and lower weights to semi-professional or other type skills required for contract performance. Similarly, the variety of manufacturing and other categories of labor skills required and the contractor's manpower resources for meeting these requirements should be considered. For purposes of evaluation, categories of labor (i.e., quality control, receiving and inspecting, etc.) which do not fall within the definition for engineering, service or manufacturing labor may be categorized as appropriate. However, the same evaluation considerations as outlined above will be applied.

(d) *Overhead and General Management (G&A).* (1) Analysis of these overhead items of cost includes the evaluation of the make-up of these expenses and how much they contribute to contract performance. To the extent practicable, analysis should include a determination of the amount of labor within these overhead pools and how this labor would be treated if it were considered as direct labor under the contract. The allocable labor elements should be given the same profit consideration that they would receive if they were treated as direct labor. The other elements of these overhead pools

should be evaluated to determine whether they are routine expenses such as utilities and maintenance, and hence given lesser profit consideration, or whether they are significant contributing elements. The composite of the individual determinations in relation to the elements of the overhead pools will be the profit consideration given the pools as a whole.

(2) It is not necessary that the contractor's accounting system break down overhead expenses within the classification of engineering overhead, manufacturing overhead, other overhead pools, and general and administrative expenses, unless dictated otherwise by Cost Accounting Standards (CAS). The contractor whose accounting system only reflects one overhead rate on all direct labor need not change its system (if CAS exempt) to correspond with the above classifications. The contracting officer, in an evaluation of such a contractor's overhead rate, could break out the applicable sections of the composite rate which could be classified as engineering overhead, manufacturing overhead, other overhead pools, and general and administrative expenses, and follow the appropriate evaluation technique.

(3) Management problems surface in various degrees and the management expertise exercised to solve them should be considered as an element of profit. For example, a new program for an item which is on the cutting edge of the state of the art will cause more problems, require more managerial time, and abilities of a higher order, than one which is a follow-on contract. If new contracts create more problems and require a higher profit weight, follow-ons should be adjusted downward as many of the problems should have been solved. In any event, an evaluation should be made of the underlying mangerial effort involved on a case-by-case basis.

(4) It may not be necessary for the contracting officer to make a separate profit evaluation of overhead expenses in connection with each procurement action for substantially the same product with the same contractor. Where an analysis of the profit weight to be assigned to the overhead pool has been made, that weight assigned may be used for future procurements with the same contractor until there is a change in the cost composition of the overhead pool or the contract circumstances, or the factors discussed in (d)(3) of this section are involved.

(e) *Other Costs.* Include all other direct costs associated with contractor performance under this item (e.g., travel and relocation, direct support, and consultants). Analysis of these items of cost should include (i) the significance of the cost to contract performance, (ii) nature of the cost, and (iii) how much they contribute to contract performance.

§ 14–3.808–6 Other factors.

(a) *Contract Cost Risk.* The degree of risk assumed by the contractor should influence the amount of profit or fee a contractor is entitled to anticipate. For example, where a portion of the risk has been shifted to the government through cost-reimbursement or price redetermination provisions, unusual contingency provisions, or other risk-reducing measures, the amount of profit or fee should be less than where the contractor assumes all the risk. In developing the pre-negotiation profit objective, the contracting officer will need to consider the type of contract anticipated to be negotiated and the contractor risk associated therewith when selecting the position in the weight range for profit that is appropriate for the risk to be borne by the contractor. This factor should be one of the most important in arriving at pre-negotiation profit objectives.

(1) Evaluation of this risk requires a determination of (i) the degree of cost responsibility the contractor assumes, (ii) the reliability of the cost estimates in relation to the task assumed, and (iii) the complexity of the task assumed by the contractor. This factor is specifically limited to the risk of contract costs. Thus, such risks on the part of the contractor as reputation, losing a commercial market, risk of losing potential profits in other fields, or any risk on the part of the procurement office, are not within the scope of this factor.

(2) The first and basic determination of the degree of cost responsibility assumed by the contractor is related to the sharing of total risk by contract cost by the Government and the contractor through the selection of contract type. The extremes are a cost-plus-a-fixed-fee contract requiring the contractor to use his best efforts to perform a task, and a firm fixed-price contract for a complex item. A cost-plus-a-fixed-fee contract would reflect a minimum assumption of cost responsibility, whereas a firm fixed-price contract would reflect a complete assumption of cost responsibility. Where proper contract type selection has been made, the regard for risk by contract type would usually fall into the following percentage ranges:

	Percent
Cost Reimbursement Type Contracts	0 to 3
Fixed Price Type Contracts	3 to 7

(3) The second determination is that of the reliability of the cost estimates. Sound price negotiation requires well-defined contract objectives and reliable cost estimates. Prior experience assists the contractor in preparing reliable cost estimates on new procurements for similar equipment. An excessive cost estimate reduces the possibility that the cost of performance will exceed the contract price, thereby reducing the contractor's assumption of contract cost risk.

(4) The third determination is that of the difficulty of the contractor's task. The contractor's task can be difficult or easy, regardless of the type of contract.

(i) Within the above ranges, a cost-plus-a-fixed-fee contract normally would not justify a reward for risk in excess of 0%, unless the contract contains cost risk features such as ceilings on overheads, etc. In such cases, up to ½% may be justified. Cost-plus-incentive-fee contracts fill the remaining portion of the above cost range with weightings directly related to such factors as confidence in target cost, share ratio of fee(s), etc. The range for fixed-price contracts is wide enough to accommodate the many types of fixed-price arrangements. These include fixed-price-incentive, firm fixed-price with economic price adjustment, fixed price with prospective or retroactive price redetermination, and firm fixed-price contracts. Weighting should be indicative of the price risk assumed and the end item required, with only firm fixed-price contracts with requirements for prototypes or hardware reaching the top end of the range.

(ii) The contractor's subcontracting program may have a significant impact on the contractor's acceptance of risk under a contract form. It could cause risk to increase or decrease in terms of both cost and performance. This consideration should be a part of the contracting officer's overall evaluation in selecting a factor to apply for cost risk. It may be determined, for instance, that the prime contractor has effectively transferred real cost risk to a subcontractor and the contract cost risk evaluation may, as a result, be below the range which would otherwise apply for the contract type being proposed. The contract cost risk evaluation should not be lowered, however, merely on the basis that a substantial portion of the contract costs represents subcontracts

without any substantial transfer of contractor's risk.

(iii) In making a contract cost risk evaluation in a procurement action that involves definitization of a letter contract, unpriced change orders, and unpriced orders, under BOA's; consideration should be given to the effect on total contract cost risk as a result of having partial performance before definitization. Under some circumstances it may be reasoned that the total amount of cost risk has been effectively reduced. Under other circumstances it may be apparent that the contractor's cost risk remained substantially unchanged. To be equitable the determination of a profit weight for application to the total of all recognized costs, both those incurred and those yet to be expended, must be made with consideration to all attendant circumstances; not just be the portion of costs incurred, or percentage of work completed, prior to definitization.

(iv) Time and material and labor hour contracts will be considered to be cost-plus-a-fixed-fee contracts for the purpose of establishing profit weights, unless otherwise exempt under § 14–3.808–2(b) in the evaluation of the contractor's assumption of contract cost risk.

(b) *Investment.* The Department encourages its contractors to perform their contracts with the minimum of financial, facilities, or other assistance from the Government. As such, it is the purpose of this factor to encourage the contractor to acquire and use its own resources to the maximum extent possible. The evaluation of this factor should include an analysis of the following:

(1) *Facilities.* To evaluate how this factor contributes to the profit objective requires knowledge of the level of facilities utilization needed for contract performance, the source and financing of the required facilities and the overall cost effectiveness of the facilities offered. Contractors who furnish their own facilities which significantly contribute to lower total contract costs should be provided with additional profit. On the other hand, contractors who rely on the Government to provide or finance needed facilities should receive a corresponding reduction in profit. Cases between the above examples should be evaluated on their merits with either a positive or negative adjustment, as appropriate, in profit being made. However, where a highly facilitized contractor is to perform a contract which does not benefit from this facilitization or where a contractor's use of its facilities has a minimum cost impact on the contract, profit need not be adjusted.

(2) *Payments.* In analyzing this factor, consideration should be given to the frequency of payments by the Government to the contractor. The key to this weighting is to give proper consideration to the impact the contract will have on the contractor's cash flow. Generally, negative consideration should be given for payments more frequent than monthly with maximum reduction being given as the contractor's working capital approaches zero. Positive consideration should be given for payments less frequent than monthly with additional consideration given for a capital turnover rate on the contract which is less than the contractor's or the industry's normal capital turnover rate.

(c) *Contractor's Performance.* The contractor's past and present performance should be evaluated in such areas as quality of product, meeting performance schedules, efficiency in cost control (including need for and reasonableness of cost incurred), accuracy and reliability of previous cost estimates, degree of cooperation by the contractor (both business and technical), timely processing of changes and compliance with other contractual provisions, and management of subcontract programs. Where a contractor has consistently achieved excellent results in the foregoing areas in comparison with other contractors in similar circumstances, such performance merits a proportionately greater opportunity for profit or fee. Conversely, a poor record in this regard should be reflected in determining what constitutes a fair and reasonable profit or fee.

(d) *Federal Business Development Programs.* This factor, which may apply to special circumstances or particular acquisitions, relates to the extent of contractor successful participation in the Government sponsored programs such as small business, small disadvantaged business, labor surplus programs, women-owned business and energy conservation efforts. The contractor's policies and procedures which energetically support Government business development programs and achieves successful results should be given positive consideration. Conversely, failure or unwillingness on the part of the contractor to support Government business development programs should be viewed as evidence of poor performance for the purpose of establishing a profit objective.

(e) *Special Situations.*—(1) *Inventive and Developmental Contributions.* The extent and nature of contractor-initiated and financed independent development should be considered in developing the profit objective. The importance of the development in furthering the missions of the Department, the demonstrable initiative in determining the need and application of the development, the extent of the contractor's cost risk, and whether the development cost was recovered directly or indirectly from Government sources should be weighed.

(2) *Unusual Pricing Agreements.* Occasionally, unusual contract pricing arrangements are made with the contractor wherein it agrees to participate in the sharing of contract cost or agrees to accept a lower profit or fee for changes or modifications within a prescribed dollar value. In such circumstances, the contractor should receive favorable consideration in developing the profit objective.

(3) This factor need not be limited to situations which only increase profit/fee levels. A negative consideration may be appropriate when the contractor is expected to obtain spin-off benefits as a direct result of the contract (e.g., products with commercial application).

§ 14–3.808–7 Facilities capital cost of money.

When facilities capital cost of money (cost of capital committed to facilities) is included as an item of cost in the contractor's proposal, a reduction in the profit objective shall be made in an amount equal to the amount of facilities capital of cost of money allowed in accordance with FPR § 1–15.205–51. If the contractor does not propose this cost, a provision must be inserted in the contract that facilities capital cost is not an allowable cost.

3. Section 14–3.809 is revised to read as follows:

§ 14–3.809 Contract audit as a pricing aid.

The Assistant Inspector General for Auditing, Office of Inspector General, is responsible for providing audit reports on contract price proposals and other audit services required by FPR § 1–3.809 in accordance with Part 360, Chapter 3.7 of the Departmental Manual (360 DM 3.7).

PART 14–4—SPECIAL TYPES AND METHODS OF PROCUREMENT

1. The Table of Contents for Part 14–4 is amended by adding new § 14–4.1006–2, and removing "Subpart 14–4.51—Research and Development," (§§ 14–4.5101 through 14–4.5101–3), and § 14–4.5207 as follows:

Subpart 14-4.10—Architect-Engineer Services

Sec.

* * * * *

14-4.1006-2 Procedure.

* * * * *

Subpart 14-4.51 [Removed]

Subpart 14-4.52 Appraisal Services (Real Property)

* * * * *

14-4.5207 [Removed]

Subpart 14-4.10—Architect-Engineer Services

2. Section 14-4.1004-3 is revised to read as follows:

§ 14-4.1004-3 Evaluation criteria.

In addition to the criteria listed under FPR § 1-4.1004-3 for use in evaluating architect-engineer firms, the following additional criteria shall be applied when applicable to a particular procurement:

(a) Computer capability and expertise (where computer use is required.)

(b) Adequacy of facilities for performance of the work including those necessary to provide specialized services that may be required.

(c) Volume and nature of present workload.

(d) Experience and qualifications of proposed key personnel including specialized technical skills, project coordination and management skills, and experience in working together as a team.

(e) Availability of additional contractor personnel or consultants to support expansion or acceleration of the project.

(f) Other specific criterion as may be required.

3. Section 14-4.1006-1 is revised and new § 14-4.1006-2 is added to read as follows:

§ 14-4.1006 Limitation on contracting with architect-engineer firms for construction work.

§ 14-4.1006-1 Policy.

As required by FPR §§ 1-4.1006-1 and 1-18.112, no contract may be awarded for construction of a project to the firm, parent firm, subsidiaries or affiliates that provided architect-engineer services for the project without the written approval of the Assistant Secretary—Policy, Budget, and Administration.

§ 14-4.1006-2 Procedure.

Architect-engineer firms selected for negotiation of a contract for architect-engineer services shall be informed of the policy set forth in IPR § 14-4.1006-1 in accordance with the procedure under FPR § 1-4.1006-2. This policy shall be incorporated into the terms and conditions of the contract.

4. Section 14-4.1050 is revised to read as follows:

§ 14-4.1050 Use of designated personnel.

The contract for architect-engineer services shall include a "Key Personnel" cause in accordance with IPR § 14-16.703.

Subpart 14-4.51 [Removed]

5. Subpart 14-4.51 (§§ 14-4.5101 through 14-4.5101-3) is removed in its entirety.

Subpart 14-4.52—Appraisal Services (Real Property)

6. Section 14-4.5207 is removed and §§ 14-4.5206 and 14-4.5208 are revised to read as follows:

§ 14-4.5206 Qualifications requirements for appraisers.

If it is anticipated that a real property appraisal made under a contract may be subject to court action, a prospective contractor must be recognized as a qualified appraiser in the file maintained by the Land and Natural Resources Division, U.S. Department of Justice. This requirement shall be treated as a special standard of prospective contractor responsibility in accordance with FPR § 1-1.1203-3.

§ 14-4.5207 [Removed]

§ 14-4.5208 Appraisal standards.

All real property appraisals made under a contract shall conform to the requirements of the Interagency Land Acquisition Conference publication entitled "Uniform Appraisal Standards for Federal Land Acquisitions," published by the Government Printing Office. This standard shall be made a part of all solicitations and resulting contracts for real property appraisal services.

PART 14-6—[Removed]

1. The Table of Contents for Part 14-6 is removed.

2. Part 14-6 is removed in its entirety.

PART 14-7—CONTRACT CLAUSES

1. The Table of Contents for Part 14-7 is amended to remove §§ 14-7.150-2, 14-7.150-4, 14-7.150-5, 14-7.203, 14-7.203-15, 14-7.403, 14-7.403-25, 14-7.650-1, 14-7.650-2, 14-7.650-3, 14-7.650-8, and 14-7.650-9; add new §§ 14-7.150-6, 14-7.250, 14-7.250-1, Subpart 14-7.3, §§ 14-7.350, 14-7.350-1, 14-7.450, 14-7.450-1, 14-7.650-10, and 14-7.650-11, and change the caption for § 14-7.5001 as follows:

Subpart 14-7.1—Fixed Price Supply Contracts

Sec.

* * * * *

14-7.150-2 [Removed]

* * * * *

14-7.150-4 [Removed]

14-7.150-5 [Removed]

14-7.150-6 Release of claims.

Subpart 14-7.2—Cost Reimbursement Type Supply Contracts

14-7.203 [Removed]

14-7.203-15 [Removed]

* * * * *

14-7.250 Additional Interior contract clauses.

14-7.250-1 Release of claims.

Subpart 14-7.3—Fixed Price Research and Development Contracts

14-7.350 Additional Interior contract clauses.

14-7.350-1 Release of claims.

Subpart 14-7.4—Cost Reimbursement Type Research and Development Contracts

14-7.403 [Removed]

14-7.403-25 [Removed]

* * * * *

14-7.450 Additional Interior contract clauses.

14-7.450-1 Release of claims.

Subpart 14-7.6—Fixed Price Construction Contracts

14-7.650-1 [Removed]

14-7.650-2 [Removed]

14-7.650-3 [Removed]

* * * * *

14-7.650-8 [Removed]

14-7.650-9 [Removed]

* * * * *

14-7.650-10 Prohibition against use of lead-based paint.

14-7.650-11 Release of claims.

Subpart 14-7.50—Special Contract Clauses

14-7.5001 Paperwork Reduction Act of 1980.

* * * * *

Subpart 14-7.1—Fixed Price Supply Contracts

§§ 14-7.150-2, 14-7.150-4, and 14-7.150-5 [Removed]

1. Sections 14-7.150-2, 14-7.150-4 and 14-7.150-5 are removed.

2. Section 14-7.150-3 is revised and new § 14-7.150-6 is added to read as follows:

§ 14-7.150 Additional Interior contract clauses.

* * * * *

§ 14-7.150-3 Examination of records.

Insert the clause set forth in IPR § 14-63.104 as prescribed in IPR § 14-63.103(b).

§ 14-7.150-6 Release of claims.

The clause set forth in IPR § 14-1.350 shall be used as prescribed therein.

Subpart 14-7.2—Cost-Reimbursement Type Supply Contracts

§§ 14-7.203 and 14-7.203-15 [Removed]

3. Sections 14-7.203 and 14-7.203-15 are removed.

4. Section 14-7.204-5 is revised to read as follows:

§ 14-7.204 Additional clauses.

§ 14-7.204-5 Insurance-liability to third parties.

Except for those contracts listed in IPR § 14-17.150, subparagraph (c)(2) of the clause set forth in FPR § 1-7.204-5 shall be changed to read "subject to the 'Limitation of Cost' or 'Limitation of Funds' clause * * *"

5. New §§ 14-7.250 and 14-7.250-1 are added to read as follows:

§ 14-7.250 Additional Interior contract clauses.

§ 14-7.250-1 Release of claims.

The clause set forth in IPR § 14-1.350 shall be used as prescribed therein.

Subpart 14-7.3—Fixed-Price Research and Development Contracts

6. A new Subpart 14-7.3 and §§ 14-7.350 and 14-7.350-1 are added as follows:

Subpart 14-7.3—Fixed-Price Research and Development Contracts

§ 14-7.350 Additional Interior contract clauses.

§ 14-7.350-1 Release of claims.

The clause set forth in IPR § 14-1.350 shall be used as prescribed therein.

Subpart 14-7.4—Cost Reimbursement Type Research and Development Contracts

§§ 14-7.403 and 14-7.403-25 [Removed]

7. Sections 14-7.403 and 14-7.403-25 are removed.

8. Section 14-7.404-9 is revised to read as follows:

§ 14-7.404 Additional clauses.

§ 14-7.404-9 Insurance-liability to third parties.

Insert the modified clause set forth under IPR § 14-7.204-5 under the conditions prescribed therein.

9. New §§ 14-7.450 and 14-7.450-1 are added to read as follows:

§ 14-7.450 Additional Interior contract clauses.

§ 14-7.450-1 Release of claims.

The clause set forth in IPR § 14-1.350 shall be used as prescribed therein.

Subpart 14-7.6—Fixed Price Construction Contracts

§§ 14-7.650-1, 14-7.650-2, 14-7.650-3, 14-7.650-8, and 14-7.650-9 [Removed]

10. Sections 14-7.650-1, 14-7.650-2, 14-7.650-3, 14-7.650-8 and 14-7.650-9 are removed.

11. Section 14-7.650-5 is amended by removing paragraphs (c), (d) and (e) to read as follows:

§ 14-7.650 Additional Interior contract clauses.

* * * * *

§ 14-7.650-5 Local taxes.

* * * * *

(c) [Removed]

(d) [Removed]

(e) [Removed]

* * * * *

12. Section 14-7.650-7 is revised to read as follows:

§ 14-7.650-7 Examination of records.

The clause set forth in IPR § 14-63.104 shall be used under the conditions prescribed in IPR§ 14-63.103(b).

13. New § 14-7.650-10 is added as follows:

§ 14-7.650-10 Prohibition against use of lead-based paint.

Insert the clause set forth in IPR § 14-18.150 under the conditions prescribed therein.

14. New § 14-7.650-11 is added to read as follows:

§ 14-7.650-11 Release of claims.

The clause set forth in IPR § 14-1.350 shall be used as prescribed therein.

Subpart 14-7.50—Special Contract Clauses

15. The caption and contents of § 14-7.5001 are revised to read as follows:

§ 14-7.5001 Paperwork Reduction Act of 1980.

Insert the clause set forth in IPR § 14-1.351 under the conditions prescribed therein.

PART 14-9—PATENTS, DATA, AND COPYRIGHTS

1. A Table of Contents is established for new Part 14-9, and §§ 14-9.107 and 14-9.107-3 as follows:

Subpart 14-9.1—Patents

Sec.

14-9.107 Patent rights under contracts for research and development.

14-9.107-3 Policy.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), 5 U.S.C. 301.

2. New Part 14-9, Subpart 14-9.1 and §§ 14-9.107 and 14-9.107-3 are added to read as follows:

Subpart 14-9.1—Patents

§ 14-9.107 Patent rights under contracts for research and development.

§ 14-9.107-3 Policy.

It is the policy of the Department of the Interior to adopt, without modification, the provisions of OMB Bulletin No. 81-22 dated June 30, 1981, and any further implementation of Pub. L. 96-517 under FPR Subpart 1-9.1.

PART 14-10—BONDS AND INSURANCE

1. The Table of Contents for Part 14-10 is amended by removing "Subpart 14-10.1—Bonds", §§ 14-10.109 and 14-10.109-50; redesignating § 14-10.450 as § 14-10.401 and changing its caption, and redesignating § 14-10.451 as § 14-10.401-50 and changing its caption to read as follows:

Subpart 14-10.1 [Removed]

Sec.

14-10.109 [Removed]

14-10.109-50 [Removed]

Subpart 14-10.4—Insurance Under Fixed-Price Contracts

14-10.401 Policy.

14-10.401-50 Insurance requirements for aircraft services contracts.

14-10.450 [Removed]

14-10.451 [Removed]

Subpart 14-10.1 [Removed]

2. Subpart 14-10.1 (§§14-10.109 and 14-10.109-50) is removed in its entirety.

Subpart 14-10.4—Insurance Under Fixed-Priced Contracts

3. Section 14-10.450 is redesignated as § 14-10.401, recaptioned, and paragraph (a) is revised to read as follows:

Subpart 14-10.4—Insurance Under Fixed-Price Contracts

§ 14-10.401 Policy.

(a) It is the policy of the Department to insure its own risks only when such

action is in the best interest of the Government. Circumstances where insurance may be required are listed under FPR §§ 1–10.301 and 1–10.401. In these situations, the clause set forth in paragraph (b) of this section shall be used.

* * * * *

4. Section 14–10.451 is redesignated as § 14–10.401–50, recaptioned, and revised to read as follows:

§ 14–10.401–50 Insurance requirements for aircraft services contracts.

(a) *Policy.* It is the policy of the Department to establish minimum insurance requirements for certain types of aircraft services contracts in order to protect the Government and its contractors. These requirements are contained in the clauses set forth under (c) below and are in accordance with FPR § 1–10.301.

(b) *Applicability.* The clauses prescribed by this section are applicable to all contracts involving use of aircraft with contractor or Government-furnished pilot except for one-time charters when the Government exposure is minimal and time limitations are present.

(c) *Clauses.* (1) The following clause shall be inserted in all contracts for operation of aircraft with contractor-furnished pilot:

Risk and Indemnities

The Contractor hereby agrees to indemnify and hold harmless the Government, its officers and employees from and against all claims, demands, damages, liabilities, losses, suits and judgments (including all costs and expenses incident thereto) which may be suffered by, accrue against, be charged to or recoverable from the Government, its officers and employees by reason of injury to or death of any person other than officers, agents, or employees of the Government or by reason of damage to property of others of whatsoever kind (other than the property of the Government, its officers, agents or employees) arising out of the operation of the aircraft. In the event the Contractor holds or obtains insurance in support of this covenant, a Certificate of Insurance shall be delivered to the Contracting Officer.

[End of Clause]

(2) For contracts involving the use of aircraft with Government-furnished pilot where the Government does not have a property interest, insert the following clause:

Liability for Loss or Damage

(a) The Contractor shall indemnify and hold the Government harmless from any and all loss or damage to the aircraft furnished under this contract except as provided in paragraph (d) below. For the purpose of fulfilling its obligation under this clause, the Contractor shall procure and maintain during the term of this contract, and any extension thereof, hull insurance acceptable to the Contracting Officer. The Contractor's insurance coverage shall apply to pilots furnished by the Government who operate the aircraft. The contractor may request a list of Government pilots by name and qualification who are potential pilots.

(b) Prior to the commencement of work hereunder, the Contractor shall furnish to the Contracting Officer a copy of the insurance policy or policies or a certificate of insurance issued by the underwriter(s) showing that the coverage required by this clause has been obtained.

(c) Each policy or certificate evidencing the insurance shall contain an endorsement which provides that the insurance company will notify the Contracting Officer 30 days prior to the effective date of any cancellation or termination of any policy or certificate or any modification of a policy or certificate which adversely affects the interests of the Government in such insurance. The notice shall be sent by registered mail and shall identify this contract, the name and address of the contracting office, the policy, and the insured.

(d) If the aircraft is damaged or destroyed while in the custody and control of the Government, the Government will reimburse the Contractor for the deductible stipulated in the insurance coverage (if any) as follows:

(1) In-Motion Accidents—Up to 5% of the current insured value of the aircraft stated in the policy, or $10,000.00, whichever is less.

(2) Not In-Motion Accidents—Up to $250.00 per accident. Such reimbursement shall not be made, however, for loss or damage to the aircraft resulting from (1) normal wear and tear, (2) negligence or fault in maintenance of the aircraft by the Contractor, or (3) a defect in construction of the aircraft or component thereof.

(e) If damage to the aircraft is established to be the fault of the Government, rental payments to the Contractor during the repair period will be made as set forth elsewhere in this contract. The Government may, at its option, make necessary repairs or return the aircraft to the Contractor for repair. In the event the aircraft is lost, destroyed, or damaged so extensively as to be beyond repair, no rental payment will be made to the Contractor thereafter.

(f) Any failure to agree as to the responsiblity of the Government or the Contractor under this clause shall, after a final finding and determination by the Contracting Officer, be considered a dispute within the meaning of the "Disputes" clause of this contract.

[End of Clause]

(3) For contracts involving the use of aircraft with Government-furnished pilot where the Government has a property interest (e.g., lease with purchase option) insert the following clause:

Liability for Loss or Damage (Property Interest)

(a) The Government assumes all risk and liability for damage to or loss of the aircraft for the term of this contract, while the aircraft is in the Government's possession, except for (1) normal wear and tear to the aircraft, or (2) loss which occurs as a result of negligence or fault in maintenance of the aircraft by the contractor, or (3) loss resulting from a latent defect in the construction of the aircraft or a component thereof.

(b) In the event of damage to the aircraft, the Government may, at its option, make the necessary repairs with its own facilities, or by contract, or pay the Contractor the reasonable cost of repair of the aircraft. If damage to the aircraft is established to be the fault of the Government, rental payments to the Contractor during the repair period will be made as set forth elsewhere in this contract.

(c) In the event the aircraft is lost, destroyed, or damaged so extensively as to be beyond repair, no rental payment will be made to the Contractor thereafter, but the Government will pay to the Contractor a sum equal to the fair market value of the aircraft just prior to such loss, destruction, or extensive damage, less the salvage value of the aircraft.

(d) The Contractor certifies that the contract price does not include any cost attributable to insurance or to any reserved fund it has established to protect its interests in or use of the aircraft, regardless of whether or not the insurance coverage applies for the period during which the Government has possession of the aircraft. If, in the event of loss or damage to the aircraft, the Contractor receives compensation for such loss or damage, in any form, from any source, the amount of such compensation shall be credited to the Government in determining the amount of the Government's liability under this clause; except that this shall not apply to proceeds of insurance received solely as an advance of insurance pending determination of Government liability, or for an increment of value of the aircraft beyond the value for which the Government is responsible.

(e) In the event of loss or damage, the Government shall be subrogated to all rights of recovery by the Contractor against third parties for such loss or damage and such rights shall be immediately assigned to the Government. Except as the Contracting Officer may permit in writing, the Contractor shall neither release nor discharge any third party from liability for such loss or damage nor otherwise compromise or adversely affect the Government's subrogation or other rights hereunder. The Contractor shall cooperate with the Government in any suit or action undertaken by the Government against any such third party.

(f) Any failure to agree as to the responsibility of the Government or the Contractor under this clause shall, after a final finding and determination by the Contracting Office, be considered a dispute within the meaning of the "Disputes" clause of this contract.

[End of Clause]

PART 14–16—PROCUREMENT FORMS

1. The Table of Contents for Part 14–16 is amended by adding a new Subpart 14–16.7 and § 14–16.703 as follows:

Subpart 14-16.7—Forms for Negotiated Architect-Engineer Contracts

Sec.
14-16.703 Terms, conditions, and provisions

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), 5 U.S.C. 301.

2. Subpart 14-16.7 and § 14-16.703 are added to read as follows:

Subpart 14-16.7—Forms for Negotiated Architect-Engineer Contracts

Subpart 14-16.703 Terms, conditions and provisions

All contracts for architect-engineer services shall contain the "Key Personnel" clause prescribed under FPR § 1-7.304-6.

PART 14-17—EXTRAORDINARY CONTRACTUAL ACTIONS TO FACILITATE THE NATIONAL DEFENSE

1. A Table of Contents is established for new Part 14-17, Subpart 14-17.1 and §§ 14-17.101 and 14-17.150 to read as follows:

Subpart 14-17.1—General

Sec.
14-17.101 Authority.
14-17.150 Policy.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), 5 U.S.C. 301.

2. Part 14-17 and Subpart 14-17.1 and §§ 14-17.101 and 14-17.150 are added as follows:

Subpart 14-17.1—General

§ 14-17.101 Authority.

The Assistant Secretary—Policy, Budget and Administration must approve in advance any actions taken pursuant to FPR § 1-17.103. The Secretary must approve any provision for the Government to indemnify a Contractor beyond the amount of the contract for liability to third persons as provided under Executive Order 10789, as amended. Approval of such an indemnification provision must be obtained prior to issuance of the solicitation.

§ 14-17.150 Policy.

It is the policy of the Department of the Interior to include the indemnification provision set forth in FPR § 1-7.204-5 only in contracts which facilitate the national defense and are for products or services which entail risks that are unusually hazardous or nuclear in nature. For all other contracts requiring insurance, the clause set forth under FPR § 1-7.204-5 must be modified as prescribed in IPR § 14-7.204-5.

PART 14-18—PROCUREMENT OF CONSTRUCTION

Subpart 14-18.6—Buy American Act

Section 14-18.604 is revised to read as follows:

§ 14-18.604 Invitation provision.

The provision set forth under FPR § 1-18.604 shall be used in all solicitations for affected construction work (except for contracts executed on Standard Form 19) with the following modifications:

(a) At the end of paragraph (a) of the provision, list the excepted articles, materials, and supplies set forth under IPR § 14-6.105.

(b) At the end of paragraph (b)(2)(i) of the provision, add the following:

ADDITIONAL NONDOMESTIC CONSTRUCTION MATERIALS COST COMPARISON

Identification of material	Quantity	Cost (dollars) [1]
Item 1:		
Nondomestic materials		
Comparable domestic material		
Item 2:		
Nondomestic material		
Comparable domestic material		
Totals:		

[1] Delivered to construction site.

(c) Add the following statement to the end of paragraph (b)(3): "However, unless the bidder/offeror specifically states that alternate bid or proposal prices are being submitted for specific items of the bid schedule (based on prices listed for comparable domestic materials), the bid or proposal will be evaluated only on the basis of nondomestic construction materials."

PART 14-19—TRANSPORTATION

Subpart 14-19.1—General

Section 14-19.108-50 is amended by revising paragraph (a), removing its paragraph designation, and removing paragraphs (b) and (c) to read as follows:

§ 14-19.108 Ocean transportation.

§ 14-19.108-50 Contractor compliance.

Concurrent with the award of any contract involving shipment by ocean vessel from or to a foreign country, the contracting officer shall formally notify the contractor of the specific requirements of the "Use of U.S. Flag Commercial Vessels" clause set forth under FPR § 1-19.108-2. The notification shall include a statement that failure to comply with the provisions of this clause may result in a determination of nonresponsibility on future Government procurement requirements.

PART 14-26—CONTRACT MODIFICATIONS

Subpart 14-26.4—Novation and Change of Name Agreements

Section 14-26.402 is amended by removing its paragraph designation and revising the introductory paragraph to read as follows:

§ 14-26.402 Agreement to recognize a successor in interest.

For protection of Government rights in accrual of inventions, patents and data, the novation agreement form set forth under FPR § 1-26.402(e) shall be amended by adding the following item 10 to the "Now THEREFORE" section of the agreement:

* * * * *

PART 14-30—CONTRACT FINANCING

Subpart 14-30.4—Advance Payments

Sections 14-30.414 and 14-30.414-2 (a) and (b) are revised to read as follows:

§ 14-30.414 Agreement for special bank account and contract provisions.

§ 14-30.414-2 Contract provisions for advance payments.

(a) For contracts and modifications where a special bank account agreement is not required for advance payments (see FPR § 1-30.413), the contract provision under FPR § 1-30.414-2 shall be used as modified by (c) below.

(b) For contracts and modifications using the letter of credit method of financing (see FPR § 1-30.408-1), the contract provision under FPR § 1-30.414-2 shall be used as modified by (c) below.

* * * * *

PART 14-63—AUDIT

Subpart 14-63.1—Audit of Contractor's Records

1. The Table of Contents for Part 14-63 is amended by changing the caption for § 14-63.104 and removing §§ 14-63.104-1, 14-63.104-2, and 14-63.104-3 to read as follows:

Subpart 14-63.1—Audit of Contractor's Records

Sec.
* * * * *
14-63.104 Clause.
14-63.104-1 [Removed]
14-63.104-2 [Removed]
14-63.104-3 [Removed]
* * * * *

2. Section 14–63.101 is revised to read as follows:

§ 14–63.101 Audit responsibility

The Office of Inspector General conducts or arranges for audits (i.e., examinations) of contractor's records to the extent that such audits are required or allowed by law, regulation or sound business judgement. Such audits include the conduct of periodic or requested audits of contractors as determined necessary or advisable by the Inspector General and may be influenced by such factors as the financial condition, intergrity, and reliability of the contractor; prior audit experience; adequacy of the accounting system; and the amount of unaudited claims. The audits may also include reviews of cost or price data for contractor's proposal for negotiated contracts (see FPR § 1–3.809).

3. Section 14–63.103 is revised to read as follows:

§ 14–63.103 Requirements.

(a) A preaward audit of proposals shall be made as required by FPR § 1–3.809.

(1) The preaward audit shall not be waived without proper written justification (See FPR § 1–3.809(b)(1)(i)).

(2) Requests for preaward audit along with pertinent documents shall be submitted to the Office of Inspector General. Except under unusual circumstances, at least 30 days should be allowed for the review and evaluation of contractor's proposals.

(b) All awards of noncompetitive contacts which exceed $25,000 shall include the "Examination of Records" clause set forth in IPR § 14–63.104.

(c) In some contracts it may be appropriate to emphasize the scope or extent of an audit, such as (1) the use or dispostion of Government-furnished property or (2) variable or other special features of a contract (e.g., price escalation and compliance with the price warranty or price reduction clauses). In such cases, the contract clause in IPR § 14–63.104 may be appropriately modified with the written concurrence of the Office of Inspector General.

(d) Use of the clause set forth in IPR § 14–63.104 (whether or not modified) does not negate the required use of the "Examination of Records" clause prescribed in FPR § 1–3.814–2(c) or the "Audit" clause prescribed in FPR § 1–3.814–2(a).

4. Section 14–63.104 is revised to read as follows:

§ 14–63.104 Clause.

Insert the following clause under the conditions prescribed in IPR § 14–63.103(b):

Examination of Records

Any Contractor receiving Federal funds agrees that the Secretary of the Interior, the Inspector General, or any of their duly authorized representatives shall, until the expiration of three years after final payment under this contract or the time periods for the particular records specified in Part 1–20 of the Federal Procurement Regulations (41 CFR Part 1–20), whichever expires earlier, have access to, and the right to examine, any books, documents, papers and records of the Contractor involving transactions related to this contract or compliance with any clauses thereunder. The Contractor further agrees to include this provision in all contractual agreements with subcontractors.

[End of Clause]

§§ 14–63.104–1, 14–63.104–2 and 14–63.104–3 [Removed]

5. Sections 14–63.104–1, 14–63.104–2 and 14–63.104–3 are removed.

[FR Doc. 81–36053 Filed 12–16–81; 8:45 am]
BILLING CODE 4310–10–M

Bureau of Land Management

43 CFR Public Land Order 6098

Modification of Public Land Order Nos. 5173, 5180, and 5184; Classification and Opening of Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order modifies several public land orders to permit, if the lands described are otherwise available, the filing of settlement claims for purposes of trade and manufacturing sites, headquarters sites, or homesites on certain specified lands; operation of the mineral leasing laws on certain specified lands; and the opening of other lands to operation of the general mining laws. These lands are currently unsurveyed.

EFFECTIVE DATE: December 17, 1981.

FOR FURTHER INFORMATION CONTACT: Beaumont C. McClure, Washington, D.C., (202) 343–6511, or Julienne Gibbons, Alaska State Office, (907) 271–5069, for settlement claims, or Valliere Cacy, Alaska State Office, (907) 271–5060, for minerals.

By virtue of the authority vested in the Secretary of the Interior (hereinafter, Secretary) by subsection 204(a) of the Federal Land Policy and Management Act of October 21, 1976, 43 U.S.C. 1714(a), and by subsection 17(d)(1) of the Alaska Native Claims Settlement Act (hereinafter, ANCSA) of December 18, 1971, 43 U.S.C. 1616(d)(1), it is ordered as follows:

1. Public Land Order Nos. 5173, dated March 9, 1972; 5180, dated March 9, 1972; and 5184, dated March 9, 1972, all as amended, modified, or corrected, which withdrew the lands described herein, among others, pursuant to the authority vested in the President and delegated to the Secretary in Executive Order No. 10355 of May 26, 1952, 17 FR 4831, and the authority vested in the Secretary pursuant to subsection 17(d)(1) of the ANCSA, are hereby modified and amended to permit appropriation of lands under the public land laws, if otherwise available, to the following extent:

a. Subject to valid existing rights, the following described lands will be opened to settlement for trade and manufacturing sites, headquarters sites, and homesites, 43 U.S.C. 687a, as specified herein:

(1) The following described lands will be opened to the foregoing types of settlement at 10:00 a.m., Alaska Standard Time, on February 19, 1982:

Fairbanks Meridian

T. 9 S., R. 20 W.,
Secs. 1 to 3, inclusive;
Secs. 10 to 15, inclusive;
Secs. 21 to 23, inclusive;
Secs. 26 and 27;
Secs. 34 to 36, inclusive.

The area described contains approximately 10,880 acres.

(2) The following described lands will be opened to the foregoing types of settlement on December 31, 1982:

Fairbanks Meridian

T. 7 S., R. 20 W.,
Secs. 12 and 13;
Secs. 23 to 26, inclusive;
Secs. 34 to 36, inclusive.
T. 8 S., R. 20 W.,
Secs. 1 to 3, inclusive;
Secs. 10 to 12, inclusive.

The areas described aggregate approximately 9,600 acres.

(3) The following described lands will be opened to the foregoing types of settlement on December 31, 1983:

Fairbanks Meridian

T. 8 S., R. 20 W.,
Secs. 13 to 15, inclusive;
Secs. 22 to 28, inclusive;
Secs. 32 to 36, inclusive.

The area described contains approximately 9,600 acres.

b. Subject to valid existing rights, the following described lands will be opened to operation of the mineral leasing laws, including, but not limited to, the Mineral Leasing Act of February

25, 1920, as amended and supplemented, 30 U.S.C. 181 et seq., at 10:00 a.m., Alaska Standard Time, on February 19, 1982:

Kateel River Meridian

Tps. 18 S., Rs. 23, 24, and 25 E.
Tps. 19 S., Rs. 24, 25, and 28 E.
Tps. 20, 21, and 22 S., R. 22 E.

Fairbanks Meridian

Tps. 7 S., Rs. 21, 22, and 23 W.

The areas described aggregate approximately 276,480 acres.

c. Subject to valid existing rights, the following described lands will be opened to operation of the general mining laws at 10:00 a.m., Alaska Standard Time, on February 19, 1982:

Kateel River Meridian

T. 17 S., R. 22 E.,
Secs. 34 to 36, inclusive.
T. 17 S., R. 23 E.,
Sec. 13;
Secs. 20 to 29, inclusive;
Secs. 31 to 36, inclusive.
T. 17 S., R. 24 E.,
Secs. 1 to 4, inclusive;
Secs. 7 to 36, inclusive.
Tps. 17 S., Rs. 25 to 29 E., inclusive.
T. 17 S., R. 30 E.,
Secs. 4 to 9, inclusive;
Secs. 16 to 21, inclusive;
Secs. 28 to 33, inclusive.
T. 18 S., R. 22 E., that portion lying outside the Nowitna National Wildlife Refuge.
Tps. 18 S., Rs. 23, 24, 25, and 28 E.
T. 18 S., R. 29 E.,
Secs. 1 to 21, inclusive;
Secs. 28 to 33, inclusive.
Tps. 19 S., Rs. 22, 23, 24, 25, 26, and 28 E.
Tps. 20 S., Rs. 22 and 25 E.
T. 20 S., R. 26 E.,
Secs. 1 to 21, inclusive;
Secs. 28 to 33, inclusive.
T. 20 S., R. 27 E.,
Secs. 1 to 18, inclusive.
T. 21 S., R. 22 E.
T. 21 S., R. 24 E.,
Secs. 1 to 19, inclusive;
Secs. 21 to 32, inclusive;
Secs. 34 to 36, inclusive.
T. 22 S., R. 22 E.

Fairbanks Meridian

T. 6 S., R. 20 W.,
Secs. 19 to 36, inclusive.
T. 6 S., R. 21 W.,
Secs. 19 to 36, inclusive.
T. 6 S., R. 22 W.,
Secs. 4 to 9, inclusive;
Secs. 16 to 36, inclusive.
T. 6 S., R. 23 W.
Tps. 7 S., Rs. 20, 21, 22, 23, and 24 W.
Tps. 8 S., Rs. 20, 21, 22, 23, 24, and 25 W.
Tps. 9 S., Rs. 20, 25, and 26 W.
T. 10 S., R. 20 W., those portions of the following sections lying outside the Denali National Park and Preserve,
Secs. 1 to 12, inclusive.
T. 10 S., R. 22 W., those portions of the following sections lying outside the Denali National Park and Preserve,
Secs. 1 to 11, inclusive;
Secs. 15 to 21, inclusive;
Secs. 28 to 33, inclusive.
T. 10 S., R. 23 W., those portions lying outside the Denali National Park and Preserve.
Tps. 10 S., Rs. 24, 25, 26, and 27 W.
T. 10 S., R. 28 W.,
Secs. 1 and 2;
Secs. 11 to 14, inclusive;
Secs. 23 to 26, inclusive;
Secs. 35 and 36.

The areas described aggregate approximately 950,000 acres.

2. Pursuant to the authority vested in the Secretary by subsection 17(d)(1) of the ANCSA, subject to valid existing rights and subject to the limitations set forth in paragraph 3 of this order, the lands listed in paragraph 1 of this order, and which are otherwise available, are hereby classified as suitable for appropriation under the public land laws as specified therein and are hereby opened to such appropriation on the dates specified therein. The opening time and date set forth in subparagraphs 1(a)(1), 1(b), and 1(c) of this order reflect the expiration of the 90-day preference right of selection for those lands afforded the State of Alaska as required by subsection 6(g) of the Alaska Statehood Act, 48 U.S.C. Ch. 2, Sec. 6(g), as set forth in Public Land Order No. 6092, dated November 16, 1981, 46 FR 57048–57049. The lands opened to appropriation by this order continue to be subject to the authority of the Secretary to make contracts, and to grant leases, permits, rights-of-way, or easements.

3. The purpose of this public land order is to make certain lands available for settlement under the Trade and Manufacturing Site, the Headquarters Site, and the Homesite laws (subparagraphs 1(a)(1), 1(a)(2), and 1(a)(3)), to operation of the mineral leasing laws (subparagraph 1(b)), and to operation of the general mining laws (subparagraph 1(c)). No lands are opened by this order which (1) lie within the Nowitna National Wildlife Refuge, or (2) lie within the Denali National Park and Preserve, or (3) are the subject of prior withdrawals or appropriation still in effect.

4. All oil and gas offers to lease filed for lands described in subparagraph 1(b) of this order must either be filed in person in the Alaska State Office at 701 C Street, Anchorage, Alaska, or mailed to the Alaska State Office, Post Office Box 70, Anchorage, Alaska 99513. Notwithstanding the provisions of 43 CFR 3112.1–1, all lands listed in subparagraph 1(b) of this order will be subject to the filing of regular offers under 43 CFR Subpart 3111, and to the provisions of 43 CFR 1821.2–3(a). Any offers to lease received during the 15-day period, from 10:00 a.m., Alaska Standard Time, February 19, 1982, to 4:15 p.m., March 5, 1982, will be considered as filed at the same time, 4:15 p.m., Alaska Standard Time on Friday, March 5, 1982. Noncompetitive offers to lease which are filed after that time and date will be processed and governed by the specific time and date they are received.

The filing fee and advance rental required for any filings pursuant to the mineral leasing laws must be remitted at the time of filing in accordance with regulations found in Title 43 CFR Subchapter C which are in effect on March 5, 1982.

The Secretary is currently considering changing the amount of filing fees. The general public is hereby notified that the amount of filing fees required to be remitted may change subsequent to the issuance of this order and prior to March 5, 1982. The announcement of any such change will be published in the **Federal Register**, a copy of which will be posted in the Public Room, Alaska State Office, 701 C Street, Anchorage, Alaska.

Garrey E. Carruthers,

Assistant Secretary for Land and Water Resources.

December 14, 1981.

[FR Doc. 81-36089 Filed 12-16-81; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 80–14; Notice 3]

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: This rule deletes Table I from Appendix A of Federal Motor Vehicle Safety Standard 109. That table required that, before introducing and selling a new tire size, a manufacturer had to submit load and dimensional information to this agency and await the inclusion of the tire size in Table I. The agency has determined that this procedure was an unnecessary burden on the tire manufacturers for several reasons. First, submission to the agency of the load and dimensional data, which is needed for conducting compliance tests, was unnecessary since the data

could be obtained simply from a tire standardization organization. Second, the agency did not attempt to validate independently the submitted data. Instead, NHTSA simply checked the submitted data against that published for the tire size in one of the standardization organization yearbooks. Under the new procedure published today, a manufacturer may introduce new tire sizes as soon as the load and dimensional information for the new size has been either submitted to this agency and to that manufacturer's dealers or published as a part of one of the standardization organization's yearbooks.

DATE: Effective date: This amendment becomes effective June 15, 1982.

Petitions for reconsideration may be submitted on or before January 18, 1982.

ADDRESS: Submit petitions for reconsideration to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Arturo Casanova, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, (202–426–1714).

SUPPLEMENTARY INFORMATION: Standard No. 109, *New Pneumatic Tires—Passenger Cars*, 49 CFR 571.109, specifies the requirements for all tires manufactured for use on passenger cars manufactured after 1948. This standard, which was issued under the National Traffic and Motor Vehicle Safety Act (Safety Act), requires that the tires meet specified strength, resistance to bead unseating, endurance, and high speed requirements, and be labeled with certain safety information. Closely related to this standard is Standard 110, *Tire Selection and Rims—Passenger Cars*, 49 CFR 571.110, which requires that each passenger car be equipped with tires that comply with Standard 109, that tires on all cars be capable of carrying the load of that vehicle, that the rims on the car be appropriate for use with the tires, and that certain data about the car and tires appear on a placard in the passenger car.

For purposes of testing tires and vehicles to determine their compliance with these standards, several variable factors such as the tire's inflation pressure, the load on the tire, and the rim on which the tire is mounted, must be specified. Under the procedures previously followed, when a tire manufacturer intended to introduce a new tire size, it had to submit these variable factors to the agency for inclusion via a rulemaking proceeding in Table I of Appendix A of Standard 109. Until these factors were published in Table I, the new tire size could not be imported into or sold in this country.

Michelin Tire Corporation (Michelin) filed a petition with the National Highway Traffic Safety Administration (NHTSA) requesting that the agency eliminate Table I from Standard 109. Michelin argued that Standard 119, which applies to all motor vehicle tires other than those for passenger cars, has been successfully implemented without any tire tables, and that the provision of Standard 109 requiring tire sizes to appear in Table I needlessly delays the introduction of innovative tire technology.

During its consideration of this petition, NHTSA reexamined its role and that of the various tire standardization organizations in connection with the approval of new tire sizes. These standardization organizations are voluntary associations composed of representatives of each of the member tire companies. The purpose of these standardization organizations is to establish and promulgate engineering standards for tires, rims, and their allied parts. Generally, when a tire manufacturer wanted to introduce a new tire size, it first presented the load and dimensional data on the new size to a standardization organization. The standardization organization checked the data against that derived from its established formulae for computing these data, and if they were accurate, published the data as part of its yearbook. Concurrently, the tire manufacturers associations or individual tire company submitted a petition with the appropriate data to NHTSA, requesting the inclusion of the new size in Table I. This agency then duplicated the work of the standardization organizations, checking to see that the load carrying data were calculated according to the proper formula. If they were, the agency included the tire size in the next routine amendment to Table I. No independent testing of the load carrying capabilities of new tire sizes was ever undertaken by the agency before adding those tires to the table.

NHTSA also considered the effect that deleting Table I would have on the substantive requirements of Standard 109 and on the introduction of new tires. There would be no change in the substantive requirements. Any tire to be sold in the United States would still be required to pass all the performance requirements set forth in the standard. However, there would be a change in the ease with which new tires could be introduced. There would no longer be any situations where a tire which fully complied with all of the requirements of Standard 109 would have its introduction delayed because of the necessity of first listing that size in the Standard. With the elimination of the tire table, manufacturers would be able to sell tires in the United States as soon as the manufacturer certified that those tires comply with all of the substantive requirements of Standard 109. Thus, Michelin's petition presented the agency with an opportunity to facilitate the introduction of new technology without relaxing any safety requirements.

The petition also presented the agency with an opportunity to explore the possibility of relying on private standards groups as an alternative to mandatory regulation by a Federal agency. This situation seemed like a particularly excellent opportunity to pursue that alternative since NHTSA was already relying on those organizations' determinations of the validity of their calculations.

Accordingly, because deletion of Table I would enable the agency to remove a requirement that imposed time-consuming administrative burdens and delayed the introduction of new tire technology without providing commensurate safety benefits, the agency decided to issue a proposal deleting that table. The notice of proposed rulemaking (NPRM) was published at 45 FR 57466 on August 28, 1980.

The agency received 11 comments on the NPRM. Comments supporting the proposal to eliminate Table I were submitted by Chrysler, Ford, Michelin, Volkswagen of America, and JATMA (the Japanese standardization organization). Comments opposing the proposal were submitted by General Motors, the Rubber Manufacturers Association (RMA, the trade association representing U.S. tire manufacturers), and the Tire & Rim Association (T&RA, the American standardization organization).

Several commenters stated that, without the tire tables, the intermix controversy could have produced serious safety hazards for persons mounting tires. This controversy involved the only safety issue which has ever arisen in the 14 year history of Table I in connection with a petition to add new tire sizes to that Table. This issue was the possible "intermix" of English unit tires and rims with the more recently introduced metric unit tires designed for use on metric unit rims. Since the sizes of these tires and rims may be a close, but not exact match, it would be possible to mismatch an

English unit tire on a metric rim or vice versa. That mismatching could cause the bead of the tire to explode during inflation, or the tire to suddenly lose air while in use.

There were several other comments related to the mismatch controversy. One commenter, a member of the Illinois Vehicle Equipment Safety Commission, stated that before the tire tables could safely be deleted, some amendment would have to be made to Standard 109 to make it impossible to mount tires on rims not compatible with those tires. Similarly, other commenters stated that the agency assumed in the NPRM that the standardization organizations would undertake new duties which historically they have not undertaken, and which they may be unwilling to undertake.

The agency is not aware of explosions due to mismatch ever actually happening. However, the possibility of such explosions was raised as a possibility when NHTSA proposed to add new metric tire sizes to Table I in 1978 and again in 1980 and 1981. Some provision to eliminate the possibility of such intermix would eliminate any potential safety problems which might arise from "mismatches."

Half of this potential problem has already been removed by the routine incorporation of a "blow-by" feature in the new millimetric tires designed for use on millimetric rims. The "blow-by" feature consists of flutes or grooves in the bead area of the tire which prevent the tire from forming a seal with the rim and holding air when the tire is improperly mounted on an English-unit rim. The agency believes that the manufacturers are very unlikely to stop incorporating this feature on these tires because its use is so simple and inexpensive. Also discontinuance would expose the tire manufacturer to a product liability suit if the tire failed as a result of being intermixed. Accordingly, the agency believes it is reasonable to assume that the problem of intermix of English-unit rims with the millimetric tires will not be a problem in the future.

The agency recognizes that there is apparently no similarly simple design change currently used to prevent an intermix of an English-unit tire with the millimetric rims designed for use with millimetric tires. The agency is considering several options to deal with this situation. One option is the adoption of minimum and maximum well depths for these rims. These requirements prevent an English-unit tire from "buttonholing" on the millimetric rim. "Buttonholing" refers to the process of stretching the beads of a tire over the flange of the rim and derives its name from its similarity to the process of manipulating a button hole so that it fits over a button. T&RA already has a practice of adopting well depth requirements for these rims. Also, the European Tyre Rim and Technological Organisation (ETRTO) has recently established well depth requirements for some millimetric rims. If these requirements were adopted by all of the standardization organizations, they would effectively eliminate the possibility of any intermixing English-unit tires with these rims.

Another option would be for NHTSA to propose requiring that the rim size be labeled on passenger car rims. Such a requirement would parallel the existing requirement in Standard 120 that the rim size be labeled on rims other than passenger car rims. Compliance with that requirement has apparently been accomplished in a fairly simple and inexpensive manner. If the rim size were labeled on car rims, any person mounting a tire could compare the rim size with the tire size required to be labeled on the tire and thereby ensure that the tire and rim sizes were compatible.

Both of these options would effectively minimize the chances of a dangerous intermix actually occurring. In view of the substantial role already played by the standardization organizations in establishing tire load and dimensional specifications, the agency believes that it is appropriate to allow those organizations to solve the potential problem by adopting minimum and maximum well depth requirements for millimetric rims. If these organizations do not undertake to establish these requirements as a routine matter, the agency will examine further the desirability of proposing to require that the rim size be labeled on passenger car rims.

Some commenters stated that deletion of Table I would remove the only single source for determining proper loads and dimensions for all tires used in the United States. The loss of that single source was asserted to be significant, because the foreign standardizing bodies do not list all the information shown in the table. It was suggested that persons desiring to obtain that information would encounter greater difficulty in locating it.

NHTSA agrees that there will not be any single source for this information when Table I is abolished. However, NHTSA does not believe and the commenters do not allege that the loss of that single source would create any significant problems for current users of this table. The three possible users are: (1) a car manufacturer deciding on the most appropriate tires for use on a new or redesigned model; (2) a tire dealer replacing tires on a consumer's car; or (3) this agency when it is testing the tires for compliance with Standard 109. The sources of expertise and information available to car manufacturers and their experience in regularly purchasing large quantities of tires for their new cars make it possible for those manufacturers to maintain full knowledge of all possible tire sizes which could be used on their cars without having to resort to consulting Table I. The tire dealer has limited need for information about the wide variety of tires in Table I since most tire replacements are believed to involve simply using the same tire size already on the car. With respect to those instances in which a different tire size is used, the agency believes that it is most likely that the tire dealer simply consults the booklets published by the individual tire manufacturers or one of the yearbooks published by the standardization organizations to determine an appropriate tire size. It seems improbable that a tire dealer consults a copy of Title 49, Code of Federal Regulations before installing replacement tires on a consumer's car. In the case of this agency, NHTSA can obtain information from the appropriate yearbooks or from the individual tire manufacturers before testing the tires. The data from these sources, together with the information labeled on the sidewall of the tire, will provide all the information that this agency needs to test the tires. Thus, it does not appear that any of the parties which might potentially derive some benefit from the convenience of a single source of specifications for all tire sizes will have any difficulty obtaining the information they need without this single source.

The agency's belief that a single source is not indispensable is borne out by the experience with truck tires under Standard 119. Unlike Standard 109, Standard 119 does not contain a single listing of all tire sizes. Yet, in the eight years since Standard 119 became effective, there have not been any reported safety problems or difficulties that were attributed to any limitation on the availability of specifications for the various sizes. Truck manufacturers have not had any reported problems in deciding on appropriate tires nor have tire dealers had problems selecting appropriate replacement sizes. Further, there have not been any problems for the agency in determining the appropriate tire specifications for compliance testing purposes.

While not indicating why it believed that the absence of Table I might create problems for car manufacturers and tire dealers, one commenter argued that the experience with Standard 119 is not relevant as a guide for what would result under Standard 109 without tire tables because of the differences in marketing car and truck tires. The agency agrees that buyers of truck tires are generally far more knowledgeable about their purchase. It agrees also that there is not as great a variety of truck tire sizes as there is for car tire sizes. However, the significance of these differences is substantially diminished by the reliance of car tire purchasers on the knowledge of tire dealers about the specifications of the new car tires. Since tire dealers typically sell tires made by only a few tire manufacturers, the dealers need to know the capabilities of only those manufacturers' tires. They gain this knowledge from the information booklets distributed by the individual manufacturers and from the standardization organization yearbooks. Since deletion of Table I will have no affect on the continued availability of these sources, dealers will still be able to rely on them in the future.

A commenter argued that deletion of the tire table would allow a single manufacturer to introduce tires and rims incompatible with existing ones, giving rise to safety problems. Absent Table I, this commenter argued that there would be no opportunity for advance notice and scrutiny of these potential conflicts. NHTSA does not agree with this comment. The degree of care induced by the possibility of product liability suits and unfavorable publicity make it unlikely that a manufacturer would knowingly introduce tire and rim sizes which might actually cause safety problems. It is possible that, in spite of reasonable care on the part of the manufacturer, tire or rim sizing could inadvertently give rise to some other safety problems, such as those that theoretically might have occurred as a result of the potential for intermix. Since the only potential problem identified to date is intermix and that problem is likely to be foreclosed as suggested above, it is difficult to foresee what that other safety problem might be. However, if a specific new type of safety problem actually does arise, NHTSA can use its authority under the Safety Act to take appropriate action in response to that concrete situation.

Some commenters stated that the deletion of Table I would lead to proliferation of tire sizes. Commenters stated also that because the formula used by the foreign tire manufacturers to calculate the load-carrying capability of their tires differs from that used by the U.S. manufacturers, the deletion of Table I could result in a proliferation of load schedules for the same size tires. These commenters argued that this proliferation would make it possible for a consumer to buy a replacement tire with the proper size, but insufficient load-carrying capacity for his or her car.

The agency does not believe that deletion of Table I would lead to a proliferation of either tire sizes or load schedules or create a safety problem. The mere existence of the table does not exclude the possibility of multiple load schedules. In the case of several tire sizes, there are already varying load schedules listed for each of those tire sizes. (See, for instance, the values shown for the 225/70 R15 size in Tables I–T and I–JJ. The domestic version of this tire size is preceded by the letter "P", but the dimensions of the tires are identical.)

Like the problem of intermix, the proliferation of tire sizes and load schedules has occurred notwithstanding the existence of Table I. This is because Table I was never intended to serve as a barrier to any manufacturer either introducing any new tire size it wanted, provided that appropriate data for that tire size were listed in the table, or determining the load schedule appropriate for its tires. Table I was designed to be nothing more than it is, i.e., a simple listing of tire sizes. It is not a mechanism for regulating or controlling the number or variety of those sizes or load schedules. The appropriate mechanisms for considering any safety problems regarding tires are proceedings to determine whether new performance requirements should be established or whether a finding of safety-related defect should be made.

These variations in sizes and load schedules have occurred since the load schedules in Table I are freely drawn from the yearbooks of the standardization organizations and since these organizations permit different load schedules to be established for the same tire size. Since the table has had no influence on the incidence of load schedule proliferation, it is not reasonable to suppose that deletion of the table will have any influence on the extent of proliferation either.

NHTSA does not believe that the existence of different load schedules for the same tire size will create any safety problems. The agency has not received reports of any safety problems or of any incidents in which consumers have had tires with insufficient load-carrying capacity installed on on their cars. There are several other factors which underlie the agency's belief. An amendment adopted by this rule requires that the load rating for a tire be equal to or greater than a load rating published for that tire size in the yearbook of one of the standardization organizations. This phraseology differs slightly from that proposed in the NPRM. This nonsubstantive change was made in response to a request by JATMA that the provision be worded so that it would exactly parallel the language of Standard 119. This allows a manufacturer or standardization organization to specify that its tire can carry a greater load than has been published for that size, and be subjected to a more strenuous test by this agency.

More important, the agency believes that deletion of Table I will not reduce the incentive tire dealers have to make certain that the maximum load capability of the tires they sell to consumers is not less than that of the consumers' old tires. Notwithstanding the deletion of the table, the dealers will continue to exercise great care in order to avoid tort liability for selling tires with insufficient maximum load capability. The maximum load of each tire is required to be labeled on the tire by Standard 109. Thus, it does not matter what load schedules are published for that size. To ensure that the replacement tire is appropriate for the vehicle, the dealer can compare the load-carrying capability with the weight of the vehicle on each axle. That information is required to be labeled on the vehicle by Part 567.

The agency disagrees with the suggestion by some commenters that, absent the process of adding new tires sizes to Table I, there would not be any forum for addressing any international concerns about safety problems that might arise regarding new tire sizes. Under section 124 of the Safety Act, domestic and foreign parties could petition the agency to commence rulemaking or defect proceedings to address such problems. Rulemaking and defect proceedings are initiated in response to a petition when the agency finds that the petitioner sufficiently demonstrates the likely existence of a significant safety problem. If proceedings were commenced regarding any tire safety problems, those parties would also have the opportunity to participate in those proceedings.

Further, the membership of the standardization organizations is international. Since all of the tire companies are members of at least one of the tire standardization organizations, they are fully informed about the tire

sizes that the standardization organizations are considering be added to their yearbooks. For instance, Firestone, Goodyear, Uniroyal, Goodrich, and Mohawk are all members of the ETRTO and the STRO (the Scandanavian standardization organization), as well as the T&RA. Thus, there is ample opportunity for these companies to present their views on tire and rim sizing to these organizations, and have these groups address the merits of those views. In the same way, the foreign tire manufacturers are affiliated members of T&RA. They can present any objections they might have regarding tire and rim sizing to that organization. NHTSA believes that these organizations will give any objections a full consideration. If a tire manufacturer is dissatisfied with the response to its objections, it can submit an appropriate petition to NHTSA.

Chrysler, Ford, and General Motors all urged that if the standard were to be revised by deleting Table I, the procedures for conducting the high speed performance test should be revised so that they do not require testing a tire at only 85 percent of its maximum load as proposed in the NPRM. These commenters explained that the 85 percent figure would require them to use larger tires on some of their models even though there isn't any evidence that the tire sizes currently being used by the vehicle manufacturers are causing any safety problems.

In proposing use of the 85 percent figure, NHTSA was unaware of this possibility. It did not intend that deleting Table I would have the indirect effect of necessitating the use of larger tires by the vehicle manufacturers.

The car manufacturers suggested two possible revisions in the high speed test requirement that would avoid having to increase the size of any tires. General Motors suggested that NHTSA use the same reference to the intermediate load formerly shown in Standard 109, but that instead of referring to the intermediate load column in Table I, refer to the intermediate load column in the yearbooks of the various standardization organizations. NHTSA notes that there would be a problem with this suggestion. Only the American standardization organization publishes the intermediate loads which would be needed for the high speed test. Thus, if the agency adopted this approach, all foreign standardization organizations would be forced to publish intermediate loads. This step is unnecessary since the agency has accepted an alternative suggestion by other commenters.

Chrysler and Ford both suggested that the load on the tires during the high speed test be increased from the proposed 85 percent of the load at the maximum permissible inflation pressure to 88 percent of that load. This change, according to both companies, would eliminate any need for using larger tires. The agency agrees. Accordingly, this suggestion is adopted in this final rule.

Two commenters urged that the dimensional requirements be deleted from Standard 109. JATMA argued that these requirements are unnecessary because manufacturers will, as part of their quality control program, produce tires whose dimensions conform with those on the tires' labels. JATMA stated that there have not been any safety problems with improperly-sized truck tires even though Standard 119 has no dimensional requirements. It stated also that there have not been any problems with improperly-sized rims even though neither Standard 110 nor Standard 120 have any dimensional requirements. NHTSA believes that these arguments are accurate, but is unable to adopt the commenters' suggestions in this final rule. A substantive change to a standard cannot be adopted without giving the public an opportunity to comment on the proposed change. Since the NPRM did not indicate that the agency was considering such a step, it cannot be adopted in this final rule. The agency will consider initiating rulemaking to eliminate these requirements from Standard 109 in the future based on the reasons given by JATMA.

Michelin also argued that the dimensional requirements should be deleted because the language in the NPRM referring to these requirements would have effectively prohibited an individual manufacturer from introducing new tire sizes without the approval of some standardization organization. Standard 109 currently allows tire manufacturers desiring to introduce a new tire size either to use the data listed in one of the standardization organization yearbooks for the tire size or to develop their own data for the tire and submit it to NHTSA without first coordinating with any standardization organization. Regardless of their source, these data were submitted to NHTSA for inclusion in Table I. When the tire size and its data were included, the tires of that size were tested in accordance with the included data.

The NPRM proposed two changes in the current procedure. First, the agency proposed to eliminate Table I so that data for new tire sizes would not have to be included in that table prior to the importation or sale of new tires of those sizes. Second, the agency proposed that all new tire sizes would have to be accepted by some standardization organization prior to importation or sale.

Michelin objected to the second proposal. The agency agrees that its goal of facilitating the introduction of new tire technology would be best served if the standardization organizations were not indirectly given ultimate authority over the tire manufacturers in the area of tire sizing. Accordingly, the agency has not adopted that second proposal. Instead, the agency has specified in the amendments made by this notice that, as under the current standard, tire manufacturers may either use the dimensional data published by one of the standardization organizations or furnish the data directly to NHTSA, each of its dealers, and, if requested, to members of the public.

As another reason for retaining Table I, several commenters observed that the NPRM would have required the size factor of tires to be at least as large as that published by one of the standardization organizations even though the foreign standardization organizations do not publish the size factor dimension. This observation is correct, but in a technical sense only. While the yearbooks do not contain the size factor, they do contain equivalent information. Every yearbook specifies a tire's overall diameter and section width. Added together, these dimensions equal the size factor.

The deletion of Table I from Standard 109 becomes effective June 15, 1982. The 180-day period will give the tire manufacturers and the various standardization organizations an opportunity to examine the yearbooks to ensure that all of the sizes currently listed in Table I of Standard 109 are shown in one of the yearbooks.

JATMA requested that the agency state in this preamble that tire sizes which are currently listed in Table I may be produced after the table is deleted. That organization did not explain what problem, if any, prompted this comment. Most tire sizes in Table I are already in at least one of the yearbooks of the standardization organizations. It is only the very old or very new tire sizes that might not be in one of the yearbooks. Addition of the data for those sizes to a yearbook should be a fairly simple process since the data for those sizes already exist in Table I. The leadtime of 180 days provided by this notice should provide ample time for the manufacturers and standardization organizations to add that data. JATMA and the other standardization

organizations should check the tire sizes to be listed in their 1982 yearbooks to be sure that all of the sizes that their members plan to sell in the United States are among those listed sizes.

NHTSA has analyzed the impacts of this action and determined that this action is not "major" within the meaning of Executive Order 12291 or "significant" within the meaning of the Department of Transportation regulatory policies and procedures. The principal impacts of adopting this rule will be to reduce unnecessary paperwork burdens for the manufacturers and to facilitate the introduction of new technology in tires. As a result, there will be some cost savings for the manufacturers. Also, both innovative tire manufacturers and consumers will benefit from the earlier introduction of new tire technology. A regulatory evaluation regarding these impacts has been prepared and placed in the docket for this action. Copies of the evaluation may be obtained by writing the Docket Section or calling it at (202) 426–2768.

The agency has considered the environmental implications of this rule in accordance with the Environmental Policy Act of 1969 and determined that this rule will not significantly affect the human environment.

The Regulatory Flexibility Act is not applicable to this rule since that Act applies only to rulemaking proceedings in which the NPRM was issued on or after January 1, 1981. The NPRM in this rulemaking action was issued in August 1980. If that Act were applicable, NHTSA would have determined that this rule will not "have a significant economic impact on a substantial number of small entities" and that a Regulatory Flexibility Analysis was therefore not required. The reduced costs resulting from this rule does not have a significant effect on the tire manufacturers. Further, the agency believes that few of the tire manufacturers would qualify as small businesses. Any tire manufacturers that do qualify as small businesses will enjoy the same reduction of paperwork and opportunity to avoid delays in the introduction of new tire sizes as the larger manufacturers. Small governmental units and small organizations are generally affected by amendments to the Federal Motor Vehicle Safety Standards as purchasers of new motor vehicle and new motor vehicle equipment. Since this rule will not significantly affect the price of tires, small governmental units and small organizations will not be affected.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

In consideration of the foregoing, 49 CFR Part 571 is amended as follows:

§ 571.109 [Amended]

Section 571.109, *Standard No. 109; New pneumatic tires,* is amended as follows:

1. Section S4.2.1(c) is revised as follows:

* * * * *

S4.2 *Performance Requirements.*

S4.2.1 *General.* Each tire shall conform to each of the following:

* * * * *

(c) Its load rating shall be that specified in one of the publications described in S4.4.1(b) for its size designation, type, and each appropriate inflation pressure. If the maximum load rating for a particular tire size is shown in more than one of the publications described in S4.4.1(b), each tire of that size designation shall have a maximum load rating that is not less than the published maximum load rating, or if there are differing published ratings for the same tire size designation, not less than the lowest published maximum load.

* * * * *

2. In section S4.2.2.2 the introductory text of paragraph (a) and paragraph (b) are revised to read as follows:

S4.2.2 *Test Requirements.*

S4.2.2.2 *Physical Dimensions.* Each tire, when measured in accordance with S5.1, shall conform to each of the following:

(a) Its actual section width and overall width shall not exceed the section width specified in a submission made by an individual manufacturer, pursuant to S4.4.1(a) or in one of the publications described in S4.4.1(b) for its size designation and type by more than:

* * * * *

(b) Its size factor shall be at least as large as that specified in a submission made by an individual manufacturer, pursuant to S4.4.1(a), or in one of the publications described in S4.4.1(b) for its size designation and type.

3. In section S4.2.2.3.1, the introductory text and paragraph (c) are revised to read as follows:

S4.2.2.3 *Tubeless tire resistance to bead unseating.*

S4.2.2.3.1 When a tubeless tire that has a maximum inflation pressure other than 60 psi is tested in accordance with S5.2, the applied force required to unseat the tire bead at the point of contact shall be not less than:

* * * * *

(c) 2,500 pounds for tires with a designated section width of eight (8) inches or more, using the section width specified in a submission made by an individual manufacturer, pursuant to S4.4.1(a), or in one of the publications described in S4.4.1(b) for the applicable tire size designation and type.

4. In section S4.2.2.3.2, the introductory text and paragraph (c) are amended to read as follows:

S4.2.2.3.2 When a tire that has a maximum inflation pressure of 60 psi is tested in accordance with S5.2, the applied force required to unseat the bead at the point of contact shall be not less than:

* * * * *

(c) 2,500 pounds for tires with a maximum load rating of 1,400 pounds or more, using the maximum load ratings specified in a submission made by an individual manufacturer, pursuant to S4.4.1(a), or in one of the publications described in S4.4.1(b) for the applicable tire size designation and type.

5. Section S4.2.2.4 is revised to read as follows:

S4.2.2.4 *Tire Strength.* Each tire shall meet the requirements for minimum breaking energy specified in Table 1 when tested in accordance with S5.3.

6. Section S4.4.1(a) is revised to read as follows:

S4.4 *Tire and rim matching information.*

S4.4.1 * * *

(a) Listed by manufacturer name or brand name in a document furnished to dealers of the manufacturer's tires, to any person upon request, and in duplicate to: Office of Vehicle Safety Standards, Crash Avoidance Division, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590; or

* * * * *

7. Section S5.1(a) is revised to read as follows:

S5 *Test Procedures.*

S5.1 *Physical Dimensions.* * * *

(a) Mount the tire on a test rim having the test rim width specified in a submission made by an individual manufacturer, pursuant to S4.4.1(a), or in one of the publications described in S4.4.1(b) for that tire size designation and inflate it to the applicable pressure specified in Table II.

* * * * *

8. Section S5.2.1.2 is revised to read as follows:

S5.2.1 *Preparation of tire-wheel assembly.*

* * * * *

S5.2.1.2 Inflate it to the applicable pressure specified in Table II at ambient room temperature.

* * * * *

9. Section S5.3.1.1 is revised to read as follows:

S5.3 *Tire Strength.*

S5.3.1 *Preparation of tire.*

S5.3.1.1 Mount the tire on a test rim and inflate it to the applicable pressure specified in Table II.

* * * * *

10. Section S5.4.1.1 is revised to read as follows:

S5.4 *Tire endurance.*

S5.4.1 *Preparation of tire.*

S5.4.1.1 Mount a new tire on a test rim and inflate it to the applicable pressure specified in Table II.

* * * * *

11. Section S5.4.2.3 is revised to read as follows:

S5.4.2.3 Conduct the test at 50 miles per hour in accordance with the following schedule without pressure adjustment or other interruptions:

The loads for the following periods are the specified percentage of the maximum load rating marked on the tire sidewall:

	Percent
4 hours	85
6 hours	90
24 hours	100

12. Sections S5.5.1 and S5.5.3 are revised to read as follows:

S5.5 *High speed performance.*

S5.5.1 After preparing the tire in accordance with S5.4.1, mount the tire and wheel assembly in accordance with S5.4.2.1, and press it against the test wheel with a load of 88 percent of the tire's maximum load rating as marked on the tire sidewall.

* * * * *

S5.5.3 Allow to cool to 100±5° F and readjust the inflation pressure to the applicable pressure specified in Table II.

* * * * *

13. Section S6 is revised to read as follows:

S6. *Nonconforming tires.* No tire that is designed for use on passenger cars and manufactured on or after October 1, 1972, but does not conform to all the requirements of this standard, shall be sold, offered for sale, introduced or delivered for introduction into interstate commerce, or imported into the United States, for any purpose.

14. Appendix A to § 571.109 is amended by removing Table I and redesignating Tables II and III as Tables I and II, respectively.

§ 571.110 [Amended]

Section 571.110, *Standard No. 110: Tire Selection and Rims,* is amended as follows:

15. Section S4.2.1 is revised to read as follows:

* * * * *

S4.2 *Tire load limits.*

S4.2.1 The vehicle maximum load on the tire shall not be greater than the applicable maximum load rating specified in one of the publications described in S4.4.1(b) of Motor Vehicle Safety Standard No. 109 for the tire's size designation and type.

TABLE I.—OCCUPANT LOADING AND DISTRIBUTION FOR VEHICLE NORMAL LOAD FOR VARIOUS DESIGNATED SEATING CAPACITIES

Designated seating capacity, number of occupants	Vehicle normal load, number of occupants	Occupant distribution in a normally loaded vehicle
*		
2 through 4	2	2 in front.
5 through 10	3	2 in front, 1 in second seat.

* * * * *

16. In Section S4.3.1, paragraph (c) is revised to read as follows:

S4.3.1 * * *

(c) The tire rating specified in one of the publications described in S4.4.1(b) of Motor Vehicle Safety Standard No. 109 for the tire size at that inflation pressure is not less than the vehicle load on the tire for that vehicle loading condition.

The program official and attorney principally responsible for the development of this final rule are Arturo Casanova and Stephen Kratzke, respectively.

(Secs. 102, 119, and 202, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407 and 1442); delegation of authority at 49 CFR 1.50)

Issued on December 8, 1981.

Diane K. Steed,

Acting Administrator.

[FR Doc. 81-35727 Filed 12-16-81; 8:45 am]

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Proposed Rules

Federal Register
Vol. 46, No. 242
Thursday, December 17, 1981

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1135

[Docket No. AO-380-A1]

Milk in the Southwestern Idaho-Eastern Oregon Marketing Area; Decision on Proposed Amendments to Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This final decision provides certain changes in the Southwestern Idaho-Eastern Oregon order based on industry proposals considered at a public hearing held July 15, 1981. The changes would modify the basis for pooling a distributing plant and would permit more milk when not needed for fluid (bottling) use to move directly from farms to nonpool manufacturing plants and still be priced under the order. The changes are necessary to reflect current marketing conditions and to insure orderly marketing in the area. Cooperative associations will be polled to determine whether producers favor the issuance of the proposed amended order.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-7183.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Prior documents in this proceeding:

Notice of Hearing: Issued June 22, 1981, published June 25, 1981 (46 FR 32873).

Order Suspending certain provisions: Issued August 28, 1981; published September 3, 1981 (46 FR 44147).

Recommended Decision: Issued October 27, 1981; published November 2, 1981 (46 FR 54374).

Preliminary Statement

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Southwestern Idaho-Eastern Oregon marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice (7 CFR Part 900), at Boise, Idaho on July 15, 1981, pursuant to notice thereof issued June 22, 1981 (56 FR 32873).

Upon the basis of the evidence introduced at the hearing, and the record thereof, the Deputy Administrator, Marketing Program Operations, on October 27, 1981, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The hearing notice specifically invited interested persons to present evidence concerning the probable regulatory and informational impact of the proposals on small businesses. Also, at the hearing, the presiding Administrative Law Judge, in his opening remarks, called particular attention to all prospective hearing participants to that portion of the hearing notice related to the Regulatory Flexibility Act. However, no participants at the hearing testified about any potentially adverse impacts of the proposals on small businesses.

Further, William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that the amendments adopted herein, which are based on the hearing record, would not have a significant economic impact on a substantial number of small entities. The amendments will lessen the regulatory impact of the order on certain milk handlers and will tend to ensure that Grade A dairy farmers in the area will have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

1. Under issue 1 "Pool plant qualification standards for a distributing plant," paragraph 14 is revised.

2. Under issue 2 "Diversion of producer milk," paragraph 15 is revised.

The material issues on the record relate to:

1. Pool plant qualification standards for a distributing plant.

2. Diversion of producer milk.

3. Need for emergency action.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Pool plant qualification standards for a distributing plant.* The provisions of the order that relate to the basis for pooling a distributing plant should be revised.

Presently, the order provides that a distributing plant shall qualify as a pool plant if during the month it disposes of as Class I milk at least 40 percent of its total Grade A receipts on routes and at least 10 percent of such receipts on routes in the marketing area. If a handler operates more than one distributing plant, each plant must qualify separately as a pool plant.

The order should be changed to permit a handler who operates two or more distributing plants to consider them as a unit for purposes of meeting the 40 percent total route disposition requirement. However, the order should continue to require that the in-area distribution requirement be met by each plant separately.

Dairymen's Creamery Association (DCA) and Mountain Empire Dairymen's Association (MEDA), who represent more than 90 percent of the market's producers, proposed that the order provide for unit pooling for distributing plants, if so requested by the operator of the plants. Under their proposal, the receipts and disposition of each plant in a unit would be combined and treated as a single plant for the purpose of determining whether the unit meets the total route disposition requirement for a pool distributing plant.

DCA is a 50 percent owner of Associated Dairies, Inc., which operates two distributing plants in the market at Boise and Twin Falls, Idaho. This is the only multi-distributing plant operation in the market. In conjunction with its fluid operation at Twin Falls, the handler

maintains a substantial Class II operation at the plant. The principal by-products made at this plant include cottage cheese, ice cream mix and various cream products. Most of these products are transferred to the Boise plant for distribution. The Boise plant processes essentially Class I products.

Proponents stated that the adoption of their proposal would eliminate the need for the two proponent cooperatives, in pooling their member-producers' milk, to make uneconomic and costly movements of milk from the Twin Falls plant to the Boise plant merely to qualify the former plant as a pool plant. In this connection, proponents' spokesman stated that at the hearing held to consider a new order for the area, it was anticipated that each plant would qualify separately as a pool plant and thus provide the means of pooling on an efficient basis the DCA and MEDA member milk available for the market. He pointed out that since the close of the promulgation hearing in February 1980 there have been changes in marketing conditions that necessitate the proposed modification in the order's distributing plant performance requirements.

The changed conditions referred to by proponents' witness include a change in the operations of Associated Dairies' plants. He pointed out that in 1980 the handler transferred its ice cream mix production from a Boise plant to the Twin Falls plant. He testified that as a result of this change, the Twin Falls plant did not qualify as a pool distributing plant in June 1981 when the new order first became partially effective since the plant's total route disposition was only 37 percent of total receipts. The witness stated that by combining the receipts and distribution of the Boise plant with the Twin Falls plant the total route disposition percentage figure for both plants was over 75 percent in June 1981, well over the minimum 40 percent requirement.

Proponents stated that the problem in maintaining pooling status for the Twin Falls plant and the member-producer supplies associated with the plant is further complicated by the buildup in member-producer supplies available for pooling in the market. The witness for proponents stated that this change occurred since the completion of the promulgation hearing in February 1980. He contended that the buildup in producer milk supplies, coupled with the changes in the operation of Associated Dairies' plants, will impair the ability of DCA and MEDA to maintain pooling status for their member-producer supplies. He indicated that such pooling would require shipping to the Boise plant milk supplies that would normally be pooled at the Associated Dairies' Twin Falls plant. This was described as a costly and inefficient means of marketing milk.

The proposed change in the pool distributing plant definition should be adopted. The record clearly establishes that conditions in the market have changed as described by proponents, with the result that there is a problem under the order's present provisions in achieving pooling status for Associated Dairies' Twin Falls plant and its attendant producer milk supplies in an orderly and efficient manner. In fact, because of the magnitude of the pooling problem resulting from the current marketing situation, the Department suspended a portion of the pooling standards for distributing plants beginning July 1, 1981, when the new order became fully effective. This action temporarily mitigated the pooling problem of the involved handler and cooperative associations. However, the record evidence establishes that the pooling problem in question is not of a short duration. Accordingly, the proposed unit pooling provision applicable to distributing plants is reasonable and appropriate under current marketing conditions and the order should be so amended.

As proponents indicated, the shifting of producer deliveries between Associated Dairies' two plants solely for the purpose of qualifying each plant individually accommodates the pooling of their producer milk associated with the market. However, this practice unnecessarily adds to the cost of handling and transporting the milk to be pooled. Providing for unit pooling will remove the need to make uneconomic movements of milk solely for pooling purposes and will allow the assignment of producers to the plant where it is most practicable for them to deliver milk.

Order provisions should not impede the ability of a multi-plant handler to achieve operational efficiencies by specializing in the processing of fluid milk products in one plant and by-products in another. With unit pooling, as herein adopted, it will be possible for a multi-plant handler to confine certain specialized operations to one plant in order to achieve an economy of scale comparable to that which would be realized by maintaining his total operation in one plant.

As indicated previously, to qualify for unit pooling, each distributing plant in the unit would still have to dispose of at least 10 percent of its receipts as route disposition in the marketing area. At the hearing, proponents requested that the 10 percent in-area route disposition requirement apply to the entire unit. Except for making the request, proponents did not present any testimony in support of the request. In fact, there was no evidence indicating that either of the distributing plants operated by Associated Dairies would have a problem meeting the 10 percent in-area route disposition requirement on an individual plant basis.

As a condition to qualify for unit pooling, a handler would be required to notify the market administrator in writing prior to the first month in which plants are to be considered as a unit for pooling purposes. Unit pooling would be continued in each following month without further notification. However, if other plants of the handler are added to or dropped from the unit, the handler would need to notify the market administrator prior to the month in which such change is to be effective.

A proprietary handler who did not testify at the hearing, in his post-hearing brief and exceptions to the recommended decision, opposed the unit pooling proposal on the basis that proponents' pooling problem is temporary and that they could resolve it under existing order provisions. The handler also expressed concern that a unit pooling provision would enhance proponents' ability to pool additional producer milk supplies with the consequences of reducing producer returns.

As indicated, the unit pooling provision adopted herein is needed to reflect current marketing conditions and to insure orderly marketing in the area. It is not apparent that unit pooling could provide a means of pooling any significant quantities of additional milk. Although unit pooling would provide proponents more flexibilty in directing the movement of milk from member-producers' farms to the multi-plant handler's two distributing plants, proponent cooperatives' potential for associating milk supplies with the market actually would be no greater whether the plants are qualified individually or on a combined basis.

A proposal that would reduce the total Class I route disposition requirement for a pool distributing plant from 40 percent to 30 percent of its receipts of milk during the month was included in the notice of hearing. At the hearing, proponents (DCA and MEDA) abandoned the proposal. No other party supported the proposal. Accordingly, no action is taken on the proposal.

2. *Diversion of producer milk.* The order should be amended to increase by 10 percentage points the amount of producer milk that a cooperative association or other handlers may divert from pool plants to nonpool plants.

The present order provides that a cooperative association may divert up to 60 percent of its total member milk received at all pool plants or diverted therefrom during the months of September through February and 70 percent in other months. Similarly, the operator of a pool plant or a proprietary bulk tank handler may divert during the months of September through February up to 60 percent of their producer receipts that are not under the control of a cooperative association, and 70 percent in other months.

DCA and MEDA proposed that the limits on allowable diversions by a cooperative association from pool plants to nonpool plants be increased 10 percentage points. The proposal would apply only to cooperative associations. As proposed, a cooperative association would be allowed to divert to nonpool plants up to 70 percent of its member milk received at all pool plants or diverted therefrom in the months of September through February and 80 percent in other months.

Proponents' witness testified that less restrictive diversion provisions are needed to reflect a change in marketing conditions that has occurred since the new order's present diversion limitations were developed. The changed market situation cited by the witness focused on the recent buildup in milk supplies for the market. He noted that the amount of milk available to the market by the two cooperatives in June 1981 was nearly 41 million pounds compared with a June 1978 projection of 18 million pounds. According to the witness, the substantial increase in the cooperatives' milk supplies for the market is due to an increase in the number of producers associated with the market and a significant increase in milk production by member-producers in the major supply area for the market.

Proponents' witnesses maintained that in view of this change in supply conditions, the current limits on diversions to nonpool plants are unduly restrictive and should be relaxed. According to the spokesman, the proposed change is designed to enable the proponent cooperatives to pool their available milk supplies without the need to move milk back and forth between plants for the purpose of maintaining pool status for their available milk supplies. He added that "one way or another this milk would get pooled."

Further, proponents' spokesman claimed that the cooperatives are the only handlers on the market that need an increase in diversion limitation percentages. According to the witness, this is because the proponent cooperatives alone provide the balancing function for the market since all of the market's proprietary handlers rely on the cooperatives to balance their milk supplies. Therefore, he concluded, proponents' proposal to relax diversion limitations should apply only to cooperative associations.

The record evidence establishes that current marketing conditions in the market are substantially different than existed at the time the present diversion limitations were adopted. The current provisions were adopted on the basis of evidence presented at a hearing held December 5–8, 1978, and February 5–8, 1980. Data placed in the record show a significant increase in the amount of milk available for pooling under the order since the diversion limitations in question were initially developed.

As indicated by proponents, their available milk supplies for pooling under the new order have increased from a June 1978 projection of 18 million pounds to nearly 41 million for June 1981. In contrast, it was estimated in the final decision for the new order (46 FR 21944) that producer receipts for the market would average about 27 million pounds monthly, with a 40–45 percent Class I utilization.[1]

The record shows that this substantially greater volume of milk on the market than was projected initially is largely because of two factors. First, proponent cooperatives have chosen to associate more producers with the market than was previously contemplated. For example, in June 1978 the cooperatives anticipated associating with the new order approximately 158 producers. Data for June 1981 show that they projected associating with the market a total of 279 producers.

The second factor contributing to the upsurge in milk supplies for the market is the substantial increase in milk production by producers for the market. Production in the State of Idaho, for example, was 12 percent higher in 1980 than in 1979. Milk production for the first 5 months of 1981 was up over 9 percent compared to the same months in 1980. This follows nearly a 15 percent increase in milk production during the first 5 months of 1980 from the comparable period in 1979.

The record also established that DCA and MEDA provide the basic function of balancing the market's supplies with the fluid needs of distributing plants. Currently, milk from the proponent cooperatives' members accounts for nearly 90 percent of the total producer milk on the market. With the relatively few distributing plants operating in the market, proponents are limited in adjusting supplies among the plants where it is not needed for fluid use to other plants where it is needed.

In view of the urgency of the changed market situation concerning the market's current supply situation, the diversion limitations were suspended beginning July 1, when the new order became effective (46 FR 37237). As noted previously, the total route distribution requirement for distributing plants was also suspended at the same time. The initial suspension was applicable for July and August 1981 and it was further extended based on the current record through December 1981 (46 FR 44147).[2] As a result of this action, about 48 million pounds of milk were pooled under the order in July 1981 (the first month that the order was fully effective) and about 49 million pounds, in August 1981.[3] The Class I utilization for July and August 1981 was 18 percent and 17 percent, respectively, for the two months.

From these data and based on the evidence developed at the hearing, it is apparent that proponent cooperatives will not be able to meet the order's present diversion limits. Accordingly, relaxing the limits by 10 percentage points, as herein provided, appears to be both appropriate and necessary to allow the proponent cooperatives to keep their available milk supplies pooled in an orderly and efficient manner.

As noted elsewhere, proponents indicated that their proposal to relax diversion limits should apply only to cooperative associations. In view of the nature of the supply situation in the market, it would appear that proprietary plant operators may have a similar need for less restrictive diversion provisions. Accordingly, the proposed action to increase the limit on the amount of producer milk that may be diverted to nonpool plants should apply also to proprietary handlers who receive nonmember milk.

A limited number of nonmember producers testified in opposition to

[1] Official notice is taken of the Assistant Secretary's decision, Docket No. AO–380, issued April 6, 1981 (46 FR 21944).

[2] Official notice is taken of the issuance of these two suspension orders by the Department on July 15, 1981, and August 28, 1981, respectively.

[3] Official notice is taken of the July and August 1981 "Market Administrator's Report" for Federal Orders 124, 125, and 133.

proponent's proposals. Much of their testimony was directed against the marketwide pooling feature of the order and the need for an order rather than on the specific proposed amendments. However, they did express some concern that the proposals, if adopted, would "dilute" the pool to their disadvantage. Further, in its post-hearing brief and exceptions to the recommended decision, the same proprietary handler who opposed the unit pooling proposal essentially reiterated the same reasons for opposing an increase in diversion limits.

The opposing arguments are not overriding in this matter. As indicated, the market's current supply situation is significantly different than when the order's present diversion limits were established. Relaxing diversion limits as proposed will provide greater flexibility in the handling of the increase in the market's reserve milk supplies and thus prevent uneconomic movements of some milk through pool plants merely for the purpose of qualifying it for producer milk status under the order.

Also, it is not likely that blend prices under the order would be materially enhanced if the order's present diversion limits were continued. As indicated, the record shows proponent cooperatives would take the necessary steps to assure the pooling of their available milk supplies to the market. Presumably, they would do this in the absence of any change in diversion limits, even though hauling inefficiencies would be involved. Moreover, much of the buildup in reserve milk supplies on the market are a result of increased milk production of all producers in the general supply area.

3. *Need for emergency action.* The notice of hearing provided for taking evidence to determine whether emergency marketing conditions exist that would warrant omission of a recommended decision on the proposal to revise the basis for pooling a distributing plant and the proposal to relax the limit on the amount of producer milk that a cooperative association may divert from pool plants to non pool plants.

At the hearing, proponents urged prompt action of both proposals. The request for emergency action by proponents was based on the view that the Department would not have sufficient time after the hearing to issue both a recommended decision and final decision and make any resulting action effective by September 1, 1981. In his post-hearing briefs, a proprietary handler opposed omission of a recommended decision.

As previously cited, the suspension action taken on August 28, 1981, with respect to the proposals in question removed the need for omission of a recommended decision. Accordingly, the proposal to omit the issuance of a recommended decision is denied.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the request to make such findings or reach such conclusions are denied for the reasons stated in this decision.

General Findings

The following findings and determinations supplement those that were made when the order was first issued. The previous findings and determinations are hereby ratified and affirmed, except where they conflict with those set forth below.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

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

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a Marketing Agreement regulating the handling of milk, and an Order amending the order regulating the handling of milk in the Southwestern Idaho-Eastern Oregon Marketing Area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the **Federal Register.** The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

Determination of Producer Approval and Representative Period

October 1981 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order; as hereby proposed to be amended, regulating the handling of milk in the Southwestern Idaho-Eastern Oregon Marketing Area is approved or favored by producers, as defined under the terms of the order (as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on December 11, 1981.

John Ford,

Deputy Assistant Secretary, Marketing and Inspection Services.

Order [1] Amending the Order, Regulating the Handling of Milk in the Southwestern Idaho-Eastern Oregon Marketing Area

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order; and all of said previous findings and determinations are hereby

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Southwestern Idaho-Eastern Oregon Marketing Area.

The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

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

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

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

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

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Southwestern Idaho-Eastern Oregon Marketing Area shall be in conformity to and in compliance with the terms and conditions of the order as hereby amended as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Marketing Program Operations, on October 27, 1981 and published in the **Federal Register** on November 2, 1981 (46 FR 54374) shall be and are the terms and provisions of this order amending the order and are set forth in full herein.

PART 1135—MILK IN THE SOUTHWESTERN IDAHO-EASTERN OREGON MARKETING AREA

1. In § 1135.7 paragraph (a)(2) is revised to read as follows:

§ 1135.7 Pool plant.

* * * * *

(a) * * *

(2) Total route disposition (except filled milk) during the month equal to not less than 40 percent of such receipts. A unit consisting of two or more distributing plants operated by a handler shall be considered as one distributing plant for the purpose of meeting this requirement if the handler notifies the market administrator in writing before the first day of the month that the plants should be considered as a unit. The unit shall continue from month to month thereafter without further notification. If, however, there is any change in the composition of the unit, the handler shall notify the market administrator in writing on or before the first day of the month such change is to be made.

* * * * *

2. In § 1135.13 paragraphs (f)(3), (4) and (5) are revised to read as follows:

§ 1135.13 Producer milk.

* * * * *

(f) * * *

(3) The total quantity of milk diverted by a cooperative association during the month may not exceed 70 percent in the months of September through February, and 80 percent in other months, of the producer milk that the cooperative association causes to be delivered to or diverted from pool plants during the month. Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of the producer milk which the associations cause to be delivered to pool plants or diverted from pool plants during the month if each association has filed a request in writing with the market administrator on or before the first day of the month the agreement is to be effective. This request shall specify the basis for assigning over-diverted milk to the producer deliveries of each cooperative according to a method approved by the market administrator;

(4) The total quantity of milk diverted during the month by a proprietary bulk tank handler described in § 1135.9(d) may not exceed 70 percent in the months of September through February, and 80 percent in other months, of the producer milk that the handler causes to be delivered to or diverted from pool plants during the month;

(5) The operator of a pool plant may divert for its account any milk that is not under the control of a cooperative association or a proprietary bulk tank handler that diverts milk during the month pursuant to paragraph (f)(3) and (4) of this section. The total quantity so diverted during the month may not exceed 70 percent in the months of September through February, and 80 percent in other months, of the producer milk received at or diverted from such pool plant during the month that is eligible to be diverted by the plant operator; and

* * * * *

[FR Doc. 81-36068 Filed 12-16-81; 8:45 am]
BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket No. PRM-50-30]

Council on Energy Independence; Filing of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of receipt of petition for rulemaking from the Council on Energy Independence.

SUMMARY: The Commission is publishing for public comment this notice of receipt of a petition for rulemaking filed before the Commission on September 14, 1981, by the Council on Energy Independence. The petition, which has been assigned Docket No. PRM-50-30, requests that the Commission amend its regulations in 10 CFR Part 50 to extend the operating life of nuclear power plants.

DATE: Comment period expires February 16, 1982.

ADDRESSES: A copy of the petition for rulemaking is available for public inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, DC. A copy of the petition may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

All persons who desire to submit written comments concerning the petition for rulemaking should send their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docket and Service Branch.

FOR FURTHER INFORMATION CONTACT: J. M. Felton, Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492-7211.

SUPPLEMENTARY INFORMATION: The petitioner states that—

. . . The Commission has issued Operating Licenses (OL) for nuclear power plants for a term of 40 years from the date of Construction Permit (CP) issuance. Thus, in the 1960's and early 1970's the actual length of permitted operation for such a plant was around 35 years. This was due to the fact that it only took about 5 years to construct the plant and obtain an operating license. Obviously, this is no longer the case.

It now takes much longer to construct a plant and obtain an OL. Thus, the number of years the plant may be operating is shrinking. Accordingly, the useful and economic life of the plant is also diminished.

The petitioner requests that—

. . . The Commission propose a change to Section 50.51 which would restore the originally intended operating life of the plant. Two alternatives are obvious: (1) tie the expiration date of the OL to the date of issuance of the operating license . . . [or] . . . (2) lengthen the duration [of the license], e.g., the license will expire 50 years from date of issuance of the CP.

Finally, the petitioner states that—

It was obviously the Commission's original intent to allow a licensed plant to operate for a period of around 35 years. Due to the growing length of time between CP and OL, this allowed operating time is shrinking and in many cases will result in an opeating life of less than 30 years. While § 50.51 does allow for renewal of licenses this is not a given . . . and a licensee should not have to resort to such a request in order to be permitted to operate his facility for a time period originally intended by the Commission.

The Commission specifically requests public comment on the petitioner's first alternative ((1) Provide that the OL expire 40 years from the date of issuance). Comments on the petitioner's second alternative ((2) The license will expire 50 years from date of issuance of the CP) will not be helpful since the Commission is permitted by statute (42 U.S.C. 2133) to issue operating licenses for nuclear power plants for a period not to exceed 40 years. It is thus not within the power of the Commission to adopt, through rulemaking, a regulation which provides for a license term exceeding 40 years.

Dated at Washington, DC, this 14th day of December 1981.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 81-36100 Filed 12-16-81; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 430

[Docket No. CAS-RM-80-118]

Energy Conservation Program for Consumer Products; Proposed Rulemaking Regarding Amendments to Test Procedures for Refrigerators, Refrigerator-Freezers and Freezers; Correction

AGENCY: Office of Conservation and Renewable Energy, DOE.

ACTION: Proposed rule; corrections.

SUMMARY: This document corrects errors made in the proposed amendments to test procedures for refrigerators, refrigerator-freezers, and freezers in FR Doc. 81-29661 appearing at and following page 50544 of the October 14, 1981 **Federal Register.**

FOR FURTHER INFORMATION CONTACT: James A. Smith, Department of Energy, Forrestal Building, Room GH-065, CE-113.1, 1000 Independence Ave., S.W., Washington, D.C. 20585 (202) 252-9127.

SUPPLEMENTARY INFORMATION: Upon careful review of the **Federal Register** publication of proposed amendments to the test procedures for refrigerators, refrigerator-freezers, and freezers, a number of typographical and other errors were found in five amendment items. Consequently, the proposed amendment to test procedures for refrigerators, refrigerator-freezers, and freezers is corrected as set forth below.

Issued in Washington, D.C., December 4, 1981.

Howard S. Coleman,

Acting Assistant Secretary, Conservation and Renewable Energy.

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

Accordingly, § 430.22(b)(4)(i) of the October 14, 1981 proposed amendments is corrected to read as follows:

§ 430.22 [Amended]

* * * * *

(b) * * *

(4) The energy factor for freezers, expressed in cubic feet per kilowatt-hour per cycle, shall be—

(i) For freezers not having an anti-sweat heater switch, the quotient of (a) the adjusted net refrigerated volume in cubic feet, determined according to 4.2 of Appendix B or 6.1 of Appendix B1 of this subpart, divided by (B) the average per-cycle energy consumption for the standard cycle in kilowatt-hours per cycle, determined according to 4.1 of Appendix B or 6.2 of Appendix B.1 of this subpart, the resulting quotient then being rounded off to the second decimal place, and

* * * * *

Appendix A1 [Amended]

Section 2.2 of Appendix A1 is corrected by removing the words "of the air surrounding the unit being tested" from the first sentence.

Section 5.1 of Appendix A1 is corrected by revising the first sentence to read as follows:

"Compartment temperatures shall be measured at the locations prescribed in Figures 7.1 and 7.2 of HRF-1-1979 and shall be accurate to within ± 0.5°F (0.3°C) of true value. * * * "

Appendix B1 [Amended]

Section 5.2.1.3 of Appendix B1 is corrected by revising the first equation to read as follows:

$$ET = (1440 \times EP1/T1) + (EP2 - (EP1 \times T2/T1)) \times K \times 12/CT$$

Section 6.2.1 of Appendix B1 is corrected by removing "(0.1)" from the first sentence.

[FR Doc. 81-35978 Filed 12-16-81; 8:45 am]

BILLING CODE 6450-01-M

FARM CREDIT ADMINISTRATION

12 CFR Part 614

Loan Policies and Operations

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration, by its Federal Farm Credit Board, publishes for comment a proposed amendment to its regulation concerning the banks for cooperatives of the Farm Credit System. The proposed amendment, which would implement new authorities conferred on institutions of the Farm Credit System by the Farm Credit Act Amendments of 1980 (Pub. L. 96-592), would authorize banks for cooperatives to finance both financial and leverage leases involving noncooperative lessors where the lessee is a stockholder of the bank and the equipment and facilities are to be utilized by the stockholder in its operations in the United States.

DATE: Written comments must be received on or before February 17, 1982.

ADDRESSES: Comments or suggestions should be submitted in writing to Donald E. Wilkinson, Governor, Farm Credit Administration, Washington, DC 20578. Copies of all communications

received will be available for inspection by interested persons in the Office of Director, Congressional and Public Affairs Division, Office of Administration, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT: Larry H. Bacon, Deputy Governor, Office of Administration, 490 L'Enfant Plaza, S.W., Washington, DC 20578 (202–755–2181).

PART 614—LOAN POLICIES AND OPERATIONS

Part 614 of Chapter VI, Title 12 of the Code of Federal Regulations is amended as shown below.

Section 614.4120 is amended by designating the existing paragraph as (a) and adding paragraph (b) to read as follows:

Subpart C—Lending Authorities

§ 614.4120 Banks for cooperatives.

(a) The banks are authorized to make loans and commitments to eligible cooperatives and to extend to them other financial assistance, including, but not limited to, discounting notes and other obligations, guarantees, collateral custody, or participation with ohter banks for cooperatives and commercial banks or other financial institutions in loans to eligible cooperatives. The banks are authorized to make or participate in loans, commitments, and extend other technical and financial assistance to a domestic or foreign party with respect to its transactions with an eligible cooperative, and to a domestic or foreign party in which an eligible cooperative has at least a minimum ownership interest for the export or import of agricultural commodities, farm supplies, or aquatic products through purchases, sales, or exchanges. The eligible cooperative must substantially benefit as a result of such a loan, commitment, or assistance for the purpose of facilitating the eligible cooperative's export or import operations. This type of activity shall be made under policies determined by the board of directors and approved by the Farm Credit Administration.

(b) The banks may make or participate in loans and commitments to finance and extend technical and financial assistance to domestic non-cooperative lessors for the purpose of providing leased assets to eligible cooperative borrowers. The terms of the contract between the lessor and lessee shall establish that the leased assets are effectively under the control of the lessee and that such control shall continue in effect for essentially all of the term of the lease. The term of such a loan shall not be longer than the total period of the lease. The lessee must be a stockholder of the bank for cooperatives and the leased equipment and facilities may only be for use in its operations in the United States.

(Secs. 5.9, 5.12, 5.18, Pub. L. 92–828, 85 Stat. 619, 620, 621 (12 U.S.C. 2243, 2246 and 2252))

Donald E. Wilkinson,

Governor.

[FR Doc. 81–35979 Filed 12–16–81; 8:45 am]

BILLING CODE 6705–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 36

[Docket No. 13410; Notice Nos. 79–13, –13A, –13B]

Civil Helicopter Noise Type Certification, Airworthiness Certification, and Acoustical Change Approvals; Proposed Noise Standards for Helicopters in the Normal, Transport, and Restricted Categories

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This notice withdraws Notice 79–13 published in the **Federal Register**, July 19, 1979 (44 FR 42410). That notice proposed noise standards for helicopters certificated in the normal, transport, and restricted categories. It also proposed to prohibit certain changes in type designs of helicopters that might increase their noise levels beyond prescribed limits. The notice is being withdrawn to avoid adoption of a rule that has not been clearly justified at this time. This withdrawal is consistent with the spirit of Executive Order 12291.

FOR FURTHER INFORMATION CONTACT: Richard N. Tedrick, Noise Policy and Regulatory Branch (AEE–110), Noise Abatement Division, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, Washington, D.C. 20591; telephone (202) 755–9027.

SUPPLEMENTARY INFORMATION:

Background

Notice No. 79–13 (44 FR 42410; July 19, 1979) proposed noise standards for helicopters certificated in the normal, transport, and restricted categories. For purposes of the proposal, "helicopters" included other aircraft for which lift is furnished, in whole or in part, by an engine-driven rotor during takeoff, hover, or landing. The proposal covered noise levels and test procedures for the issuance of new type certificates and of original standard airworthiness certificates and restricted category airworthiness certificates for newly produced helicopters of older design types. It also proposed to prohibit certain changes in type designs of helicopters that might increase their noise levels beyond prescribed limits. The original comment period for Notice No. 79–13 closed on November 19, 1979. Subsequently, the FAA was requested to extend the comment period 60 days until January 19, 1980. Notice 79–13A (44 FR 61376; October 25, 1979) did that. Later, the FAA was requested to reopen the docket to receive additional comment. In response to that request, the FAA issued Notice 79–13B (46 FR 931; January 5, 1981) reopening the comment period until March 5, 1981.

Reasons for the Decision

The FAA has considered the proposed rules in Notice 79–13 in relation to a broad spectrum of public input. Review of all available information indicates that the relatively small noise benefits that might result from the imposition of such regulations would be far outweighted by the potential costs. Therefore, the FAA has determined that the rulemaking proposed in Notice 79–13 is not justified.

On February 17, 1981, the President issued Executive Order 12291 on "Federal Regulations" (46 FR 13193; February 19, 1981). Section 2 of the Executive Order specifies five general requirements for the rulemaking conducted by the Federal Government. These requirements guide the Federal Aviation Administration rulemaking activity. The proposals in Notice 79–13 have not been shown to satisfy these criteria.

The Decision and Withdrawal

Accordingly, I conclude that the FAA should not proceed with rulemaking based on the proposals contained in the notice of proposed rulemaking now pending. Therefore, Notice 79–13 (44 FR 42410; July 19, 1979) is withdrawn. This action neither precludes the FAA from considering similar proposals in the future nor commits it to any further or future course of action on this subject matter.

(Secs. 313(a), 601(a), 603, and 611(b), Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421(a), 1423, and 1431(b)); sec. 6(c), Department of transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this notice of withdrawal is not a major action

under Executive Order 12291, since withdrawal of the rule proposal will impose no burden on the affected industry. Further this notice is not a "significant rule" under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and does not warrant preparation of a regulatory evaluation because the anticipated impact is so minimal.

Issued in Washington, D.C., on November 25, 1981.

Dated: November 25, 1981.

Donald R. Segner,

Associate Administrator for Policy and International Aviation.

[FR Doc. 81-36037 Filed 12-16-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-AWP-27]

Establishment of Transition Area, Ramona, Calif.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a 700 foot transition area for Ramona Airport, Ramona, California, in order to provide controlled airspace for aircraft executing an instrument approach procedure to the Ramona Airport.

DATES: Comments must be received on or before January 18, 1982.

ADDRESSES: Send comments on the proposal in triplicate to Director, Federal Aviation Administration, Attn: Chief, Airspace and Procedures Branch, AWP-530, 15000 Aviation Boulevard, Lawndale, California 90261. A public docket will be available for examination in the Office of the Regional Counsel, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; telephone: (213) 536-6270.

FOR FURTHER INFORMATION CONTACT: Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; telephone: (213) 536-6182.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons, may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the Airspace Docket Number and be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261. All communications received on or before January 18, 1982, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments 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 peson may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Chief, Airspace and Procedures Branch, AWP-530, 15000 Aviation Boulevard, Lawndale, California 90261, or by calling (213) 536-6180. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a 700 foot transition area at Ramona, California. This action will provide controlled airspace for aircraft utilizing IFR procedure to and from Ramona Airport.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Subpart G, 71.181 (46 FR 540) of Part 71 of the Federal Aviation Administration (14 CFR Part 71) by adding the following transition area:

§ 71.181 Ramona, California.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Romona Airport (latitude 33°02'15" N., longitude 116°54'30" W.) and within 3 miles each side of the Julian, California, VORTAC (latitude 33°08'26" N., longitude 116°35'06" W.) 249° T (234° M), radials extending from the 5-mile radius area to the Julian VORTAC.

(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 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 call" 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; and (4) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Los Angeles, Calif., on December 7, 1981.

H. C. McClure,

Director, Western Pacific Region.

[FR Doc. 81-35834 Filed 12-16-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-AWP-26]

Establishment of Transition Area, Half Moon Bay, Calif.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposed to designate a 700-foot transition area for Half Moon Bay Airport, Half Moon Bay, California, in order to provide controlled airspace for aircraft executing an instrument approach procedure to the Half Moon Bay Airport.

DATE: Comments must be received on or before January 14, 1982.

ADDRESSES: Send comments on the proposal in triplicate to Director, Federal Aviation Administration, Attn: Chief, Airspace and Procedures Branch, AWP-530, 15000 Aviation Boulevard, Lawndale, California 90261. A public docket will be available for examination in the Office of the Regional Counsel, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; telephone: (213) 536-6270.

FOR FURTHER INFORMATION CONTACT: Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; telephone: (213) 536-6182.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the Airspace Docket Number and be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261. All communications received on or before January 14, 1982, will be

considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments 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 notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Chief, Airspace and Procedures Branch, AWP-500, 15000 Aviation Boulevard, Lawndale, California 90261, or by calling (213) 536-6180. Communications must identify the notice 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 Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a 700-foot transition area at Half Moon Bay, California. This action will provide controlled airspace for aircraft utilizing IFR procedures to and from Half Moon Bay Airport.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Subpart G, 71.181 (46 FR Part 540) of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by adding the following transition area.

§ 71.181 Half Moon Bay, California.

That airspace extending upward from 700 feet above the surface, bounded on the north by latitude 37°35'00" N., on the east by longitude 122°25'00" W., on the south by latitude 37°24'00" N., and on the west by longitude 122°35'00" W.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1346(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 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 minimal; and (4) will not have a significant impact on a substantial number of small entities under the criteria of the Regional Flexibility Act.

Issued in Los Angeles, Calif., on December 7, 1981.

H. C. McClure,

Director, Western Pacific Region.

[FR Doc. 81-35839 Filed 12-16-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-ASO-63]

Proposed Designation of Transition Area, Aurora, North Carolina

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking

SUMMARY: This proposed rule will designate the Aurora, North Carolina, Transition Area. A special instrument approach procedure has been developed for the Lee Creek Airport. Controlled airspace is required to protect aircraft Instrument Flight Rule (IFR) operations and must be designated before IFR flight procedures can become effective.

DATE: Comments must be received on or before: February 1, 1982.

ADDRESSES: Send comments on the proposal to:

Federal Aviation Administration, Attn: Chief, Airspace and Procedures Branch, ASO-530, P.O. Box 20636, Atlanta, Georgia 30320;

The official public docket will be available for examination in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: Eleanor J. Williams, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Chief, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320. All communications received on or before February 1, 1982, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rulemaking will be filed in the public, regulatory 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, Chief, Airspace and Procedures Branch (ASO-530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320, or by calling (404) 763-7646. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) to designate the Aurora, North Carolina, 700-foot Transition Area. This action will provide controlled airspace protection for Texasgulf aircraft executing the NDB Runway 9 special instrument approach procedure at the Lee Creek Airport. The Aurora NDB (nonfederal, nondirectional radio beacon), which will support the approach procedure, is proposed for establishment in conjunction with the designation of the Transition Area. If the proposed designation is acceptable, the airport operating status will be changed from VFR to IFR.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Subpart G, § 71.181 (46 FR 540), of Part 71 of the Federal Aviation Regulations (14 CFR 71) by adding the following:

Aurora, North Carolina

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Lee Creek Airport (Lat. 35°23'22" N., Long. 76°47'06" W.); within 3 miles each side of the 263° bearing from the Aurora RBN (Lat. 35°23'15" N., Long. 76°48'12" W.), extending from the 8.5-mile radius area to 8.5 miles west of the RBN.

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

Note.—The 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.

This proposed amendment involves only a small alteration of navigable airspace and air traffic control procedures over a limited area.

Issued in East Point, Georgia, on December 7, 1981.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 81-36034 Filed 12-16-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-ASO-60]

Proposed Designation of Transition Area, Erwin, North Carolina

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule will designate the Erwin, North Carolina, Transition Area. A standard instrument approach procedure has been developed for the Harnett County Airport. Controlled airspace is required to protect aircraft Instrument Flight Rule (IFR) operations and must be designated before IFR flight procedures can become effective.

DATE: Comments must be received on or before: February 1, 1982.

ADDRESSES: Send comments on the proposal to:

Federal Aviation Administration, Attn: Chief, Airspace and Procedures Branch, ASO-530, P.O. Box 20636, Atlanta, Georgia 30320;

The official public docket will be available for examination in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: Eleanor J. Williams, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Chief, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320. All communciations received on or before February 1, 1982, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rulemaking will be filed in the public, regulatory 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, Chief, Airspace and Procedures Branch (ASO-530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320, or by calling (404) 763-7646. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) to designate the Erwin, North Carolina, 700-foot Transition Area. This action will provide controlled airspace protection for aircraft executing the NDB Runway 23 standard instrument approach procedure at the Harnett County Airport. The Harnett NDB (nonfederal, nondirectional radio beacon) which will support the approach procedure is proposed for establishment in conjunction with the designation of the Transition Area. If the proposed designation is acceptable, the airport operating status will be changed from VFR to IFR.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Subpart G, § 71.181 (46 FR 540), of Part 71 of the Federal Aviation Regulations (14 CFR 71) by adding the following:

Erwin, North Carolina

That airspace extending upward from 700-feet above the surface within a 7.5-mile radius of Harnett County Airport (Lat. 35°22'43" N., Long. 78°44'04" W.).

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

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.

This proposed amendment involves only a small alteration of navigable airspace and air traffic control procedures over a limited area.

Issued in East Point, Georgia, on December 4, 1981.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 81-36035 Filed 12-16-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 121

[Docket No. 21269; Ref. Notice No. 81-1]

Flight Attendants

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This notice withdraws proposal number 11-14 contained in Notice No. 81-1 published in the **Federal Register** January 19, 1981 (46 FR 5484). That proposal would have amended § 121.391(c) of the Federal Aviation Regulations to allow the number of flight attendants required on a particular flight to be reduced by blocking a number of passenger seats. This proposal is withdrawn because there is a lack of substantial evidence in the record that the present level of passenger safety would be maintained. This is consistent with Executive Order 12291.

FOR FURTHER INFORMATION CONTACT: E. Wendell Owens, Regulatory Review Branch, AVS-22, Safety Regulations Staff, Federal Aviation Administration, 800 Independence Avenue, SW.,

Washington, D.C. 20591; telephone (202) 775–8714.

SUPPLEMENTAL INFORMATION:

Background

Notice No. 81–1 (46 FR 5484) was issued on January 19, 1981 as part of the Operations Review Program. In that notice, the FAA proposed to amend § 121.391(c) to allow the number of required flight attendants on specific flights to be reduced under specific conditions by blocking passenger seats. The number of flight attendants required on passenger carrying aircraft is based on the seating capacity of the aircraft, basically in the ratio of one flight attendant for each 50 seats, or less. The actual number of passengers on a particular flight does not affect this requirement. The existing rule allows the number of flight attendants to be reduced if a sufficient number of passenger seats are physically removed from the passenger cabin.

This proposal resulted from industry and FAA discussions during the Operations Review Conference. Interested persons have been afforded the opportunity to comment on the safety and economic impact resulting from the proposal. The FAA is processing this proposal separately from the others contained in Notice No. 81–1 due to the public interest it has generated.

Reasons for the Decision

An acceptable level of safety has been established and verified under the current aircraft certification and operation rules. As stated above, the number of required flight attendants now is based on the number of installed passenger seats. The data used to develop this proposal and the comments submitted in response to the notice of proposed rulemaking do not support the proposed change to the current standards and do not establish that the level of passenger safety would be maintained. Therefore, until data is developed which fully supports and justifies the societal benefits that would result from the proposed change, rulemaking on this subject should not proceed.

The Decision and Withdrawal

Accordingly, I conclude that the FAA should not proceed with rulemaking based on the proposal contained in the notice of proposed rulemaking now pending. Therefore, proposal number 11–14 contained in Notice No. 81–1 published in the **Federal Register** January 19, 1981 (46 FR 5484) is withdrawn. This action does not preclude the FAA from considering similar proposals in the future or commit it to any further or future course of action on this subject.

(Secs. 313, 314, and 601 through 610, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354, 1355, and 1421 through 1430); sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.45)

Note.—Since this notice withdraws a proposal for rulemaking action and imposes no new standards, it does not impact or change the present regulations. It has been determined that this action, therefore: (1) is not a "major rule" under executive Order 12291; (2) is not a "significant rule" under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation because there is no anticipated impact; and (4) I certify that this action 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 10, 1981.

J. Lynn Helms,

Administrator.

[FR Doc. 81-36041 Filed 12-16-81; 8:45 am]

BILLING CODE 4910-13-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-4-FRL-1996-8]

Approval and Promulgation of Implementation Plans; Florida: Repeal of Complex Source Rules

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: Florida has revised its air pollution control rules by revoking the provisions for the preconstruction review of complex sources—highways, airports, parking facilities. These are known as "indirect" sources since they may indirectly increase emissions by causing increased motor vehicle traffic where they are built. EPA proposes to approve this revision. The public is invited to comment on the proposed approval action.

DATES: To be considered, written comments must be received on or before January 18, 1982.

ADDRESSES: The material submitted by the State of Florida may be examined during normal business hours at the following location:

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

Air Programs Branch, EPA, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365;

Bureau of Air Quality Management, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32301.

Written comments should be directed to the EPA, Region IV Air Programs Branch at the address given.

FOR FURTHER INFORMATION CONTACT: Mr. Archie Lee, EPA, Region IV Air Programs Branch at 404/881–3286 (FTS 257–3286).

SUPPLEMENTARY INFORMATION: In 1973, EPA promulgated regulations in 40 CFR 51.18 requiring the states to revise their SIPs to include indirect source regulations. The 1977 Clean Air Act Amendments severely limited EPA's authority to require states to review indirect sources. Section 110(a)(5)(iii) provides that a state may revise its SIP to suspend or revoke any existing indirect source review program, provided that the SIP "meets the requirements of this section." The United States Court of Appeals for the Second Circuit interpreted Section 110(a)(5)(A)(iii) as prohibiting EPA from approving a State Implementation Plan (SIP) revision which revokes a state adopted indirect source regulation unless the SIP is fully adequate to assure attainment and maintenance of the National Ambient Air Quality Standards (NAAQS) without the indirect source regulation. *Manchester Environmental Coalition* v. *EPA*, 612 F. 2d 45 (2d Cir. 1979).

EPA today proposes to approve Florida's repeal of its complex source rule. EPA issued final approval of the Florida ozone Part D SIP on May 14, 1981 (46 FR 26640). This Part D SIP demonstrates attainment and maintenance of the ozone NAAQS without relying on the complex source rule.

In addition to ozone, complex sources are a source of carbon monoxide. Through use of the Federal Motor Vehicle Control Program, the existing Florida CO SIP demonstrates maintenance of the CO standard without relying on the complex source regulation. There are no carborn monoxide nonattainment areas in Florida requiring a CO Part D SIP revision.

Moreover, the state has informed EPA that other Florida State agencies have adopted similar rules, which require air quality analyses be conducted in consultation with the Department of Environmental Regulation to assure compliance with the Florida SIP.

The public is invited to participate in this rulemaking by submitting written comments on the proposed approval.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator has certified (46 FR 8709) that the attached rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This action imposes no regulatory requirements but merely ratifies state actions.

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 proposes to approve state actions and not to impose any new requirements.

(Sec. 110, Clean Air Act (42 U.S.C. 7410))

Dated: October 23, 1981.

John A. Little,

Acting Regional Administrator.

[FR Doc. 81-36009 Filed 12-16-81; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 52

[A-6-FRL-2003-7]

Approval and Promulgation of Implementation Plans; New Mexico Plan for Nonattainment Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action proposes approval of revisions to the State Implementation Plan (SIP) for both the primary and secondary sulfur dioxide (SO_2) standards for Grant County, New Mexico. These revisions include changes to Regulation 652 which primarily affect emission limitations from the Chino Mines Company primary copper smelter at Hurley, New Mexico. Stack emissions under the revised plan are limited by the following: An annual average emission rate; a median annual emission level; and a series of 3-hour average emission levels, each with a fixed number of allowable cumulative occurrences. The allowable frequency and emission rate levels of these occurrence limits are based upon a statistical analysis of smelter emissions data and air quality data in the Hurley area of Grant County.

DATE: Interested persons are invited to submit comments on this proposed action on or before February 1, 1982.

ADDRESSES: Written comments should be submitted to the U.S. Environmental Protection Agency, Region VI, Air Programs Branch, 1201 Elm Street, Dallas, Texas 75270. The docket for the revision (NM-1-81) is available for inspection during normal business hours at the above address and at the following location: Environmental Protection Agency, Public Information Reference Unit, Room 2922, EPA Library, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Randy Brown, Implementation Plan Section, Environmental Protection Agency, Region VI, Air Programs Branch, 1201 Elm Street, Dallas, Texas 75270, (214) 767-2730.

SUPPLEMENTARY INFORMATION: The sulfur dioxide (SO_2) nonattainment area in Grant County consists of a 3.5-mile radius circle around the Kennecott (now Chino Mines Company) Copper Smelter. Emissions from the smelter are the only known source of SO_2 in the county. In accordance with the requirements of the 1977 Clean Air Act Amendments, New Mexico submitted its plan for attainment of the national ambient air quality standards (NAAQS) for sulfur dioxide to EPA in January 1979.

Control of the smelter emissions through New Mexico Regulation 652 (Non-Ferrous Smelters-Sulfur) was the basis for the State's control strategy. On April 10, 1980 (45 FR 24460), EPA approved Regulation 652 and approved the control strategy for the primary SO_2 standards, but disapproved the control strategy for the secondary SO_2 standard. On May 7, 1981, the State approved a primary non-ferrous smelter order (NSO) for the Chino Mines Company, New Mexico, smelter. Pursuant to Section 119 of the Clean Air Act, EPA proposed conditional approval of the NSO on August 19, 1981 at 46 FR 42084. The NSO suspends the current State Implementation Plan (SIP) emission limitations until January 1, 1983.

On June 22, 1981, the Governor of New Mexico submitted a new Regulation 652. On May 12, 1981 and August 13, 1981, the New Mexico Environmental Improvement Division submitted a revised control strategy demonstration for attainment of the primary and secondary SO_2 standards in Grant County with revised Regulation 652.

Requirements Under Revised Regulation 652

The revised regulation for sulfur dioxide contains the following key provisions: (1) Stack emission limits for sulfur dioxide requiring compliance with an annual average emission limit of 7,000 lbs/hour, a median 3-hour running average of 5,309 lbs/hr, and cumulative occurrence limits at specified frequencies and 3-hour running average emission rates; (2) to account for startup and malfunctions, separate occurrence limits are specified for normal versus abnormal smelter operating conditions; (3) fugitive emissions control requirements and an evaluation of the effectiveness of these controls; (4) requirements for continuous SO_2 monitoring of stacks to determine compliance with the aforementioned emission limits; and (5) continued operation of ambient air quality monitors around the Hurley smelter to assess the adequacy of the emission limits in protecting the NAAQS. The revised Regulation 652 emission limits take into account a proposed change in configuration and increased capacity at the smelter that is included in a State construction permit issued June 13, 1981. Under this permit, Chino Mines is to replace the existing reverberatory furnace (for which SO_2 emissions are now uncontrolled) with a flash furnace. Emissions from the new flash furnace will be collected and treated by upgrading the existing sulfuric acid plant. Secondary converter hoods will collect fugitives for release from the converter stack. Average annual emissions from the existing smelter stacks will be reduced from 14,470 pounds per hour to 7,000 pounds per hour after smelter modification and implementation of revised Regulation 652. Overall SO_2 control of the modified smelter under the revised regulation will be increased from about 60 percent to about 92 percent.

Control Strategy Demonstration

The form of the emission limits in the New Mexico SIP was derived from a general approach known as Multipoint Rollback (MPR). Designed to accommodate the highly variable sulfur dioxide emissions produced by smelters, MPR produces a cumulative frequency distribution of allowed emission rates. Under MPR, observed emissions and air quality data over an extended period of time—usually a year or more—are treated as cumulative distributions of values. In its simplified application, a reduction factor is calculated based on the difference between observed air quality and the NAAQS for sulfur dioxide, and the existing distribution curve for emissions is reduced proportionally, or "rolled back," by the reduction factor to produce an allowable distribution of emission rates.

The New Mexico approach departs from this procedure to accommodate the changes expected in the smelter's emission pattern when the smelter is modified. Because the currently observed distribution of emission rates does not accurately represent expected emissions from the modified smelter, a

different distribution of emission rates was projected. The details of the New Mexico approach are described in the SIP submittal and the EPA technical evaluation report[1] (both available for review at the addresses noted above). The approach may be summarized briefly as follows.

The distribution of air quality values is assumed to be the product of the distribution of emission rates and an independent distribution of values representing dispersion conditions. The emission and dispersion distributions (both assumed to be "gamma" probability distributions) are defined by two parameters, an average value and a "shape factor" that measures variability; the air quality distribution (a "gamma product" distribution) has three parameters, an average value and two shape factors, one each for emission and dispersion. Using the observed air quality and emission distributions, New Mexico calculated the cumulative distribution of dispersion values, and used this distribution as a constant representation of the dispersive capacity of the air in the region surrounding the smelter. Given this "fixed" dispersion distribution, proposed distributions of emission rates were to be evaluated by computing a projected air quality distribution for each emission distribution and comparing the result with the NAAQS for sulfur dioxide.

Because a "gamma" distribution is defined by two parameters, it is possible to project a distribution if either the average emission rate or the shape factor is known. New Mexico selected an assumed average emission rate based on engineering projections for the new smelter and computed the shape factor to produce an allowable distribution of emission rates. Sulfur dioxide emissions at or below the rates established by this distribution are projected to provide for attainment of the NAAQS with an acceptably low probability of violation. Thus, although there is no direct "roll back", the New Mexico approach produces a cumulative frequency distribution of allowed emission rates, or a "multipoint" emission limit.

The New Mexico approach is based on cumulative distributions of emissions and air quality data aggregated over a long period of time. Thus, in setting emission limits to protect the short-term NAAQS, it only attempts to account for the worst foreseeable combinations of emission and dispersion conditions by considering the likelihood of their simultaneous occurrence and attempts to assure that this probability is acceptably low. A proposed emission limitation is stringent enough only if it can be shown to predict attainment of the NAAQS with an acceptably high probability. While New Mexico has provided estimates of the probability that the new emission limits will protect against violations of the 24-hour and three-hour NAAQS at existing ambient monitoring sites, EPA has not yet developed standardized methods for determining such probabilities, and is continuing to study both the New Mexico estimates and the general question of how such estimates should be made. Interested persons are encouraged to submit comments on these matters, and are further encouraged to inspect the docket periodically for further information.

Based on the information currently available to EPA, the control strategy and emission limitations for the Chino Mines Division smelter appear reasonably likely to attain and maintain the NAAQS for sulfur dioxide in Grant County. The 52 percent reduction from 1979 annual emissions required by this strategy is more stringent than the reduction factor calculated using measured ambient air quality data.[2] Moreover, the SIP includes a requirement for continued operation of the existent ambient monitoring network after the new emission limits take effect, providing future opportunity to assess the adequacy of this strategy and make any necessary improvements. In view of these factors, EPA proposes to accept the New Mexico statistical demonstration and control strategy.

In reviewing and evaluating the subject SIP revision, the Agency developed general technical criteria that evolved from its review of a September 1979 Arizona SIP revision for copper smelters. These general criteria are listed below:

1. Ambient air quality monitoring data and emission data must meet accpetable quality assurance criteria. Data records must be of sufficient length to reasonably describe atmospheric dispersion conditions and their frequencies. To the extent possible, ambient data must also reflect locations of maximum expected air quality impact. Running average concentrations shall be used to determine both the location of the limiting case site and the limiting case averaging period (i.e., 3-hour or 24-hour).

2. Neither ambient data nor emission data can be influenced by dispersion techniques, i.e., supplementary control system or stack heights greater than good engineering practice (GEP).

3. Ambient data concentration distributions shall be developed for all possible discrete average periods (e.g., for 3-hour at 12 a.m., 3 a.m., 6 a.m.; 1 a.m., 4 a.m., 7 a.m.; 2 a.m., 5 a.m., 8 a.m.). The rollback factor shall be based upon the highest once-per-year maximum concentration provided by these distributions.

4. Baseline emission profiles should be based upon continuous emission measurement (CEM) data. Where it is not initially possible to do so, then profiles must be based upon conservative assumptions. Allowable emission profiles must ultimately be verified by CEM data.

5. To respresent a fully acceptable demonstration of attainment, measures adequate to ensure that fugitive emissions wil not violate the NAAQS must be incorporated directly into the control strategy.

6. Regulations should require that continuous emission monitors (CEMs) measure at least 95 percent of the hours in which emissions occur. CEM downtime should be minimized by providing an incentive to sources to strive for 100 percent data capture. This may be accomplished by reducing cumulative occurrence limits by the percent missing data or other comparable approaches.

7. Regulations shall not exempt malfunctions from either the emission profile determination of the ultimate emission limitations.

8. If the data base permits that the control strategy be developed in a probabilistic manner, then the control strategy must consider the probability that the source causes a violation anywhere rather than simply at the worst site. Concurrently, the probability for a violation of the NAAQS must be shown to be consistent with Agency policy in effect at that time.

A discussion of how the plan adheres to each of the recommended criteria is contained in the EPA evaluation report. Two major technical concerns, however, were identified. The first involves the use of production curtailments (supplementary control system of SCS) during the period of record. The second pertains to the selection of the design value in the attainment demonstration.

With regard to the first point, the use of SCS during the period of record violates a basic principle inherent in the derivation of the MPR approach, i.e., that emissions and dispersion are

[1] EPA Review of New Mexico State Implementation Plan Revision of June 22, 1981 (Non Ferrous Smelters), August 1981.

[2] Source of data is Table I-SO_2 concentrations at CMD Ambient Monitors in 1979 in SIP documentation. The reduction factor is calculated using the formula in § 51.13(e)(2)(i).

independent. However, no acceptable alternate data are available. Accordingly, the approach utilized in the New Mexico attainment demonstration attempts to correct for the SCS influence on the ambient measurements. In short, the correction hopes to project ambient concentrations that were not measured due to SCS. EPA has reviewed and evaluated this correction approach and finds there is not enough data available to quantify the impact of SCS on ambient data. On the basis that the correction approach represents a reasonable attempt to adjust for ambient concentration bias, EPA proposes to accept this portion of the New Mexico demonstration.

The second technical concern involves the selection of the design value. Whereas, the Arizona design value was a maximum discrete 3-hour ambient concentration predicted to occur at an annual frequency of 1/2920, the New Mexico design value is based upon the third highest running 3-hour concentration, i.e., predicted to occur at an annual frequency of 3/8760. Although 1/2920 and 3/8760 reduce to equivalent numerical values, if the running average includes non-overlapping hours, then the statistical probabilities differ. The State has provided technical information to show that, in this case, their design value approach yields results comparable to the value determined using the approach required by criterion number three above.

EPA has reviewed this support and determined that the Arizona and New Mexico approaches yield equivalent design values. Therefore, EPA proposes to accept the New Mexico design value included in the demonstration.

Regulation Deficiencies

The first deficiency concerns the amount of continuous emission monitoring (CEM) downtime allowed by the regulations. The revised Regulation 652 specifies that CEMs must operate a minimum of 90 percent of the time; the cumulative occurrence limits were reduced to account for missing data. However, the Arizona regulations and the general MPR criteria require a minimum of 95 percent CEM operation. Chino Mines Company has indicated that they could meet the minimum 95 percent requirement. Since complete emissions data from CEMs are essential in determining compliance with multipoint emission limits, sources should strive for 100 percent data capture. Reducing cumulative occurrence limits, or regulatory provisions requiring backup or redundant monitoring equipment are considered reasonable approaches toward this goal. Therefore, both the 95 percent minimum data capture level and measures adequate to secure even better data capture should be included in the regulation.

In addition, there were several areas in the regulation where clarification is necessary in order for EPA to enforce the regulation. These clarifications are discussed in the evaluation report and were identified to the State in a letter dated August 28, 1981.

Proposed Action

Based upon its evaluation of revised Regulation 652 and the MPR analysis, EPA is proposing to approve the revised plan for attainment of the primary and secondary SO_2 standards in Grant County with the understanding that the State will correct the regulation deficiencies described above. The State and the affected source have expressed a willingness and commitment to correct these deficiencies. The State has agreed to complete the following actions by May 15, 1982: (1) The State will revise Regulation 652 to require a minimum of 95 percent CEM data capture and measures adequate to provide even greater reliability in data capture and (2) the State will provide clarifications to the regulation either by changing Regulation 652 or providing written interpretations of those sections of the regulation needing clarification as identified by EPA's August 28, 1981 letter.

Under Executive Order 12291, EPA must judge whether a rule is major and therefore subject to requirements of a regulatory impact analysis. This proposed action is not a major rule because it imposes no new requirements but only approves a State action.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator has certified (46 FR 8709) that the proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This action only proposes approval of State action. It imposes no new requirements. In addition, this action only applies to one facility.

This notice of proposed rulemaking is issued under the authority of Sections 110(a) and 172 of the Clean Air Act, 42 U.S.C. 7410(a) and 7502.

Dated: September 17, 1981.

Frances E. Phillips,

Acting Regional Administrator.

[FR Doc. 81-36070 Filed 12-17-81; 8:45 am]

BILLING CODE 6560-38-M

Notices

Federal Register
Vol. 46, No. 242
Thursday, December 17, 1981

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Forest Land and Resource Management Plan; Caribou National Forest; Bannock, Bear Lake, Bonneville, Caribou, Franklin, Power, and Oneida Counties, Idaho; Box Elder and Cache Counties, Utah; and Lincoln County, Wyoming; Revised Notice of Intent To Prepare an Environmental Impact Statement

A notice of intent to prepare an Environmental Impact Statement for the Caribou National Forest Land and Resource Management Plan was published in the **Federal Register**, Volume 45, No. 9, p. 2672, January 14, 1980.

The estimated dates for filing the Draft and Final Environmental Impact Statements with the Environmental Protection Agency and release to the public have been postponed. The Draft Environmental Impact Statement is now expected in September 1982, and the Final Environmental Impact Statement is proposed for release in April 1983.

All other conditions of the original Notice of Intent remain the same.

Dated: December 9, 1981.

Jeff M. Sirmon,

Regional Forester.

[FR Doc. 81-36073 Filed 12-16-81; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Los Olmos Creek Watershed, Texas; Availability of Record of Decision

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of availability of record of decision.

FOR FURTHER INFORMATION CONTACT: George C. Marks, State Conservationist, Soil Conservation Service, P.O. Box 648, Temple, Texas 76503, telephone: 817/774-1214.

Notice: George C. Marks, responsible Federal official for projects administered under the provisions of Pub. L. 83-566, 16 U.S.C. 1001-1008, in the State of Texas, is hereby providing notification that a record of decision to proceed with the installation of the Los Olmos Creek Watershed project is available. Single copies of this record of decision may be obtained from George C. Marks at the above address.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Floor Prevention. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: December 7, 1981.

George C. Marks,

State Conservationist.

[FR Doc. 81-36011 Filed 12-16-81; 8:45 am]

BILLING CODE 3410-16-M

COMMISSION ON CIVIL RIGHTS

Arkansas Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Arkansas Advisory Committee to the Commission will convene at 9:00 a.m., and will end at 6:00 p.m., on January 9, 1982, at the Little Rock Hilton, 925 South University, Little Rock, Arkansas, 72204. The purpose of this meeting is to conduct orientation for the new members of the Committee, and discuss program plans for fiscal year 1982.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Marcia McIvor, 1229 Lakeridge, Fayettsville, Arkansas, 72701, (501) 521-1568 or contact the Southwestern Regional Office, Heritage Plaza, 418 South Plaza, San Antonio, Texas, 78204, (512) 229-5570.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., December 16, 1981.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 81-36079 Filed 12-16-81; 8:45 am]

BILLING CODE 6335-01-M

Connecticut Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Connecticut Advisory Committee to the Commission will convene at 7:30 p.m. and will end at 9:30 p.m., on January 14, 1982, at the Lord Cromwell Inn, Exit 21, off I-95, Cromwell, Connecticut 06416. The purpose of this meeting is to discuss draft report on governmental response to racially and religiously motivated violence.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, John Rose, Jr., Post Office Box 3216, Hartford, Connecticut 06103, (203) 525-4700 or contact the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110, (617) 223-4671.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., December 16, 1981.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 81-36077 Filed 12-16-81; 8:45 am]

BILLING CODE 6335-01-M

Maine Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Maine Advisory Committee to the Commission will convene at 7:00 p.m., and will end at 9:00 p.m., on January 7, 1982, at the University of Southern Maine, Room 310, Luther Bonney Building, Portland Maine, 04103. The purpose of this meeting is to discuss followup on domestic violence project; review draft of "Civil Rights Developments in Maine, 1982", and to discuss program plans for fiscal year 1982.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Madeleine Giguere, 35 Orange Extension, Lewiston, Maine, 04240, (207) 784–9946 or contact the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts, 02110, (617) 223–4671.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., December 16, 1981.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 81-36075 Filed 12-16-81; 8:45 am]

BILLING CODE 6335-01-M

Maryland Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Maryland Advisory Committee to the Commission will convene at 6:00 p.m., and will end at 10:00 p.m., on January 19, 1982, at the Maryland National Capital Parks and Planning Commission, Auditorium, 8787 Georgia Avenue, Silver Spring, Maryland, 20907. The purpose of this meeting is to discuss the Eastern Shore migrant workers project; Baltimore police report; education block grant monitoring; Northeast Corridor improvement project, forum on Ku Klux Klan rallies in Frederick County; and a forum concerning the Montgomery County school closings affects on school desegregation.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Martha E. Church, President's House, Hood College, Frederick, Maryland, 21701, (301) 663–4744 or contact the Mid-Atlantic Regional Office, 2120 L Street, N.W., Room 510, Washington, D.C. 20037, (202) 254–6670.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., December 16, 1981.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 81-36078 Filed 12-16-81; 8:45 am]

BILLING CODE 6335-01-M

Wyoming Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Wyoming Advisory Committee to the Commission will convene at 11:00 a.m., and will end at 2:00 p.m., on January 30, 1982, at the Casper Library, in the Cooper Room, 307 Second Street, Casper, Wyoming, 82601. The purpose of this meeting is to review the follow-up report on *Workplace Conditions in Wyoming*; discuss plans for a press conference to release the report, and discuss program plans for future projects.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Jamie C. Ring, 520 Parkview Drive, Casper, Wyoming, 82601, (307) 237–9604 or contact the Rocky Mountain Regional Office, Brook Towers, 1020 Fifteenth Street, Suite 2235, Denver, Colorado, 80202, (303) 837–2211.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., December 16, 1981.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 81-36076 Filed 12-16-81; 8:45 am]

BILLING CODE 6335-01-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Import Restraint Levels for Certain Cotton, Wool and Man-Made Fiber Textile Products from the People's Republic of China, Effective January 1, 1982

December 14, 1981.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import restraint levels for certain cotton, wool and man-made fiber textile products produced or manufactured in the People's Republic of China and exported to the United States during the twelve-month period beginning on January 1, 1982.

(A detailed description of the textile categories in terms of TSUSA numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963) and October 27, 1981 (46 FR 52409))

SUMMARY: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of September 17, 1980, between the Governments of the United States and the People's Republic of China establishes specific levels of restraint for Categories 331 (Cotton Gloves and Mittens), 334 (Men's and Boys' Other Cotton Coats), 335 (Women's, Girls' and Infants' Cotton Coats), 338 (Men's and Boys' Cotton Knit Shirts), 339 (Women's, Girls' and Infants' Cotton Knit Shirts and Blouses), 340 (Men's and Boys' Woven Cotton Shirts), 341 (Women's, Girls' and Infants' Woven Cotton Blouses), 347/348 (Cotton Trousers), 445/446 (Wool Sweaters) and 645/646 (Man-Made Fiber Sweaters) during the agreement year which begins on January 1, 1982 and extends through December 31, 1982. The agreement also provides a consultation mechanism for categories of textile products which are not subject to specific ceilings and for which levels may be established during the year upon agreement between the two governments. In the letter published below, the Chairman of the Committee for the Impalementation of Textile Agreements directs the Commissioner of Customs, in accordance with the terms of the bilateral agreement, to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of textile products in Categories 331, 334, 335, 338, 339, 340, 341, 347/348, 445/446 and 645/646, produced or manufactured in the People's Republic of China and exported during the twelve-month period beginning on January 1, 1982 and extending through December 31, 1982, in excess of the designated levels of restraint. The levels of restraint for Categories 331 and 335 have been reduced to account for respective amounts of 231,701 dozen pairs and 14,583 dozen which represent carryforward used during the 1981 agreement year.

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: January 1, 1982.

FOR FURTHER INFORMATION CONTACT: Carl J. Ruths, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230, (202)/377–4212).

Arthur Garel,

Acting Chariman, Committee for the Implementation of Textile Agreements.

December 14, 1981.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229.

Dear Mr. Commissioner: Under the terms of the Bilateral Cotton, Wool and Man-Made

Fiber Textile Agreement of September 17, 1980, between the Governments of the United States and the People's Republic of China, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1982, entry into the United States for consumption, and withdrawal from warehouse for consumption, of cotton, wool and man-made fiber textile products in Categories 331, 334, 335, 338, 339, 340, 341, 347/348, 445/446 and 645/646 in excess of the following levels of restraint:

Category	12-Month level of restraint
331	3,177,607 dozen pairs.
334	192,600 dozen.
335	250,417 dozen.
338	742,000 dozen of which not more than 530,000 dozen shall be in TSUSA numbers 379.6240 and 379.4050.
339	865,280 dozen.
340	584,064 dozen.
341	443,456 dozen.
347/348	1,730,560 dozen.
445/446	252,500 dozen.
645/646	583,495 dozen.

In carrying out this directive entries of textile products in the foregoing categories which have been exported to the United States on and after January 1, 1981 and extending through December 31, 1981, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the twelve-month period beginning on January 1, 1981 and extending through December 31, 1981. In the event that the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement of September 17, 1980 between the Governments of the United States and the People's Republic of China, which provide, in part, that: (1) specific limits may be exceeded by designated percentages in any agreement year; (2) specific limits may be increased for carryover and carryforward up to 11 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement, referred to above, will be made to you by letter.

A detailed description of the textile categories in terms of TSUSA numbers was published in the Federal Register on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963) and October 27, 1981 (46 FR 52409).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the People's Republic of China and with respect to imports of cotton, wool and man-made fiber textile products from China have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 81-36066 Filed 12-16-81; 8:45 am]

BILLING CODE 3510-25-M

Announcing an Increase in the Import Restraint Levels for Certain Cotton Textile Products From Pakistan

December 14, 1981.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing to 29,412 dozen the consultation level for cotton dressing gowns in Category 350, produced or manufactured in Pakistan, and controlling imports at that level during the eighteen-month period which began on January 1, 1981.

(A detailed description of the textile categories in terms of TSUSA numbers was published in the Federal Register on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963) and October 27, 1981 (46 FR 52409))

SUMMARY: Under the terms of the Bilateral Cotton Textile Agreement of January 4 and 9, 1978, as amended, between the Governments of the United States and Pakistan, agreement has been reached to increase the consultation level for cotton textile products in Category 350 during the agreement period which began on January 1, 1981 and extends through June 30, 1982. The United States has decided to control imports at the increased level during that agreement period in the same manner as other categories are currently being controlled.

EFFECTIVE DATE: December 21, 1981.

FOR FURTHER INFORMATION CONTACT: Gordana Slijepcevic, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-2184).

SUPPLEMENTARY INFORMATION: On December 24, 1980, there was published in the Federal Register (45 FR 85140) a letter dated December 19, 1980 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton textile products, produced or manufactured in Pakistan and exported to the United States during the eighteen-month period which began on January 1, 1981 and extends through June 30, 1982. In accordance with the terms of the bilateral agreement, the United States Government has agreed to increase the consultation level for cotton textile products in Category 350. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the level to the designated amount. The level of restraint has not been adjusted to reflect any imports after December 31, 1980. Imports in this Category during the January–October 1981 period have amounted to 4,686 dozen and will be charged. As the data become available, further charges will be made to account for the period beginning on November 1, 1981 and extending to the effective date of this action.

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

December 14, 1981.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive issued on you on December 19, 1980 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton textile products, produced or manufacturerd in Pakistan.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton Textile Agreement of January 4 and 9, 1978, as amended, between the Governments of the United States and Pakistan, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on December 21, 1981, and for the eighteen-month period beginning on January 1, 1981 and extending through June 30, 1982, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 350, produced or manufactured in Pakistan in excess of 29,412 dozen.[1]

[1] The level of restraint has not been adjusted to account for any imports after December 31, 1980. Imports during the January–October 1981 period have amounted to 4,686 dozen.

Textile products in Category 350 which have been exported to the United States prior to January 1, 1981 shall not be subject to this directive.

Textile products in Category 350 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The action taken with respect to the Government of Pakistan and with respect to imports of cotton textile products from Pakistan has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 81-36067 Filed 12-16-81; 8:45 am]

BILLING CODE 3510-25-M

Announcing Import Levels for Certain Cotton, Wool and Man-Made Fiber Textile Products From Taiwan, Effective on January 1, 1982

December 14, 1981.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import levels for certain cotton, wool and man-made fiber textile products from Taiwan, effective on January 1, 1982.

SUMMARY: The Bilateral Textile Agreement of June 8, 1978, as amended, concerning cotton, wool and man-made fiber textile products from Taiwan establishes specific ceilings for cotton, wool and man-made fiber textile products in Categories 331, 333/334/335, 338/339, 340, 341, 347/348, 445/446, 633/634/635, 638, 639, 640, 641, 648 and 659pt., produced or manufactured in Taiwan and exported during the agreement year which begins on January 1, 1982 and extends through December 31, 1982.

In the latter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, in accordance with the bilateral agreement, to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of textile products in the foregoing categories, produced or manufactured in Taiwan and exported during the twelve-month period which begins on January 1, 1982 and extends through December 31, 1982, in excess or the designated levels.

(A detailed description of the textile categories in terms of TSUSA numbers was published in the **Federal Register** on February 28, 1980 (45 FR 131172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963) and October 27, 1981 (46 FR 52409))

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: January 1, 1982.

FOR FURTHER INFORMATION CONTACT: Ronald Sorini, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-4212).

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

December 14, 1981.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229.

Dear Mr. Commissioner: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Textile Agreement of June 8, 1978, as amended, concerning cotton, wool and man-made fiber textile products from Taiwan; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1982 and for the twelve-month period extending through December 31, 1982, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Taiwan, in excess of the indicated levels of restraint:

Category	12-Month Level of Restraint
331	482,360 dozen pairs.
333/334/335	113,051 dozen of which not more than 59,206 dozen shall be in Cat. 333/334 and not more than 70,802 dozen shall be in Cat. 335.
338/339	551,144 dozen.
340	657,295 dozen.
341	380,752 dozen.
347/348	935,359 dozen of which not more than 459,384 dozen shall be in Cat. 347 and not more than 709,814 dozen shall be in Cat. 348.
445/446	126,284 dozen.
633/634/635	1,490,308 dozen of which not more than 982,883 dozen shall be in Cat. 633/634 and not more than 730,971 dozen shall be in Cat. 635.
638	1,707,129 dozen.
639	5,033,179 dozen.
640	3,285,768 dozen.
641	738,545 dozen.
648	3,120,164 dozen.
659 pt.[1]	3,245,519 pounds.

[1] In Category 659, only TSUSA numbers 703.0500 and 703.1000.

In carrying out this directive entries of textile products in the foregoing categories, which have been exported to the United States on and after January 1, 1981 and extending through December 31, 1981, shall to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the twelve-month period beginning on January 1, 1981 and extending through December 31, 1981. In the event that the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels of restraint set forth above are subject to adjustment in the future pursuant to the provisions of the bilateral agreement of June 8, 1978, as amended, which provide in part, that: (1) within the aggregate and applicable group limits, specific levels of restraint may be exceeded by designated percentages; (2) these same levels may be increased for carryover and carryforward up to 11 percent of the applicable category limit; (3) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement referred to above will be made to you by letter.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963) and October 27, 1981 (46 FR 52409).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the authorities in Taiwan and with respect to imports of cotton, wool, and man-made fiber textile products from Taiwan have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 81-36065 Filed 12-16-81; 8:45 am]

BILLING CODE 3510-25-M

COMMODITY FUTURES TRADING COMMISSION

New York Cotton Exchange's Proposed Amendment to Cotton No. 2 Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule amendment.

SUMMARY: The New York Cotton Exchange ("NYCE" or "Exchange") has submitted an amendment to its Bylaw section 6.03(u) (formerly 9.03(24)) increasing the differential for one and one thirty-second of an inch staple length cotton deliverable on the Cotton No. 2 contract. The Commission has determined that the amendment is of major economic significance and that, accordingly, publication of the proposed amendment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before January 18, 1982.

ADDRESS: Interested persons should submit their views and comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Reference should be made to NYCE Bylaw Section 6.03(u)—Staple Differences.

FOR FURTHER INFORMATION CONTACT: Nicholas Memoli, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, (202) 254–703; or George L. Garrow, Jr., Esq., Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, (202) 254–8955.

SUPPLEMENTARY INFORMATION: The text of NYCE's proposed amendment is as follows:

Section 6.03(u)

An addition shall also be made for each bale having a staple of one and three thirty-seconds of an inch or longer, which shall be equal to the full average premium for like staple over one and one-sixteenth of an inch staple quoted on the sixth business day prior to the day of delivery in such of the spot markets above referred to as do quote staple differences. A deduction shall also be made for each bale having a staple of one and one thirty-second of an inch, which shall be equal to [125%] *200%* of the full average discount for like staple under one and one-sixteenth of an inch quoted as aforesaid.

Other materials submitted by NYCE in support of its proposed rule amendment may be available upon request pursuant to the Freedom of Information Act (5U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1981)). Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed rule amendment submitted by NYCE should send such comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, by January 18, 1982. Such comment letters will be publicly available except to the extent that they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C., on December 14, 1981.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 81-36095 Filed 12-16-81; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Meeting Change

AGENCY: Department of the Army, DOD.

ACTION: Notice of meeting change.

SUMMARY: This notice announces the cancellation of a two-day meeting previously announced in 46 FR 61163, December 15, 1981 for January 7–8, 1982. Instead, a one-day meeting will be held on January 8, 1982.

DATE: January 8, 1982 (closed), 8:30 a.m. to 3:00 p.m.

ADDRESS: The Pentagon, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Helen M. Bowen, Administrative Officer, ASB, Washington, DC 20310, (202) 697–9703.

John O. Roach II,

Army Liaison Officer With the Federal Register.

[FR Doc. 81-36121 Filed 12-16-81; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB)

Dates of meeting: 4 January 1982; 5 January 1982

Times: 0800–1700 hours, 4 January 1982 (Closed); 0800–1600 hours, 5 January 1982 (Closed)

Place: The Pentagon, Washington, D.C.

Proposed agenda: The Army Science Board Ad Hoc Sub-Group conducting a study on Improving the Acquisition Process will meet to present and receive briefings and hold discussions. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and non-classified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 697–9703 or 695–3039.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 81-36042 Filed 12-16-81; 8:45 am]

BILLING CODE 3710-08-M

Office of the Secretary

Defense Science Board Task Force on AUTODIN II; Advisory Committee Meeting

The Defense Science Board Task Force on AUTODIN II will meet in closed session on January 21–22, 1982 in Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

At the meeting on January 21–22, 1982 the Task Force will hold an organizational session, and be briefed by members of the Defense Communications Agency AUTODIN II Evaluation Group and concerned members of the Defense Department.

In accordance with 5 U.S.C. App. 1 section 10(d)(1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(1976), and that accordingly this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

December 14, 1981.

[FR Doc. 81-36059 Filed 12-16-81; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Rapid Deployment Forces (RDF); Advisory Committee Meeting

The Defense Science Board Task Force on Rapid Deployment Forces will meet in closed session on January 13–14, 1982 in Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

At the meeting on January 13–14, 1982, the Task Force will hold an organizational session, and be briefed on the following issues: RDF policy, present and future posture, results of a literature search and summary conducted by the Institute for Defense Analyses, and RDF limitations and deficiencies as presented by the Services.

In accordance with 5 U.S.C. App. 1 section 10(d) (1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

December 14, 1981.

[FR Doc. 81-36060 Filed 12-16-81; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Very High Speed Intergrated Circuits (VHSIC)

The Defense Science Board Task Force on Very High Speed Intergrated Circuits (VHSIC) will meet in closed session on January 7 and 8, 1982 at the Pentagon, Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

At the meeting on January 7 and 8, 1982, the Task Force will review, using the guidelines established in its Terms of Reference, industry and university relationships to DoD VLSI programs, with particular emphasis on VHSIC. Additionally, the Task Force's ongoing review of the structure and progress of the DoD VHSIC Program will be initiated.

In accordance with 5 U.S.C. App. 1 section 10(d) (1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in U.S.C. 552b(c)(1) (1976), and that accordingly this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

December 14, 1981.

[FR Doc. 81-36061 Filed 12-16-81; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Office of Assistant Secretary for International Affairs

Peaceful Uses of Atomic Energy; Agreement Between the U.S. and the European Atomic Energy Community (EURATOM); Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the sale of 0.01 grams of natural uranium, and 0.01 grams of thorium, to the Centre des Faibles Radioactivities, France, for use as standard reference materials. Contract Number S–EU–704 has been assigned to this transaction.

In accordance with section 131 of the Atomic Energy of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than January 4, 1982.

For the Department of Energy.

Dated: December 11, 1981.

Harold D. Bengelsdorf,

Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 81-36093 Filed 12-16-81; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

D. H. Hunt; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of action taken on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces notice of a final Consent Order.

EFFECTIVE DATE: December 17, 1981.

FOR FURTHER INFORMATION CONTACT: Rod McKim, 12th and Pennsylvania Avenue, NW., Room 6443, Washington, D.C. 20461, telephone 202–633–9641.

SUPPLEMENTARY INFORMATION: On November 2, 1981, 46 FR 54398 (1981), the Office of Enforcement of the ERA published notification that it had executed a proposed Consent Order with D. H. Hunt on October 20, 1981 which would not become effective sooner than thirty days after publication. Pursuant to 10 CFR 205.199J(c), interested persons were invited to submit comments concerning the terms and conditions of the proposed Consent Order.

Although interested persons were invited to submit comments regarding the proposed Consent Order, no comments were received. The proposed Consent Order, therefore, was finalized and made effective on the date of publication of this Notice.

Issued in Washington, D.C. on the 11th day of December, 1981.

Robert D. Gerring,

Director, Program Operations Division, Office of Enforcement.

DOE Issues $996,540 Agreement With D. H. Hunt

On December 17, 1981 the Department of Energy issued in final form a Consent Order with D. H. Hunt which had been signed on October 20, 1981. D. H. Hunt is a producer, with its home office located in Dallas, Texas.

The Department's Office of Enforcement alleged that during the period June 1, 1979 through January 27, 1981 D. H. Hunt improperly calculated its selling prices for crude oil at prices in excess of those allowed by Federal regulations.

D. H. Hunt, without admitting any violation or non-compliance with DOE regulations, has agreed to pay $996,540 into a special escrow fund for ultimate

disposition by DOE. The Department provided a thirty day period for public comment on the proposed Consent Order. The Department did not receive any comments. The proposed Consent Order became effective on [date of publication].

Further information concerning the Consent Order can be obtained by contacting Rod McKim, 12th and Pennsylvania Avenue, NW., Room 6443, Washington, D.C. 20461, telephone number 202–633–9641.

[FR Doc. 81–36090 Filed 12–16–81; 8:45 am]

BILLING CODE 6450–01–M

Office of Hearings and Appeals

Issuance of Proposed Decision and Order; Week of November 16 Through November 20,1981

During the week of November 16 through November 20, 1981, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings [10 CFR Part 205, Subpart D], any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, N.W., Washington D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

December 9, 1981.

George B. Breznay,

Director, Office of Hearings and Appeals.

Milder Oil Company, Omaha, Nebraska, BEE–1326, Petroleum products

Milder Oil Company filed an Application for Exception from a consent order which was executed between the firm and DOE. The exception request, if granted, would relieve Milder of its obligation to make certain refunds pursuant to the Consent Order. On November 19, 1981, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 81–36092 Filed 12–16–81; 8:45 am]

BILLING CODE 6450–01–M

Issuance of Decisions and Orders; Week of November 16 Through November 20, 1981

During the week of November 16 through November 20, 1981, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Collier, Shannon, Rill & Scott, 11/16/81, BFA–0748

Collier, Shannon, Rill & Scott filed an Appeal from a denial by the DOE Region VII Authorizing and Denying Official of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the documents were properly withheld under exemptions 4 and 5 and should not be released to the public. Important issues that were considered in the Decision and Order were (i) adequacy of the Authorizing Official's descriptions of the documents, (ii) adequacy of the Authorizing Official's justification for withholding the documents and (iii) the applicability of exemption 4 to commercial information which is seven years old.

Shepherd Oil Company, Inc., 11/17/81, HFA–0005

Shepherd Oil Company, Inc. filed an Appeal from a denial by the Southwest District Manager of the ERA of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that portions of the document in question were erroneously withheld by the Southwest District Manager under 5 U.S.C. 552(b)(4). However, an independent review of the document revealed that the withheld portions constitute investigatory records exempt from disclosure under 5 U.S.C. 552(b)(7)(A).

Remedial Orders

A. Tarricone, Inc., 11/20/81, DRO–0182

A. Tarricone, Inc. objected to a Proposed Remedial Order which the Economic Regulatory Administration's Office of Enforcement issued to the firm on February 16, 1979. In the Proposed Remedial Order, the ERA found that in January 1975 Tarricone improperly obtained 23,157 entitlements that it should not have received as an eligible importer of residual fuel oil under the provisions of 10 CFR 211.67(a)(3) which were in effect from November 29, 1974 through March 31, 1975. The DOE concluded that the Proposed Remedial Order should be issued as a final Order.

Memphis Aero Corporation, 11/20/81, DRO–0244

Memphis Aero Corporation objected to a Supplemental Proposed Remedial Order which Region IV Office of Enforcement issued to the firm on August 21, 1979. In the Supplemental Proposed Remedial Order, Region IV proposed that Memphis Aero Corporation fulfill certain refund obligations which result from a previously issued Remedial Order by making direct refunds to the United States Treasury. The OHA determined that the refund provisions in the Supplemental Proposed Remedial Order were appropriate, and therefore concluded that the Supplemental Proposed Remedial Order should be issued as a final Order.

In the following case involving a Proposed Remedial Order no Statement of Objections was filed. The DOE therefore issued the order in final form.

Company Name and Case No.

Garland Alston, d.b.a. Garland Exxon, BRW–0096

Request for Exception

Wallace Barnes d.b.a. North Eastham Exxon, 11/17/81, BEE–1652

Wallace Barnes d/b/a North Eastham Exxon (Barnes) filed an Application for Exception from the provisions of 10 CFR 212.93. In the application, Barnes requested retroactive relief which would excuse him from the obligation to refund overcharges which he made during the period August 1, 1979 through June 27, 1980 from selling motor gasoline at prices in excess of those permitted under 10 CFR 212.93. The Office of Hearings and Appeals had previously issued a Remedial Order to Barnes requiring him to repay these overcharges plus interest to the United States Treasury. *Wallace Barnes*, 7 DOE ¶ 83,018 (1981). In considering Barnes's exception request, the DOE found that adherence to the provisions of the Remedial Order would likely force him into bankruptcy. The DOE therefore concluded that Barnes would experience a severe and irreparable injury unless he was relieved of the obligation to refund the overcharges specified in the Remedial Order, and that compelling circumstances existed which warranted the approval of a retroactive exception. Accordingly, exception relief was granted.

Motion for Discovery

Office of Special Counsel for Compliance, 11/19/81, BRD-0126

The Office of Special Counsel for Compliance (OSC) filed a Motion for Discovery directed toward the Atlantic Richfield Company (ARCO) in connection with Arco's objections to a Proposed Remedial Order (PRO) issued to the firm on May 1, 1979 by the OSC. In the motion, OSC sought discovery concerning Arco's "corporate state of mind" in applying the DOE Mandatory Petroleum Price Regulations and antecedent regulations governing the first sale price of crude oil. In considering the OSC motion, the DOE stated that discovery of corporate state of mind is appropriate when a firm has put that matter into issue through its affirmative defenses. The DOE then determined that notwithstanding the fact that it had not yet filed a Statement of Legal Objections, Arco had already put its corporate state of mind into issue in the proceeding by arguing that three interpretive rulings on which OSC relied in the PRO could not be applied retroactively and by seeking to invoke the beneficial aspects of these rulings despite its claim that the rulings were invalid. Additionally the DOE determined that the OSC discovery motion was not barred by a March 1979 Agreement between Arco and the OSC. Accordingly, the OSC Motion for Discovery was granted.

Special Refund Procedures

Office of Enforcement, 11/20/81, BEF-0036, BEF-0008, BEF-0014, BEF-0021

The Office of Enforcement filed Petitions for the Implementation of Special Refund Procedures in connection with consent orders entered into with Coline Gasoline Corporation, National Helium Corporation, Palo Pinto Oil & Gas, Belridge Oil Company, and Aluminum Company of America. The DOE issued a final Decision and Order setting forth procedures to be used in adjudicating claims to the settlement funds involved in those cases. The decision established a two-stage procedure. In the first stage, those firms that purchased natural gas liquids from the firms involved and who believed they were entitled to a portion of the consent order funds could file Applications for Refund. In the second stage, it was tentatively determined that refunds could be channelled through first purchasers. The determination set forth in detail the information that should be included in a firm's Application for Refund. Since the amount of money that would be left over after all Applications for Refund is unable to be determined at this time, no final determination was reached on the proposed second stage. Further comments on the proposed second stage were solicited.

Dismissals

The following submission was dismissed without prejudice:

Company Name and Case No.

Belcher Oil Company, DRO-0192

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

December 9, 1981.

[FR Doc. 81-36094 Filed 12-16-81; 8:45 am]

BILLING CODE 6450-01-M

Objection to Proposed Remedial Orders Filed; Week of November 16 Through November 20, 1981

During the week of November 16 through November 20, 1981, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 on or before January 6, 1982. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

December 9, 1981.

Exxon Company, Washington, D.C., HRO-0013, crude oil

On November 20, 1981, Exxon Company, U.S.A., P.O. Box 2180, Houston, Texas 77001 filed a Notice of Objection to (a Proposed Remedial Order) which the DOE Office of Special Counsel issued to the firm on October 13, 1981.

In the (PRO or IROIC) the Office of Special Counsel found that during March 1975 to December 1977, Exxon failed to apply the equal application requirements of the banking rules to its sales of motor gasoline by refinery-operated service stations pursuant to the retail price equalization adjustment.

According to the (PRO) the Exxon violation resulted in the overstatement of the company's bank of unrecouped costs by $39,745,460.

Lampton-Love Incorporated, Washington, D.C., HRO-0015, Propane

On November 20, 1981, Lampson-Love, Inc., 1055 Thomas Jefferson Street, N.W., Washington, D.C. filed a Notice of Objection to (a Proposed Remedial Order) which the DOE Southeast District Office of Enforcement issued to the firm on September 22, 1981.

In the (PRO) the Southeast District found that during November 1, 1973 to May 1, 1974, Lampton-Love sold propane gas to its customers at prices in excess of its maximum lawful selling prices.

According to the (PRO) the Lampton-Love violation resulted in $284,984.46 of overcharges.

Mobil Oil Corporation, Fairfax, Virginia, HRO-0014, Propane

On November 20, 1981, Mobil Oil Corporation, 3225 Gallows Road, Fairfax, Virginia 22037 filed a Notice of Objection to a Proposed Remedial Order which the DOE Southwest Refiner District, Office of Spacial Counsel issued to the firm on September 18, 1981.

In the PRO the Southwest District found that during the period August 1973 to December 1976, Mobil incorrectly determined its marine and comportation cost component of the imported crude oil costs for refiner pricing purposes.

According to the PRO the Mobil violation resulted in a $393,443 overstatement of the firm's marine and comportation and related costs.

Mobil Oil Corporation, Fairfax, Virginia, HRO-0016, Crude oil

On November 20, 1981, Mobil Oil Corporation, 3225 Gallows Road, Fairfax, Virginia 22037 filed a Notice of Objection to a Proposed Remedial Order which the DOE Southwest District Office of Enforcement issued to the firm on September 11, 1981.

In the PRO the Southwest District found that during October 1976 to March 1978, Mobil received over $2.65 million in refunds to supplemental fees which it had previously paid and included in the costs of its imported crude oil. The audit further revealed that Mobil failed to reduce its crude oil costs during the same period by the amount of refunds received.

Texaco, Incorporated, Wilmington, Delaware, HRO-0012, Crude oil

On November 19, 1981, Texaco, Inc., 1105 N. Market Street, P.O. Box 1347, Wilmington, Delaware 19899 filed a Notice of Objection to a Proposed Remedial Order which the DOE Southwest District Office of Special Counsel for Compliance issued to the firm on September 4, 1981.

In the (PRO) the Southwest District found that during December 1, 1973 to February 1, 1977, Texaco failed to properly charge prices and compute cost recoveries on its sales of gasoline and reported erroneous levels of unrecovered costs to DOE.

According to the (PRO) the Texaco violation resulted in $142,783,783.00 of overcharges.

[FR Doc. 81-36091 Filed 12-16-81; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-250032; PH-FRL-2007-7]

Peer Review Procedures

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1980, requires that EPA publish in the **Federal Register** procedures for peer review of scientific studies. Those procedures are detailed in this notice.

EFFECTIVE DATE: This policy is effective December 17, 1981.

FOR FURTHER INFORMATION CONTACT: Amy S. Rispin, Hazard Evaluation Division (TS-769C), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Room 821 CM #2, 1921 Jefferson Davis Highway, Arlington, VA. 22202, (703-557-7490).

SUPPLEMENTARY INFORMATION: .

I. Introduction

A. Legislative Authority and History

Under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA has the responsibility for ensuring that pesticides marketed in the United States do not cause unreasonable adverse effects to man or the environment. This responsibility is carried out through decisions on whether to register (license) pesticide products, and whether to suspend or cancel existing regulations. The "reasonableness" of the risk is determined by weighing the potential risks a pesticide may pose to humans, other nontarget life, and the environment against its economic and social benefits. Risks are usually assessed by examining data gathered in scientific studies, most of which are conducted by pesticide producers, universities, or government agencies including the Environmental Protection Agency.

In December 1980, section 25 of FIFRA was amended to require EPA to establish written procedures for peer review of major scientific studies performed or sponsored by EPA (the Wampler Amendment). The amendment pertains to studies performed by an institution or individual under grant, contract or cooperative agreement from or with the EPA. The Wampler Amendment further states that the Administrator shall also provide for peer review of any such studies relied upon for actions relating to change in classification, suspension or cancellation of a pesticide. Peer review of studies is to be performed by the Scientific Advisory Panel (SAP) or peer review subpanels constituted from the SAP membership and augmented by scientists selected by the SAP.[1] The amendment directed EPA to publish procedures for implementing the amendment by December 17, 1981.

B. Applicability and Purpose of the Peer Review Procedures

These peer review procedures apply to all major scientific studies performed or sponsored by the Office of Pesticide Programs (OPP), henceforth referred to as major scientific studies. The procedures establish a mechanism by which all major scientific studies performed or sponsored by the OPP are subjected to a complete, rigorous, and objective review by scientific peers before the Agency uses the results of these studies to make regulatory decisions.

Even if studies are not considered major scientific studies, the OPP may at it discretion, submit other studies for peer review. The Agency will use peer review when appropriate to examine studies critical to registration denials, cancellations, suspensions or significant changes in the use classification of a pesticide.

In addition, the OPP may submit for peer review, at its discretion, any studies which are especially controversial or which present unusual difficulties in interpretation, even if they are not by themselves the primary basis for denial or other adverse regulatory action.

C. Interpretation of the Wampler Amendment

The intent of the Wampler amendment is to ensure that significant scientific studies sponsored or undertaken by EPA are properly peer reviewed—both prior to their conduct and after completion—in order to enhance the scientific basis for regulatory action. EPA believes, then, that the statutory requirements of the amendment apply to major studies sponsored or conducted by the Agency which will provide information upon which significant regulatory action can be based. There are many studies, either conducted by other parties or which do not fall under the statutory requirement for peer review, which EPA may nevertheless wish to have peer reviewed as a matter of good sense and good science.

D. Definition of Types of Studies

1. *Major scientific studies.* Major scientific studies are those studies which the OPP undertakes or sponsors that are anticipated to provide information that will be critical to an EPA decision to cancel or restrict users of a pesticide(s). These studies will be peer reviewed.

2. *Pivotal regulatory studies.* Pivotal regulatory studies are those studies, usually not originated or sponsored by OPP, which the Agency relies upon for actions relating to a significant change in classification, suspension or cancellation of a pesticide, or a denial of registration. Pivotal studies may be submitted by industry or other sources. Pivotal studies will be peer reviewed at the discretion of the Agency.

3. *Supporting studies.* Supporting studies are studies which do not impel major regulatory decisions or policies, or which do not lead to significant changes in classification, suspension, or cancellation of a pesticide. Examples are studies designed to test a monitoring scheme or analytical method. These studies will generally not be peer reviewed.

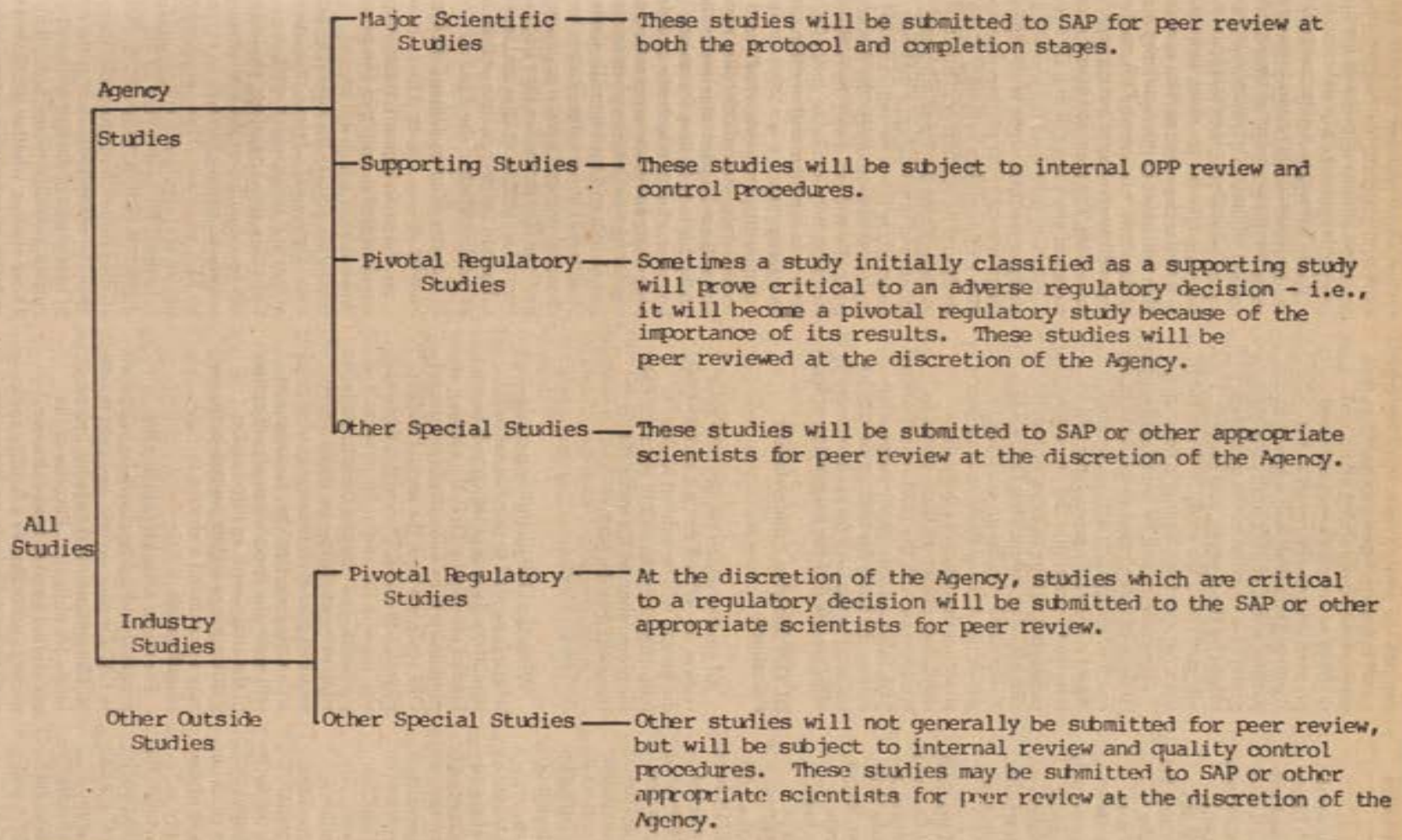
4. *Other special studies.* Occasionally there will be other special studies which the Agency chooses to submit for peer review because they are especially controversial or they present unusual difficulties in interpretation.

The following Figure 1 is a schematic diagram showing how to determine whether or not studies are subject to these peer review procedures.

BILLING CODE 6560-32-M

[1] The SAP is a body of seven independent scientists created by law in 1975 to review all EPA regulations and proposals to cancel pesticides under authority of the FIFRA. It is a quality control checkpoint on the scientific bases for EPA regulatory decisions under FIFRA.

Figure 1 — SCHEMATIC DIAGRAM SHOWING LOGIC TO CLASSIFY STUDIES TO DETERMINE IF SAP PEER REVIEW IS NECESSARY



BILLING CODE 6560-32-C

II. General OPP/SAP Administrative Procedures

Peer review of each major scientific study will be conducted at two times: after study protocol development but before initiation of the work and after completion of the study but before use or release of the findings. The only exception to this rule will be in an emergency situation, at which time the completed report rather than the protocol will be submitted for peer review. Studies not funded by the Agency will normally be reviewed only after completion. Studies underway prior to the establishment of these procedures will be peer reviewed after completion, in accordance with their classification under Figure 1.

In requesting peer review of the SAP, the Agency will provide to the Executive Secretary the full study or protocol, a covering description of the study that includes the regulatory context, issues, focus and implications; any prior reviews of the study that have been performed by scientists within or without the Agency; and a list of nominees by discipline which the SAP may or may not use to augment its list of reviewers, and a suggestion as to the appropriate number of reviewers.

The Wampler amendment provides that EPA will provide for peer review using the SAP "or appropriate experts appointed by the Administrator from a current list of nominees" maintained by the SAP. The SAP will draw the list of nominees from SAP members, a standing list of scientists maintained by the SAP, and such other specialists as considered essential to the purposes of the review. The Executive Secretary will form an ad hoc sub-panel (for studies which require more than one researcher) consisting of a member of the SAP, as chair, and the reviewers that are designated from the list of nominees. The sub-panel chair will be appointed from SAP membership by the Panel Chairman in consultation with the SAP Executive Secretary. The Executive Secretary will distribute to the chair and members of the sub-panel copies of the study or protocol, the covering description, other available reviews, the names and addresses of the sub-panel members and the instructions of the sub-panel chair. The Executive Secretary will be responsible for all administrative work necessary to appoint sub-panel members. All sub-panel members will be cleared to review Confidential Business Information under FIFRA.

The chair of the sub-panel will compile the written reviews of the sub-panel members, resolving conflicts that may arise and obtaining additional reviews as deemed necessary, and prepare a summary report to the Agency. The report will address in particular the quality of the study or protocol in relation to the questions raised by the Agency, and suggest alternatives to the study in the event it does not meet the Agency's concerns.

Peer reviews will be completed within 60 days of submission to the SAP. In the event of emergency actions by the Agency, the same procedures will be followed, except that the process will be completed within 30 days, or less if needed, after submission to the SAP. There could also be an occasion in which the Agency finds an emergency situation that requires immediate regulatory action. In these cases, in accordance with the 1980 amendment, if EPA takes an emergency suspension action, the basis for that action will be referred to the SAP for review promptly after issuance of the suspension order.

III. OPP Division Administrative Procedures

All studies which require SAP peer review, as defined under I and II of this document, will be subject to the following procedures and requirements for preparation of the study for transmittal to the SAP:

A. Agency Studies

When the OPP identifies a study which is needed to provide essential regulatory data, and which will be funded directly by OPP, the study proposal will be submitted for internal OPP review within the annual budget planning process. The study proposal will classify the study, for peer review purposes, as a major scientific study, a supporting study or as a study which requires peer review because of special circumstances. Division management will make the decision on classification of the study, with an information notification to higher management, who may recommend a change in classification.

For major scientific studies the proposal and protocol will be submitted to SAP for peer review, and peer review will be completed, if possible before funds are obligated. Because of the occasional need to fund extramural projects according to a funding cycle, such as for cooperative agreements, it may be necessary to commit or obligate funds in advance of completing peer review of the protocol. Nevertheless, work will generally not begin for major scientific studies until the protocol has completed peer review.

For those Agency studies which require peer review at the planning stage (major scientific studies and other special studies as deemed appropriate) a peer review plan will be prepared and the plan, plus the protocol, will be sent to SAP for peer review. The peer review plan will identify the regulatory context of the study, discuss any special issues and will suggest appropriate peer reviewers. The plan will also include copies of any prior internal OPP review.

EPA will then send the completed study to the SAP, along with copies of the previously peer reviewed protocol. EPA will provide a summary of the study and its regulatory context, as well as suggestions for the number and identity of potential peer reviewers (most likely the same individual(s) who reviewed the protocol). The Agency generally will not make the completed study publicly available until after peer review is complete and revisions made as appropriate.

Supporting studies normally will receive only internal OPP peer review and will not be peer reviewed by the SAP prior to initiation. Occasionally, however, studies which are considered supporting studies will reveal important regulatory conclusions when they are completed, and consequently these studies will impact significantly on chemical registration status or use patterns. These studies thus become pivotal regulatory studies and will be submitted for peer review of final results at the discretion of the Agency.

B. Industry Studies, Other Outside Studies

As shown in Figure 1, these studies are classified in only two categories—those studies which are pivotal regulatory studies because they lead to some significant adverse regulatory action and those which are not. Generally speaking, these studies will not be submitted to the SAP or other outside scientists, but will be reviewed by EPA scientists. Those studies which are pivotal regulatory studies may be submitted for peer review at the discretion of EPA. Most of these will be studies rather than protocols; there could be exceptions, such as the review of new protocol designs in lieu of current guideline recommendations. Those studies, whether performed by industry or not, which present unusual difficulties in interpretation, may be submitted for peer review at the

discretion of EPA. This specifically means that there will be many important studies done by industry and by the public sector which the Agency will not submit for peer review because these studies do not have a significant adverse impact on registration status or use patterns. Studies submitted for peer review will contain a peer review plan as described in III A.

(Sec. 25 as amended, 92 Stat. 819 (7 U.S.C. 136))

Dated: December 9, 1981.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 81-36052 Filed 12-16-81; 8:45 am]

BILLING CODE 6560-32-M

[OPTS-51367; TSH-FRL-2009-2]

Toxic Substances; Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of five PMNs and provides a summary of each.

DATE: Written comments by: PMN 81-625, 81-626, 81-627, 81-628, and 81-629—February 6, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS-51367]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, D.C. 20460 (202-755-5687).

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, D.C. 20460 (202-426-2601).

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on the PMNs received by EPA:

PMN 81-625

Close of Review Period. March 8, 1982.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:

Annual sales—Between $100,000,000 and $499,999,999.

Manufacturing site—Middle Atlantic region.

Standard Industrial Classification Code—2891.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Blocked isocyanate.

Use. The manufacturer states that the PMN substance will be used as a water carried adhesive component.

PRODUCTION ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year	10,000	20,000
2d year	20,000	40,000
3d year	30,000	70,000

Physical/Chemical Properties

Melting point—135° C.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture up to 10 workers may experience dermal and inhalation exposure during reactor charging, filtering, drying and quality control.

Environmental Release/Disposal. Disposal is by a Resource Conservation and Recovery Act (RCRA) licensed waste handler.

PMN 81-626

Close of Review Period. March 8, 1982.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:

Annual sales—Over $500,000,000.

Manufacturing site—Middle Atlantic region.

Standard Industrial Classification Code—285.

Specific Chemical Identity. Ethylene glycol acrylate trimelliate.

Use. The Manufacturer states that the PMN substance will be used as a site-limited surface coatings intermediate.

PRODUCTION ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1 year	2,000	4,000
2 year	6,000	10,000
3 year	10,000	13,500

Physical/Chemical Properties

Specific gravity—1.13.

Viscosity (Brookfield) @ 22° C—52 cps.

Weight/gallon (1b)—9.4.

Toxicity Data

Acute oral toxicity LD_{50}—3,400 mg/kg.

Acute dermal toxicity LD_{50}—>2,000 mg/kg.

Eye irritation—Severe.

Ames salmonella—Negative.

Exposure. The manufacturer states that during manufacture 3 workers may experience dermal exposure 0.5 hr/day, 40 days/yr.

Environmental Release/Disposal. The manufacturer states that there will be no release to the environment. Disposal is by incineration.

PMN 81-627

Close of Review Period. March 8, 1982.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:

Annual sales—Over $500,000,000.

Manufacturing site—Middle Atlantic region.

Standard Industrial Classification Code—285.

Specific Chemical Identity. Polymer of ethylene glycol acrylate mellitate and bisphenol-A epichlorohydrin.

Use. The manufacturer states that the PMN substance will be used as a site-limited surface coatings intermediate.

PRODUCTION ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1 year	12,000	24,000
2 year	36,000	60,000
3 year	60,000	80,500

Physical/Chemical Properties

Specific gravity—1.19.

Viscosity (Brookfield) @ 22° C—400,000 cps.

Weight/gallon (1b)—9.9.

Toxicity Data

Acute oral toxicity LD_{50}—>5,000 mg/kg.

Acute dermal toxicity LD_{50}—>2,000 mg/kg.

Eye irritation—Moderate.

Ames salmonella—Negative.

Exposure. The manufacturer states that during manufacture 3 workers may experience dermal exposure 2.5 hr/day, 40 days/yr.

Environmental Release/Disposal. The manufacturer states that there will be no release to the environment. Disposal is by incineration.

PMN 81-628

Close of Review Period. March 8, 1982.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:

Annual sales—Over $500,000,000.

Manufacturing site—Middle Atlantic region.

Standard Industrial Classification Code—285.

Specific Chemical Identity. Adduct of toulene diisocyanate with 2-hydroxyethyl acrylate and caprolatum.

Use. The Manufacturer states that the PMN substance will be used as a site-limited intermediate.

PRODUCTION ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1 year	2,000	3,000
2 year	4,000	7,000
3 year	7,000	9,000

Physical/Chemical Properties

Specific gravity—1.30.

Viscosity (Brookfield) @ 22° C—226,000 cps.

Toxicity Data

Acute oral toxicity LD_{50}—>5,000 mg/kg.

Acute dermal toxicity LD_{50}—>2,000 mg/kg.

Eye irritation—Moderate.

Ames salmonella—Negative.

Exposure. The manufacturer states that during manufacture 3 workers may experience dermal exposure 3 hrs/day, 3 days/yr.

Environmental Release/Disposal. The manufacturer states that there will be no release to the envoronment. Disposal is by incineration.

PMN 81-629

Close of Review Period. March 8, 1982.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:

Annual sales—Over $500,000,000.

Manufacturing site—Middle Atlantic region.

Standard Industrial Classification Code—285.

Specific Chemical Identity. Polymer of linseed oil, polymer with maleic anhydride and pentaerythritol, formaldehyde polymer with 4-(1,1-dimethylethyl)phenol, methyl phenol, and 4-nonyl phenol.

Use. The manufacturer states that the PMN substance will be used as a surface coating.

PRODUCTION ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year	8,600	17,000
2d year	17,000	25,000
3d year	21,000	43,000

Physical/Chemical Properties

Specific gravity—0.911.

Viscosity (Brookfield) @ 22° C—190-250 cps.

Weight/gallon (lb)—7.6.

Non-volatile material—45%.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture 3 workers may experience dermal exposure 4 hrs/day, 6 days/yr.

Environmental Release/Disposal. The manufacturer states that there will be no release to the environment. Disposal is by incineration.

Dated: December 9, 1981.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 81-36050 Filed 12-16-81; 8:45 am]

BILLING CODE 6560-31-M

FEDERAL MARITIME COMMISSION

The Hellenic Mediterranean Lines Co. Ltd. and Touristik Union International GmbH KG. c/o The Hellenic Mediterranean Lines Co. Ltd.; Order of Revocation

The Hellenic Mediterranean Lines Co., Ltd. and Touristik Union International GmbH KG. have ceased to operate the passenger vessel AQUARIUS to and from United States ports; and

Certificate (Performance) No. P-197, issued to the Hellenic Mediterranean Lines Co. Ltd. and Touristik Union International GmbH KG., has been returned for revocation.

Therefore, it is ordered, that Certificate (Performance) No. P-197, covering the AQUARIUS, be and is hereby revoked effective December 3, 1981.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 81-35994 Filed 12-16-81; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Brighton Bancshares, Inc.; Formation of Bank Holding Company

Brighton Bancshares, Inc., Branson, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of the National Bank of Brighton, Brighton, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 2, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve Board System, December 11, 1981.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 81-36054 Filed 12-16-81; 8:45 am]

BILLING CODE 6210-01-M

Commerce Bancshares, Inc.; Acquisition of Bank

Commerce Bancshares, Inc., Kansas City, Missouri, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares (less directors' qualifying shares) of Commerce Bank of Lee's Summit, N.A., Lee's Summit, Missouri, a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than January 9, 1982.

Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 10, 1981.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 81-36019 Filed 12-16-81; 8:45 am]

BILLING CODE 6210-01-M

Montrose County Bank Shares, Inc.; Formation of Bank Holding Company

Montrose County Bank Shares, Inc., Crawford, Colorado, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of The Montrose County Bank, Naturita, Colorado. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 11, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 11, 1981.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 81-36055 Filed 12-16-81; 8:45 am]

BILLING CODE 6210-01-M

NBF Corp.; Formation of Bank Holding Company

NBF Corporation, Fitzgerald, Georgia, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of The National Bank of Fitzgerald, Fitzgerald, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 31, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 11, 1981.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 81-36056 Filed 12-16-81; 8:45 am]

BILLING CODE 6210-01-M

North American Bancorporation, Inc.; Formation of Bank Holding Company

North American Bancorporation, Inc., Wolcott, Connecticut, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of The North American Bank & Trust Company, Stratford, Connecticut. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 9, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 10, 1981.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 81-36020 Filed 12-16-81; 8:45 am]

BILLING CODE 6210-01-M

Ramsey Bancshares, Inc.; Formation of Bank Holding Company

Ramsey Bancshares, Inc., Devils Lake, North Dakota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80.2 per cent of the voting shares of Ramsey National Bank & Trust Company of Devils Lake, Devils Lake, North Dakota. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than January 9, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 10, 1981.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 81-36021 Filed 12-16-81; 8:45 am]

BILLING CODE 6210-01-M

Riverside Bancshares Corp.; Formation of Bank Holding Company

Riverside Bancshares Corporation, Minneapolis, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Riverside Community State Bank of Minneapolis, Minneapolis, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 6, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 10, 1981.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 81-36022 Filed 12-16-81; 8:45 am]

BILLING CODE 6210-01-M

St. James Bancorp, Inc.; Formation of Bank Holding Company

St. James Bancorp, Inc., St. James, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 92.3 percent or more of the voting shares of Citizens State Bank of St. James, St. James, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than January 9, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 10, 1981.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 81-36023 Filed 12-16-81; 8:45 am]

BILLING CODE 6210-01-M

Texas American Bancshares, Inc.; Acquisition of Bank

Texas American Bancshares, Inc., Fort Worth, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of North Austin State Bank, Austin, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than January 9, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 10, 1981.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 81-36024 Filed 12-16-81; 8:45 am]

BILLING CODE 6210-01-M

Texas American Bancshares, Inc.; Acquisition of Bank

Texas American Bancshares, Inc., Fort Worth, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of Charter National Bank, Plano, Texas. The factors that are considered in acting on the application are set forth in section 3(a) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than January 2, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of Federal Reserve System, December 10, 1981.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 81-36025 Filed 12-16-81; 8:45 am]

BILLING CODE 6210-01-M

The Peoples Bankcorp; Formation of Bank Holding Company

The Peoples Bankcorp, Cleveland, Georgia, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The Peoples Bank, Cleveland, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 9, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 10, 1981.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 81-36026 Filed 12-16-81; 8:45 am]

BILLING CODE 6210-01-M

Tonica Bancorp, Inc.; Formation of Bank Holding Company

Tonica Bancorp, Inc., Tonica, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Tonica State Bank, Tonica, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 10, 1982. Any comment on an application that requests a hearing must include a statement of why written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 11, 1981.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 81-36027 Filed 12-16-81; 8:45 am]

BILLING CODE 6210-01-M

Whitehall Bancorp; Formation of Bank Holding Company

Whitehall Bancorp, Whitehall, Montana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding

company by acquiring 80 percent or more of the voting shares of Whitehall State Bank, Whitehall, Montana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 6, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 11, 1981.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 81-36058 Filed 12-16-81; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

[E-81-34]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Federal Energy Regulatory Commission involving electric rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Federal Energy Regulatory Commission involving the petition of the Department of the Air Force for recognition of Plattsburgh Air Force Base as a preference customer for purchase of Niagara Power Project electricity.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration (GSA), and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

d. The Department of Defense shall add GSA to its service list in this case so that GSA will receive copies of testimony, briefs and other Department of Defense filings.

Dated: December 5, 1981.

Ray Kline,

Deputy Administrator of General Services.

[FR Doc. 81-35982 Filed 12-16-81; 8:45 am]

BILLING CODE 6820-AM-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Mine Health Research Advisory Committee, Surveillance Subcommittee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control announces the following National Institute for Occupational Safety and Health (NIOSH) Committee meeting:

Name: Surveillance Subcommittee of the Mine Health Research Advisory Committee
Date, time: January 6, 1982, 8:30 a.m. to 4:30 p.m.
Place: Conference Room M, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857
Type of meeting: Open
Contact person: Dennis Groce, Industrial Hygienist, Division of Respiratory Disease Studies, National Institute for Occupational Safety and Health Centers for Disease Control, 944 Chestnut Ridge Road, Room 117, Morgantown, WV 26505, Telephone: (304) 599-7421
Purpose: To discuss options for conducting environmental and medical surveillance in the mining industry.

The Mine Health Research Advisory Committee (MHRAC) was established by the Federal Mine Safety and Health Act of 1977. This legislation also provides the mandate for determining if materials or physical agents are potentially toxic at the concentrations that are found in a mine. Such determinations are to be made on a continuing basis, and the results are to be submitted to the Secretary of Labor.

Interested parties wishing to participate in the meeting are requested to contact Mr. Dennis Groce at the address above in order to be assured appropriate time for presentation. Four copies of the text of the presentation must be provided to the subcommittee chairperson, Dr. L. Christine Oliver, 135 Freeman Street, #1A, Brookline, Massachusetts 02146, prior to or at the subcommittee meeting.

The subcommittee will present its report on this subject to the MHRAC at their next meeting currently scheduled for February 1-2, 1982. The final subcommittee report, as approved by the MHRAC, will be available subsequent to the February meeting.

Dated: December 11, 1981.

Donald R. Hopkins,

Acting Director, Centers for Disease Control.

[FR Doc. 81-36072 Filed 12-17-81; 8:45 am]

BILLING CODE 4160-19-M

Public Health Service

Preventive Health and Health Services Block Grant; Delegation of Authority

Notice is hereby given that in furtherance of the delegations by the Secretary of Health and Human Services to the Assistant Secretary for Health on November 23, 1981 of authority under Title XIX of the Public Health Service Act and on November 24, 1981 of authority under Title XVII of the Omnibus Budget Reconciliation Act of 1981, the Assistant Secretary for Health has delegated to the Director, Centers for Disease Control, (1) all the authority delegated to the Assistant Secretary for Health under Part A, Title XIX, of the Public Health Service Act (42 U.S.C. 300w *et seq.*), as amended, with authority to redelegate only to officials who report directly to the Director, Centers for Disease Control, concerning the Preventive Health and Health Services Block Grant program, and (2) the authority delegated to the Assistant Secretary for Health under Subtitle C, Chapter 2, Block Grant funds, of Title XVII of the Omnibus Budget Reconciliation Act of 1981 (31 U.S.C. 1243 note), as amended, with authority to redelegate to officials who report directly to the Director, Centers for Disease Control; to officials within the Office of the Director, Centers for Disease Control; and through normal channels to the Regional Health Administrators; insofar as it pertains to Part A, Title XIX of the Public Health Service Act, Preventive Health and Health Services Block Grant.

The delegation to the Director, Centers for Disease Control, became effective on December 2, 1981.

Dated: December 2, 1981

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

[FR Doc. 81-36030 Filed 12-16-81; 8:45 am]

BILLING CODE 4160-18-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Environmental Quality

[Docket No. NI-89]

Intended Environmental Impact Statement; Historic District, Decatur, Ill.

The Department of Housing and Urban Development gives notice that 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: Assisted Housing in the Decatur Historic District, Decatur, Illinois. 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 Washington, D.C., December 8, 1981.

Francis G. Haas,

Deputy Director, Office of Environmental Quality.

Appendix

EIS on Assisted Housing in Decatur Historic District, Decatur, Illinois

The Department of Housing and Urban Development (HUD) Chicago, Illinois 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 Historic District is irregularly shaped, its rough boundaries include Eldorado, Hayworth/Crea, Lincoln Park Place/Edward, and Union/Church. The primary site being considered for assisted housing is bounded by North, Pine, William and Monroe Streets.

No project is under current review for the area. However, because of the recognized need and the area's desirability for elderly or family housing, HUD anticipates submission of applications for assistance in the future. In the past the primary site (identified above), was submitted for 202 funding.

Need: An EIS is being prepared as any new housing construction within the district may be viewed as an adverse impact by State Historic Preservation Officer (SHPO) or Advisory Council on Historic Preservation (ACHP) as was the previous application, and the EIS would constitute the most appropriate level of clearance.

Alternatives: The EIS will consider arrangement of site and design alternatives for assisted housing within the district, including size, number of units and type of housing.

Scoping: Responses to this notice will help determine potentially significant environmental issues and consequently will assist in identifying policy areas that the EIS should address. Presently potential issue areas include impact on the Historic District, parking congestion, and sewer capacity.

Comments: Comments should be sent on or before January 7, 1982 to: Eugene Goldfarb, Environmental Officer, Department of Housing and Urban Development, Chicago Area Office, One North Dearborn Street, Chicago, Illinois 60602.

[FR Doc. 81-36083 Filed 12-16-81; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Geological Survey

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Geological Survey, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: This Notice announces that McMoRan Offshore Exploration Co., designated Subunit Operator (Tenneco Oil Exploration and Production Company is the Unit Operator), of the Vermilion Block 218 Federal Unit Agreement No. 14-08-0001-8816, submitted on October 30, 1981, a proposed supplemental plan of development describing the activities it proposes to conduct on the Vermilion Block 218 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open Weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837-4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in development and production plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: December 11, 1981.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 81-35985 Filed 12-16-81; 8:45 am]

BILLING CODE 4310-31-M

Bureau of Land Management

Canon City District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Canon City District Grazing Advisory Board will be held at 10:00 a.m., Friday, January 22, 1982, at the Chaffee County Bank, 146 G Street, Salida, Colorado.

The purpose of the meeting will be to review allotment management plan implementation, discuss the Rangeland Program Summary Update for the Royal Gorge Resource Area, and to initiate, conduct and settle business pertaining to expenditure of Range Betterment and Improvement Funds.

The meeting will be open to the public. However, facilities and space to accommodate members of the public are

limited and persons will be accommodated on a first come, first served basis. Any person may file with the Board a written statement concerning matters to be discussed.

Persons wishing further information concerning this meeting may contact Melvin. D. Clausen, District Manager, Bureau of Land Management, 3080 East Main Street, Canon City, Colorado, at (303) 275–0631.

Minutes of the meeting will be made available for public inspection 30 days after the meeting.

Dated: December 11, 1981.

Melvin D. Clausen,

District Manager.

[FR Doc. 81–35986 Filed 12–16–81; 8:45 am]

BILLING CODE 4310–84–M

[OR 16756]

Oregon; Proposed Withdrawal and Reservation of Lands; Amendment

In a notice published in the Federal Register of September 20, 1979, FR Doc. 79–29121, Page 54553, an allowance of 39 days was made for comments concerning the proposal by the U.S. Forest Service to withdraw 334 acres of land for the Wheeler Creek Research Natural Area within the Siskyou National Forest in Curry County. An additional 51 days from the date of this publication (until February 8, 1982) is hereby provided for interested persons to comment or request a public meeting. All communications in connection with this proposed withdrawal should be addressed to the undersigned officer, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: December 11, 1981.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81–35987 Filed 12–16–81; 8:45 am]

BILLING CODE 4310–84–M

[OR 10970]

Oregon; Proposed Withdrawal and Reservation of Lands; Amendment

In a notice published in the Federal Register of May 26, 1977, FR Doc. 77–15024, Page 27668, an allowance of 32 days was made for comments concerning the proposal by the U.S. Forest Service to withdraw 2,330 acres of land for the Spark-Devils Lake Recreation Area within the Deschutes National Forest in Deschutes County. An additional 58 days from the date of this publication (until February 15, 1982) is hereby provided for interested persons to comment or request a public meeting. All communications in connection with this proposed withdrawal should be addressed to the undersigned officer, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: December 11, 1981.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81–35988 Filed 12–16–81; 8:45 am]

BILLING CODE 4310–84–M

[OR 16757]

Oregon; Proposed Withdrawal and Reservation of Lands; Amendment

In a notice published in the Federal Register of September 20, 1979, FR Doc. 79–29220, Page 54556, an allowance of 39 days was made for comments concerning the proposal by the U.S. Forest Service to withdraw 1,318 acres of land for the Metolius Research Natural Area within the Deschutes National Forest in Jefferson County. An additional 51 days from the date of this publication (until February 8, 1982) is hereby provided for interested persons to comment or request a public meeting. All communications in connection with this proposed withdrawal should be addressed to the undersigned officer, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: December 11, 1981.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81–35989 Filed 12–16–81; 8:45 am]

BILLING CODE 4310–84–M

[OR 12177]

Oregon; Proposed Withdrawal and Reservation of Lands; Amendment

In a notice published in the Federal Register of January 24, 1980, FR Doc. 80–2244, Page 5842, an allowance of 38 days was made for comments concerning the proposal by the Bureau of Land Management to withdraw 12,477.49 acres of land for the Abert Rim Scenic Corridor in Lake County. An additional 52 days from the date of this publication (until February 8, 1982) is hereby provided for interested persons to comment or request a public meeting. All communications in connection with this proposed withdrawal should be addressed to the undersigned officer, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: December 11, 1981.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81–35990 Filed 12–16–81; 8:45 am]

BILLING CODE 4310–84–M

[U–011437]

Utah; Proposed Continuation of Withdrawal and Opportunity for Public Hearing

1. In accordance with the provisions of section 204 of the Federal Land Policy and Management Act, the Bureau of Land Management is proposing continuation of an existing experimental range withdrawal, created by Public Land Order 1728 dated September 5, 1958, affecting the following described lands:

Salt Lake Meridian, Utah

T. 24 S., R. 17 W.,
Secs. 1 to 4, inclusive, and 9 to 36, inclusive.
T. 24 S., R. 18 W.,
Secs. 25 and 36.
T. 25 S., R. 17 W.,
Secs. 1 to 36, inclusive.
T. 25 S., R. 18 W.,
Secs. 1, 2, and 11 to 14, inclusive, and 22 to 28, inclusive, and 33 to 36, inclusive.

2. The area described aggregates 55,680 acres in Millard County, Utah.

3. The purpose for the withdrawal is for use by the Forest Service, Department of Agriculture, as the Desert Experimental Range. The lands are closed to all forms of appropriation under the public lands laws, including the mining, but not the mineral leasing laws. No change in the segregative effect or use of the land would be effected by the continuation.

4. Notice is hereby given that a public hearing may be afforded in connection with the proposed withdrawal continuation. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to the undersigned on or before March 17, 1982. Upon a determination by the State Director, Bureau of Land Management, that a public hearing should be held, a notice will be published in the Federal Register giving the time and place of such hearing. Public hearings will be scheduled and conducted in accordance with BLM Manual 2351.16B. Additionally, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned authorized officer of the BLM on or before April 1, 1982.

5. The authorized officer of the BLM will undertake such investigation as are necessary and prepare a report for consideration by the Office of the Secretary of the Interior. The final determination on the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

6. All communications in connection with this proposed withdrawal continuation should be addressed to the undersigned officer, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

Darrell Barnes,

Chief, Branch of Lands and Minerals Operations.

Dated: December 10, 1981.

[FR Doc. 81-35984 Filed 12-16-81; 8:45 am]

BILLING CODE 4310-84-M

Colorado; Final Intensive Wilderness Inventory

Decision by the Interior Board of Land Appeals to Affirm the Colorado State Director's Final Intensive Wilderness Inventory Decision Regarding Castle Peak (CO-070-433) and Pisgah Mountain (CO-070-421).

Notice is hereby given on the decision of the Interior Board of Land Appeals (IBLA) to affirm the Colorado State Director's Wilderness Inventory decision designating the Castle Peak unit as a wilderness study area (WSA) and declaring the Pisgah Mountain unit unsuitable as a wilderness study area.

The State Director's Final Intensive Wilderness Inventory decision under the authority of section 603 of the Federal Land Policy and Management Act of 1976 (FLMA), 43 U.S.C. 1782 (1976), was published on November 14, 1980 (45 FR 75584). At that time Castle Peak was identified as a WSA and Pisgah Mountain was listed as no longer subject to wilderness review. This portion of the decision was protested. Attempts to resolve the protest were not successful and an appeal was filed with IBLA on February 26, 1981. A notice of this, as well as all other appeals relating to the Final Intensive Wilderness Inventory decision, was published in 46 FR 48774 (October 2, 1981).

In their decision on November 17, 1981, IBLA affirmed the original decision by the Colorado State Director with respect to both units. Accordingly, as of November 17, 1981, Pisgah Mountain (CO-070-421) is released from further wilderness review. Castle Peak (CO-070-433) is reaffirmed as a wilderness study area, and will continue to be subject to the Bureau's interim management policy for WSAs.

Copies of the IBLA's decision (60 IBLA 54) can be obtained from BLM by contacting: Colorado State Office, 1037 20th Street, Denver, Colorado 80202; Attention: Barry A. Tollefson, State Wilderness Coordinator; Telephone (303) 837-3393.

Dated: December 3, 1981.

George C. Francis,

State Director, Colorado, Bureau of Land Management, Denver, Colorado.

[FR Doc. 81-36006 Filed 12-16-81; 8:45 am]

BILLING CODE 4310-84-M

[OR 10138]

Oregon; Proposed Withdrawal and Reservation of Lands; Amendment

In a notice published in the **Federal Register** of September 27, 1979, FR Doc. 79-29932, Pages 55664-5, an allowance of 40 days was made for comments concerning the proposal by the U.S. Forest Service to withdraw 1,120 acres of land for the Mt. Ashland Winter Sports Area within the Rogue River and Klamath National Forests in Jackson County. An additional 50 days from the date of this publication (until February 8, 1982) is hereby provided for interested persons to comment or request a public meeting. All communications in connection with this proposed withdrawal should be addressed to the undersigned officer, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: December 11, 1981.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-35991 Filed 12-16-81; 8:45 am]

BILLING CODE 4310-84-M

[OR 11159]

Oregon; Proposed Withdrawal and Reservation of Lands; Amendment

In a notice published in the **Federal Register** of September 27, 1979, FR Doc. 79-29994, Page 55669, an allowance of 40 days was made for comments concerning the proposal by the U.S. Forest Service to withdraw 7,148.31 acres of land for a highway road zone and recreation areas within the Deschutes National Forest in Deschutes and Klamath Counties. An additional 50 days from the date of this publication (until February 8, 1982) is hereby provided for interested persons to comment or request a public meeting. All communications in connection with this proposed withdrawal should be addressed to the undersigned officer, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: December 11, 1981.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-35992 Filed 12-16-81; 8:45 am]

BILLING CODE 4310-84-M

[OR 16124]

Oregon; Proposed Withdrawal and Reservation of Lands; Amendment

In a notice published in the **Federal Register** of March 3, 1977 FR Doc. 77-6310, Pages 12265-6, an allowance of 32 days was made for comments concerning the proposal by the U.S. Forest Service to withdraw 3,275 acres of land for streamside zones within the Umpqua National Forest in Lane and Douglas Counties. An additional 58 days from the date of this publication (until February 16, 1982) is hereby provided for interested persons to comment or request a public meeting. All communications in connection with this proposed withdrawal should be addressed to the undersigned officer, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: December 11, 1981.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-35993 Filed 12-16-81; 8:45 am]

BILLING CODE 4310-84-M

[OR 11517]

Oregon; Proposed Withdrawal and Reservation of Lands; Amendment

In a notice published in the **Federal Register** of February 28, 1980, FR Doc. 80-6121, Page 13203, an allowance of 39 days was made for comments concerning the proposal by the U.S. Fish and Wildlife Service to withdraw 108 acres of land as an addition to the Oregon Islands National Wildlife Refuge. An additional 51 days from the date of this publication (until February 8, 1982) is hereby provided for interested persons to comment or request a public meeting. All communications in connection with this proposed withdrawal should be addressed to the undersigned officer, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: December 11, 1981.

Harold A Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-35994 Filed 12-16-81; 8:45 am]

BILLING CODE 4310-84-M

[OR 25306]

Oregon; Proposed Withdrawal and Reservation of Lands; Amendment

In a notice published in the **Federal Register** of November 26, 1980, FR Doc. 80-36783, Page 78812, an allowance of 40 days was made for comments concerning the proposal by the U.S. Fish and Wildlife Service to withdraw 100 acres of land as an addition to the Oregon Islands National Wildlife Refuge. An additional 50 days from the date of this publication (until February 8, 1982) is hereby provided for interested persons to comment or request a public meeting. All communications in connection with this proposed withdrawal should be addressed to the undersigned officer, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: December 11, 1981.

Harold A Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-35995 Filed 12-16-81; 8:45 am]

BILLING CODE 4310-84-M

[OR 9651]

Oregon; Proposed Withdrawal and Reservation of Lands; Amendment

In a notice published in the **Federal Register** of April 11, 1979, FR Doc. 79-11155, Pages 21714-5, an allowance of 34 days was made for comments concerning the proposal by the U.S. Forest Service to withdraw, 1,853.66 acres of land for the Ashland Research Natural Area, Jackson Campground Extension, and Kanaka Campground within the Rogue River National Forest in Jackson County. An additional 56 days from the date of this publication (until February 12, 1982) is hereby provided for interested persons to comment or request a public meeting. All communications in connection with this proposed withdrawal should be addressed to the undersigned officer, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: December 11, 1981.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-35996 Filed 12-16-81; 8:45 am]

BILLING CODE 4310-84-M

[OR 10139]

Oregon; Proposed Withdrawal and Reservation of Lands; Amendment

In a notice published in the **Federal Register** of February 8, 1980, FR Doc. 80-4117, Page 8731, an allowance of 38 days was made for comments concerning the proposal by the U.S. Forest Service to withdraw 545 acres of land for the Bagby Research National Area within the Mount Hood National Forest in Clackamas County. An additional 52 days from the date of this publication (until February 8, 1982) is hereby provided for interested persons to comment or request a public meeting. All communications in connection with this proposed withdrawal should be addressed to the undersigned officer, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: December 11, 1981.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-35997 Filed 12-16-81; 8:45 am]

BILLING CODE 4310-84-M

[OR 20183]

Oregon; Proposed Withdrawal and Reservation of Lands; Amendment

In a notice published in the **Federal Register** of February 7, 1979, FR Doc. 79-4202, Page 7819, an allowance of 28 days was made for comments concerning the proposal by the U.S. Forest Service to withdraw 4,578.60 acres of land for the Obsidian Flows and Dacite Domes Area within the Deschutes and Willamette National Forest in Deschutes and Lane Counties. An additional 62 days from the date of this publication (until February 18, 1982) is hereby provided for interested persons to comment or request a public meeting. All communications in connection with this proposed withdrawal should be addressed to the undersigned officer, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: December 11, 1981.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-35998 Filed 12-16-81; 8:45 am]

BILLING CODE 4310-84-M

[OR 10887]

Oregon; Proposed Withdrawal and Reservation of Lands; Amendment

In a notice published in the **Federal Register** of March 3, 1977, FR Doc. 77-6421, Page 12265, an allowance of 28 days was made for comments concerning the proposal by the U.S. Forest Service to withdraw 540 acres of land for the Squaw Lakes Recreation Area within the Rogue River National Forest in Jackson County. An additional 62 days from the date of this publication (until February 18, 1982) is hereby provided for interested persons to comment or request a public meeting. All communications in connection with this proposed withdrawal should be addressed to the undersigned officer, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: December 11, 1981.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-35999 Filed 12-16-81; 8:45 am]

BILLING CODE 4310-84-M

[OR 10898]

Oregon; Proposed Withdrawal and Reservation of Lands; Amendment

In a notice published in the **Federal Register** of September 27, 1979, FR Doc. 79-29980, Pages 55668-9, an allowance of 40 days was made for comments concerning the proposal by the U.S. Forest Service to withdraw 2,760.94 acres of land for the Abbot Creek Research Natural Area within the Rogue River National Forest in Jackson County. An additional 50 days from the date of this publication (until February 8, 1982) is hereby provided for interested persons to comment or request a public meeting. All communications in connection with this proposed withdrawal should be addressed to the undersigned officer, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: December 11, 1981.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-35800 Filed 12-16-81; 8:45 am]

BILLING CODE 4310-84-M

[OR 9345]

Oregon; Proposed Withdrawal and Reservation of Lands; Amendment

In a notice published in the **Federal Register** of February 28, 1977, FR Doc.

77–5922, Page 11285, an allowance of 25 days was made for comments concerning the proposal by the U.S. Forest Service to withdraw 960 acres of land for the Thunder-Egg Lake Agate Beds within the Fremont National Forest in Lake County. An additional 65 days from the date of this publication (until February 22, 1982) is hereby provided for interested persons to comment or request a public meeting. All communications in connection with this proposed withdrawal should be addressed to the undersigned officer, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: December 11, 1981.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-36001 Filed 12-16-81; 8:45 am]

BILLING CODE 4310-84-M

[OR 7964 (Wash)]

Washington; Proposed Withdrawal and Reservation of Lands; Amendment

In a notice published in the **Federal Register** of March 7, 1977, FR Doc. 77–6629, Page 12931, an allowance of 26 days was made for comments concerning the proposal by the U.S. Forest Service to withdraw 150 acres of land for the Wolf Creek Research Natural Area within the Okanogan National Forest in Okanogan County. An additional 64 days from the date of this publication (until February 22, 1982) is hereby provided for interested persons to comment or request a public meeting. All communications in connection with this proposed withdrawal should be addressed to the undersigned officer, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: December 11, 1981.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-36002 Filed 12-16-81; 8:45 am]

BILLING CODE 4310-84-M

[OR 8761 (Wash)]

Washington; Proposed Withdrawal and Reservation of Lands; Amendment

In a notice published in the **Federal Register** of September 26, 1980, FR Doc. 80–29765, Page 63941, an allowance of 40 days was made for comments concerning the proposal by the U.S. Forest Service to withdraw 1,120 acres of land for the White Pass Recreation Area Extension within the Snoqualmie and Gifford Pinchot National Forest in Yakima and Lewis Counties. An additional 50 days from the date of this publication (until February 8, 1982) is hereby provided for interested persons to comment or request a public meeting. All communications in connection with this proposed withdrawal should be addressed to the undersigned officer, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: December 11, 1981.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-36003 Filed 12-16-81; 8:45 am]

BILLING CODE 4310-84-M

[OR 1294 (Wash)]

Washington; Proposed Withdrawal and Reservation of Lands; Amendment

In a notice published in the **Federal Register** of September 27, 1979, FR Doc. 79–29936, Pages 55666–7, an allowance of 40 days was made for comments concerning the proposal by the U.S. Forest Service to withdraw 102 acres of land for the Billy Goat Recreation Area within the Okanogan National Forest in Okanogan County. An additional 50 days from the date of this publication (until February 8, 1982) is hereby provided for interested persons to comment or request a public meeting. All communications in connection with this proposed withdrawal should be addressed to the undersigned officer, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: December 11, 1981.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-36004 Filed 12-16-81; 8:45 am]

BILLING CODE 4310-84-M

[OR 12170 (Wash)]

Washington; Proposed Withdrawal and Reservation of Lands; Amendment

In a notice published in the **Federal Register** of January 18, 1980, FR Doc. 80–1604, Page 3673, an allowance of 33 days was made for comments concerning the proposal by the U.S. Forest Service to withdraw 4,795 acres of land for recreation areas within the Gifford Pinchot National Forest in Skamania County. An additional 57 days from the date of this publication (until February 16, 1982) is hereby provided for interested persons to comment or request a public meeting. All communications in connection with this proposed withdrawal should be addressed to the undersigned officer, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: December 11, 1981.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-36005 Filed 12-16-81; 8:45 am]

BILLING CODE 4310-84-M

Wilderness Decision

The Bureau of Land Management (BLM) has completed the wilderness inventory of public lands in the Stateline area (where Idaho joins with Oregon, Nevada, and Utah).

The Stateline inventory was not completed with the Statewide inventories for each state, due to appeals received in Idaho on all of the Idaho Stateline inventory units that were proposed for intensive inventory.

Twenty five responses were received during the 90-day public comment period on the intensive inventory proposed decision (April 8, 1981 to July 7, 1981). The information provided on the wilderness characteristics of the Stateline areas, especially the presence or absence of naturalness and outstanding opportunities for solitude or primitive and unconfined recreation, was utilized in formulating the final decision.

Publication of this notice marks the beginning of a 30-day protest period from December 18, 1981, to January 18, 1982. The decisions will become final on January 18 unless timely protests are received by the Idaho, Oregon, Nevada, or Utah State Directors of the BLM.

Persons wishing to protest any of these decisions must file a written protest with BLM State Directors (addresses below) by the close of business January 18, 1982. Only those protests received by the State Directors by the time and date specified will be accepted.

The protest must specify the inventory unit(s) to which it is directed. It must include a clear and concise statement of the reasons for the protest as well as data to support the reasons stated.

A written decision will be issued on any protest which is filed according to the above requirements, with publication in the **Federal Register** of the action taken in response to the protest.

Any person adversely affected by the decision on a written protest may appeal such decision under the provisions of 43 Code of Federal Regulations (CFR) Part 4.

Idaho BLM State Director, Box 042, Federal Building, 550 W. Fort Street, Boise, Idaho 83724

Nevada BLM State Director, P.O. Box 12000, Reno, Nevada 98520
Oregon BLM State Director, P.O. Box 2965, Portland, Oregon 97208
Utah BLM State Director, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111

STATELINE INTENSIVE INVENTORY FINAL DECISION

Unit		Acres		
Name	Number	Proposed as WSA	Not proposed as WSA	Total
Juniper Basin [1]	ID-16-59		15,248	15,248
Little Owyhee River [1]	ID-16-48c	24,677	2,140	26,817
Lookout Butte	OR-3-194A		65,640	65,640
	ID-16-48a		39,200	39,200
Unit total			104,840	104,840
Owyhee River Canyon	OR-3-195	195,400	21,280	216,680
	ID-16-48b	33,700		33,700
Unit total		229,100	21,280	250,380
Oregon Butte	OR-3-159		32,440	32,440
	NV-020-611		10,680	10,680
	ID-16-70e		3,400	3,400
Unit total			46,520	46,520
Cottonwood-Salmon Falls	NV-010-179		10,276	10,276
	ID-17-26		5,977	5,977
Unit total			16,253	16,253
Upper Little Owyhee River	NV-010-102		53,384	53,384
	ID-16-56a		4,309	4,309
Unit total			57,693	57,693
Jarbidge Addition [1]	ID-17-21		5,881	5,881
Upper Bruneau River [1]	ID-17-19		21,711	21,711
South Fork Owyhee River	ID-16-53	42,510	5,550	48,060
	NV-010-103A	7,842	3,500	11,342
	NV-010-103		9,319	9,319
Unit total		50,352	18,369	68,721
Little Goose Creek	NV-010-164		8,276	8,276
	ID-22-1		2,325	2,325
	UT-020-001		1,330	1,330
Unit total			11,931	11,931
Totals		304,129	321,866	625,995

[1] This unit is administered entirely by Idaho BLM.

STATE-BY-STATE SUMMARY

	Total units	WSA units	Acres		
			WSA	Not WSA	Total
Oregon	3	1	195,400	119,360	314,760
Idaho	11	3	100,887	105,741	206,628
Nevada	5	1	7,842	95,435	103,277
Utah	1			1,330	1,330
Total	[1] 11	[1] 3	304,129	321,866	625,995

[1] Since most units are partially in two or three of the states, this figure is not a sum of the above.

Dated: December 11, 1981.

Guy E. Baier,

Acting State Director, BLM, Idaho.

[FR Doc. 81-36071 Filed 12-16-81; 8:45 am]

BILLING CODE 4310-84-M

[Bureau Order No. 701]

Lands and Resources; Redelegations of Authorities

AGENCY: Bureau of Land Management, Interior.

ACTION: Amendment to Bureau Order No. 701.

SUMMARY: This gives notice of an amendment to Bureau Order No. 701, Part 1, Section 1.6(a) Oil and Gas Leases, to give the Director, Alaska State Office, Bureau of Land Management, authority to issue oil and gas leases in the National Petroleum Reserve—Alaska.

EFFECTIVE DATE: December 17, 1981.

[Bureau Order No. 701, Amendment No. 35]

Lands and Resources—Redelegation of Authority

Bureau Order No. 701, dated July 23, 1964, is further amended as follows:

Section 1.6(a) is amended by removing the period at the end of the first sentence and adding the phrase ", the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6504), and the Department of the Interior Appropriations Act, Fiscal Year 1981 (94 Stat. 2957)."

December 11, 1981.

Robert F. Burford,

Director.

[FR Doc. 81-36088 Filed 12-16-81; 8:45 am]

BILLING CODE 4310-84-M

[AR-031029]

Arizona; Proposed Withdrawal and Reservation of Lands; Correction

December 10, 1981.

In FR Doc. 81-34190, published at pages 58186 and 58187, on Monday, November 30, 1981, make the following correction: On Page 58187, first column, fourth line should read: "On or before February 28, 1982, all * * *"

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-36014 Filed 12-16-81; 8:45 am]

BILLING CODE 4310-84-M

Availability of Final Environmental Impact Statement on the Rocky Mountain Pipeline Project

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of final environmental impact statement on the Rocky Mountain pipeline project.

SUMMARY: Pursuant to Section 102(2)(c) of the Environmental Policy Act of 1969, the Department of the Interior's Bureau of Land Management (BLM) and the Department of Energy's Federal Energy Regulatory Commission (FERC) has prepared and is making available this statement covering a proposal by the Rocky Mountain Pipeline Company to construct and operate a 610-mile long, 36-inch diameter, natural gas pipeline from Lincoln County, Wyoming into San Bernardino County, California. The proposed system would cross approximately 343 miles of Federal land.

The Forest Service (FS), the Bureau of Indian Affairs (BIA), the Fish and Wildlife Service (FWS) and several state and county government departments have assisted in the preparation of this EIS.

In addition to the proposed route, six alternative routes and seven route variations have been assessed and analyzed in the document.

DATE: Federal decisions will be made following a waiting period of 30 days from the date that the Environmental Protection Agency's Notice of Availability for the FEIS is published in the **Federal Register.** This waiting period

is expected to end on or about January 17, 1982.

ADDRESS: Notice is hereby given that written comments on the content of the final EIS may be submitted during the 30-day waiting period as noted above. Comments should be directed to:

State Director, Utah State Office, Bureau of Land Management, 136 East South Temple, Salt Lake City, Utah, 84111

Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426

FOR FURTHER INFORMATION CONTACT: Dell T. Waddoups, Project Manager, Bureau of Land Management, 136 East South Temple, Salt Lake City, Utah 84111; Telephone: (801) 524–5645 FTS 588–5645.

Limited copies of FEIS's are available upon request from: Rocky Mountain Pipeline Project Leader, Bureau of Land Management, EIS Offices, Third Floor East, 555 Zang Street, Denver, Colorado 82008, and the Federal Energy Regulatory Commission, Division of Public Information, at the above listed address. Copies of the FEIS are available for review at public libraries and at the following BLM locations:

Office of Public Affairs, Main Interior Building, 18th and C Streets NW., Washington, D.C. 20240

Federal Building, Room 398, 550 West Fort Street, Box 042, Boise, Idaho 83724

Federal Office Building, Room E–2841, 2800 Cottage Way, Sacramento, California 95825

Federal Building, Room 3008, 300 Booth Street, P.O. Box 12000, Reno, Nevada 89520

University Club Building, 136 East South Temple, Salt Lake City, Utah 84111

2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyoming 82001

Dated: December 8, 1981.

Roland G. Robison, Jr.,

Utah State Director.

[FR Doc. 81–36007 Filed 12–16–81; 8:45 am]

BILLING CODE 4310–84–M

[Serial No. I–17737]

Idaho; Conveyance of Public Lands, Jefferson County

Notice is hereby given that pursuant to the Act of October 21, 1976 (90 Stat. 2750; 43 U.S.C. 1713), the following-described public land has been sold by direct sale to Reese Sanders, Hamer, Idaho 83425.

Boise Meridian, Idaho

T. 7 N., R. 36 E.,
Sec. 14, SE¼NW¼.
Comprising 40.00 acres.

The lands were conveyed on December 10, 1981, to resolve a complicated situation that was created in 1942 by an agreement for an exchange of land between the family of Mr. Reese and the Taylor Grazing Service. The exchange was never consummated but the conditions of the agreement were such that Mr Reese was under the impression that his family obtained possession of the land in 1942 and it has been fenced, used and considered as part of his private holdings for many years. The public interest was well served through completion of the sale.

The fair market value of the public land was appraised at $4,725 and payment in this amount was received by the United States.

Louis B. Bellesi,

Chief, Division of Technical Services.

[FR Doc. 81–36008 Filed 12–16–81; 8:45 am]

BILLING CODE 4310–84–M

Intent To Prepare Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to prepare an environmental impact statement (EIS).

SUMMARY: Notice is hereby given in accordance with 40 CFR 1501.7 that the Coeur d'Alene District Office is starting the preparation of an EIS. Completion of the EIS will be an important step in the District's Management Framework Plan process. The amendments will cover five Wilderness Study Areas (WSAs) in northern Idaho. The purpose of the EIS is to assess land use allocation alternatives for these WSAs and to develop recommendations on the suitability of these lands for inclusion in the National Wilderness Preservation System. These lands total 38,468 acres and are identified as:

Unit	Name	Acres
61–1	Selkirk Crest	720
61–10	Crystal Lake	9,027
61–15a and 15b	Grandmother Mountain	17,129
62–1	Snowhole Rapids	5,068
62–10	Marshall Mountain	6,524
Total		38,468

Scoping for this EIS began on February 5, 1981 when a Notice of Management Framework Plan Amendment Preparation was published in the **Federal Register**. Requests for public input concerning issues to be considered in the plan amendment and EIS were made in March and July, 1981. The following major issues have been identified to date:

1. How would wilderness designation affect other resource activities; what resource opportunities/values would be foregone?

2. How would wilderness designation affect the potential for energy and mineral resource development?

3. Would livestock grazing be affected by wilderness designation?

4. How would wilderness designation affect the management of adjacent lands?

5. What wilderness values do the WSAs contain?

6. Are the WSAs manageable as wilderness areas?

7. Is there a need for additional wilderness areas?

8. How would wilderness characteristics be protected in each WSA?

9. What are the social and economic values of wilderness; how would wilderness designation affect current socio-economic conditions of local communities?

A full spectrum of alternatives will be described and analyzed in the EIS. These alternatives will include, but are not limited to:

1. All Wilderness.

2. No Wilderness—to include a range of sub-alternatives ranging from considering resource production to resource protection.

3. Partial Wilderness.

4. No Action.

An interdisciplinary team will develop the EIS. The following disciplines will be represented: forestry, range management, wildlife, hydrology, wilderness, soils, recreation, archaeology, geology, land use planning, sociology and economics.

The draft EIS is currently scheduled for publication in June, 1982. A notice of availability will be published in the **Federal Register** and publicized through the media. A public hearing will be held following the publication of the draft EIS. Details concerning this hearing will be published in the **Federal Register** and announced through the media.

Documents associated with this EIS will be available for public review at the Coeur d'Alene District Office in Coeur d'Alene, Idaho.

FOR FURTHER INFORMATION CONTACT: Ted Graf, EIS Team Leader, Bureau of Land Management, 1808 North 3rd St., Coeur d'Alene, Idaho 83814. Telephone (208) 667–2561, extension 356.

Dated: December 10, 1981.

Wayne W. Zinne,

Coeur d'Alene District Manager.

[FR Doc. 81–36013 Filed 12–16–81; 8:45 am]

BILLING CODE 4310–84–M

Federal Coal in Rosebud, Big Horn, and Powder River Counties, Mont.; Public Comment Period on Application of Unsuitability Criteria

December 10, 1981.

AGENCY: Bureau of Land Management, Miles City District, Montana.

ACTION: Notice of public comment period.

SUMMARY: Notice is hereby provided to announce a public comment period on the application of unsuitability criteria on 97,226 acres of federal coal in Rosebud, Big Horn, and Powder River Counties, Montana. This notice is in accordance with 43 CFR 3461.3–1(a)(2), Coal Management, Federally Owned Coal.

DATES: The comment period is open until February 28, 1982, and will include public meetings in Colstrip, Montana, and Sheridan, Wyoming, at times and dates to be announced in local media.

ADDRESS: Written comments may be addressed to the District Manager, Miles City District, West of Miles City, P.O. Box 940, Miles City, Montana.

SUPPLEMENTARY INFORMATION: A draft amendment to plans covering the management of public land in the Powder River Resource Area has been released by the Miles City District to make six federal coal areas available for further lease consideration. The draft amendment includes the application of unsuitability and small scale maps displaying those areas:

a. To which no criteria would apply;

b. To which a criterion would apply;

c. To which a criterion would apply where the authorized officer does not intend to consider an exception; and

d. To which a criterion and an exception thereto have been applied.

Large-scale maps and overlays depicting the same information in more detail are available for public inspection at the Miles City District Office and will be available in Colstrip and Sheridan during the public meetings. Copies of the draft amendment are also available at the Miles City District Office. The draft amendment also contains multiple use analysis, and surface owner consultation sections and the overall document is open to public comment through the period.

Robert A. Teegarden,

Acting District Manager.

[FR Doc. 81-36012 Filed 12-16-81; 8:45 am]

BILLING CODE 4310-84-M

Outer Continental Shelf Advisory Board, South Atlantic Technical Working Group; Meeting

Notice of this meeting is issued in accordance with the Federal Advisory Committee Act (Pub. L. No. 92–463).

Name: South Atlantic Technical Working Group.

Date: January 12, 1982.

Place: The World Trade Institute, Rooms 3 and 4 One World Trade Center, 55th Floor New York, New York

Time: 9:00 a.m. to 4:30 p.m.

Committee membership consists of representatives from federal agencies, the coastal states of Virginia through Florida, the petroleum industry, and other private interests.

Agenda: Overview of proposed changes to the OCS oil and gas leasing program; discussion of scenarios, alternatives and significant issues to be considered for the Sale No. 78 DEIS (scoping); discussion of future roles of the Regional Technical Working Group.

The meeting will be open to the public. Public attendance may be limited by the space available. Persons wishing to make oral presentations to the Committee regarding matters on the agenda should contact Richard Barnett of the New York OCS Office (212–264–1061) by January 5, 1982. Written statements should be submitted by January 19, to the New York OCS Office, Bureau of Land Management, 26 Federal Plaza, Suite 32–120, New York, New York 10278.

Minutes of the meeting will be available for public inspection and copying by March 9, 1982 at the above address.

Frank Basile,

Manager, New York OCS Office.

[FR Doc. 81-36010 Filed 12-16-81; 8:45 am]

BILLING CODE 4310-84-M

Office of Surface Mining Reclamation and Enforcement

Move of Administrative Record Room

AGENCY: U.S. Department of the Interior, Office of Surface Mining.

ACTION: Notice of move of the administrative record room.

SUMMARY: The Office of Surface Mining (OSM) is moving the Administrative Record Room from 1951 Constitution Avenue to 1100 L Street N.W. The Administrative Record Room will be open to the public at 1100 L Street on December 24, 1981. Due to this move the Administrative Record Room will be closed on December 22–23, 1981.

FOR FURTHER INFORMATION CONTACT: Joel Anderson, Office of Surface Mining, 1951 Constitution Avenue, Washington, D.C. 20240, (202) 343–5447.

SUPPLEMENTARY INFORMATION: On December 24, 1981 the Administrative Record Room will be open to the public at Room 5315, 1100 L Street, N.W., Washington, D.C. Because of this move the Administrative Record Room will be closed on December 22–23, 1981.

The Administrative Record Room maintains all technical literature which is cited in OSM regulations. It also maintains all comments on rulemaking and State Programs.

OSM usually requests that comments on rulemaking be addressed to the Administrative Record Room. Therefore commenters sending comments in after December 23, 1981 should use the following address: Administrative Record Room, U.S. Department of the Interior, Office of Surface Mining, Room 5315 L Street, 1951 Constitution Avenue, N.W., Washington, D.C. 20240.

OSM maintains the Constitution Avenue address as its only mailing address. The mail is then shuttled to 1100 L Street. In addition to hand delivery at Room 5315, 1100 L Street, N.W., OSM will accept hand carried mail at Room 241 in the South Interior Building, 1951 Constitution Avenue. This will enable commenters to have their comments date stamped and delivered to 1100 L Street for filing and logging in the Administrative Record.

Street parking is adjacent to the 1100 L Street building. Commercial parking lots are located on 11th Street and New York Avenue and 10th Street above Massachusetts Avenue.

Carson W. Culp,

Assistant Director, Office of Surface Mining, Management and Budget.

[FR Doc. 81-36043 Filed 12-16-81; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Finance Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find: Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the

Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be comsummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It Is Ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC–FC–79467. By decision of 12/1/81 Review Board 3 approved the transfer to DON ESTRIN, of San Pedro, CA, of control of License No. MC–12429 issued to RADS TRANSFER & STORAGE COMPANY, of San Pedro, CA, formerly jointly controlled by Estrin, John Tillotson, and Eldon R. Clawson, authorizing a brokerage service at Medford, Eugene, Klamath Falls, and Portland, OR, Vancouver and Seattle, WA, and Los Angeles, CA, of household goods between points in the United States. Representative: Don Estrin, 350 W. 5th St., San Pedro, CA 90731.

MC–FC–79479. By decision of 12/3/81, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to R-LIL TRUCK COMPANY, INC., of Camano Island, WA, of Permit No. MC–142332 (Sub-1) issued October 18, 1977, MC–142332 (Sub-No. 3) issued October 26, 1978, MC–142332 (Sub-No. 5) issued April 21, 1980, and MC–142332 (Sub-No. 6) issued July 20, 1981, to MEAT HANDLERS' EXPRESS, INC., of Camano Island, WA, authorizing the movement of named commodities, from and between various points in the United States under continuing contract(s) with (1) Florence Packing Co. of Stanwood, WA; (2) Pacific Grinding Wheel, Incorporated, of Marysville, WA; and (3) The Boeing Company of Seattle, WA ; and authority in MC–142332 (Sub-No. 1) from Stanwood and Chehalis, WA, to the port of entry on the US-Canada Boundary line located at or near Detroit, MI, is restricted to the transportation of traffic destined to Montreal, Quebec, and Toronto, Ontario, Canada. Representative: Michael D. Duppenthaler, 211 South Washington Street, Seattle, WA 98104, (206) 622–3220. TA lease is not sought. Transferee is not a carrier.

MC–FC–79491. By decision of 12/1/81 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to R. C. MASON MOVERS, INC. of certificate No. MC–21854 issued to EARL E. WARMAN, INC. authorizing the transportation of *household goods* as defined by the Commission, between points in Essex County, MA, on the one hand, and, on the other, points in ME, NH, VT, CT, RI, NY, DE, NJ, and PA. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. TA lease is not sought. Transferee is a carrier.

MC–FC–79495. By decision of 12/3/81 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to PAUL GERARD HOFFMANN, d.b.a. BUD HOFFMANN MOVERS, of Yonkers, NY, of Cerfificate No. MC–91484 issued to FRANCIS L. HOFFMANN d.b.a. BUD HOFFMANN MOVERS, of Yonkers, NY, authorizing the transportation of *household goods* as defined by the Commission, between New York, NY, on the one hand, and, on the other, points in NY, NJ, and CT. Representative: Paul Gerard Hoffmann, 93 Vernon Avenue, Yonkers, NY 10704.

Note.—Transferee is a non-carrier; TA is not sought.

MC–FC–79501. By decision of December 8, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to GOLDEN ISLES COACHES, INC., of Brunswick, GA, of Certificate No. MC–136102 (Sub 1), issued to SANDHILL STAGE LINES, INC., of Jacksonville, FL, authorizing the transportation of *passengers and their baggage*, in charter operations, beginning and ending at Hilton Head Island, SC, and extending to points in FL, GA, NC, SC, and TN. Representative: James Perry Fields, 1612 Union Street, P.O. Box 797, Brunswick, GA 31521.

Notes.—TA has not been filed. Transferee is not a carrier, but is affiliated with Coastal Trucking Co., Inc., which holds common carrier authority under MC–151141.

MC–FC–79503. By decision of 12/1/81 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to JONATHAN SPINOSI, d.b.a. JONATHAN'S TRAVEL of License No. MC–12698 issued to CLARENCE E. WIDELL d.b.a. VIKING TRAVEL AGENCY authorizing the transportation of *passengers and their baggage*, in Charter and special operations, in round-trip tours, beginning and ending at points in Camden, Gloucester, and Burlington (except Fort Dix and McGuire Air Base) Counties, NJ, and extending to points in the United States including AK and HI. Applicant is authorized to engage in the above-specified operations as a broker at Camden and Haddonfield, NJ. Representative: Paul Gerard Hoffmann, 93 Vernon Avenue, Yonkers, NY 10704.

Note.—Transferee is a non-carrier.

MC–FC–79505. By decision of 12/3/81, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to CHEVALLEY TRANSPORTATION COMPANY, INC., of Dewey, OK, of Certificate No. MC–74077 issued June 5, 1973, to STONE TRANSFER & STORAGE CO., of Dewey, OK, authorizing: *household goods*, between Oklahoma City, OK, and points within 150 miles of Oklahoma City, on the one hand, and on the other, points in AR, KS, MO, NE, NM, and TX; and *uncrated new household furniture*, between Oklahoma City, OK, on the one hand, and, on the other, points in KS, MO, TX, and NM. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103, (817) 332–4718.

Note.—TA lease is not sought. Transferee is not a carrier.

MC–FC–79506. By decision of 12/3/81, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to DENNY BUS LINES LTD., of Acton, Ontario, Canada, of Certificate No. MC–119228 issued August 4, 1960, and MC–119228 (Sub–1) issued April 22, 1966, to MASON MOTOR COACHES, LTD., of Acton, Ontario, Canada, authorizing *passengers and their baggage*, in round

trip charter operations, beginning and ending at ports of entry on the United States-Canada boundary line in that part of Michigan and New York which border the Province of Ontario, Canada, and extending to points in NY, IL, IN, MI, OH, NJ, and PA; and *passengers and their baggage*, in round-trip charter operations, beginning and ending at the ports of entry on the United States-Canada Boundary line and extending to points in the United States, except those in HI, IL, IN, MI, NJ, NY, OH, and PA. Representative: William J. Hirsch, 1125 Convention Tower, 43 Court Street, Buffalo, NY 14202, (716) 853-0200.

Note.—TA lease is not sought. Transferee is not a carrier.

MC-FC-79514. By decision of December 10, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to GLOBAL FORWARDING, INC., A TEXAS CORPORATION, of Permit No. FF-350 (Sub-No. 1), issued September 15, 1977, to GLOBAL FORWARDING, INC., A CALIFORNIA CORPORATION, authorizing the transporation of (a) *used household goods and unaccompanied baggage* and (b) *automobiles*, between points in the United States (including HI and AK), restricted in (b) above to the transportation of export-import traffic. Representative: Alan F. Wohlstetter, 1700 K Street, NW., Washington, DC 20006.

Notes,—TA has not been filed. Transferee is not a carrier, but is affiliated with transferor. Transferor is a subsidiary of Gloval Van Lines, Inc., a motor carrier under MC-41098.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-36048 Filed 12-16-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: December 14, 1981.

By the Commission, Review Board Number 3. Members, Krock, Joyce, and Dowell.

MC-F-14745, filed November 30, 1981. Applicant: ROSS NEELY EXPRESS, INC., P.O. Drawer B, Pratt City Sta., Birmingham, AL 35214. Representative: JOHN P. CARLTON, CARLTON, BOLES, VANN & STICHWEH, 727 Frank Nelson Building, Birmingham, AL 35203. Ross Neely Express, Inc. (RNX) seeks approval to continue in control of Neely Transport, Inc., (Neely) upon the institution of operations by the latter as a common carrier in interstate commerce. The application is related to MC-150706 (Sub-1) in which Neely has been granted authority to transport general commodities (except classes A and B explosives) over regular routes between points in AL and GA, serving all intermediate points and all other points in AL and GA as off-route points. Ross Neely, Jr., who controls RNX, seeks authority to continue in control of Neely through the transaction. (Hearing: Birmingham, AL, Washington, D.C.)

MC-F-14743, filed November 20, 1981. HENRY ANDERSEN, INC. (P.O. Box 75, King George, VA 22485)—Merger—HENRY ANDERSEN OF TEXAS, INC. (P.O. Box 1129, Stratford, TX 79084). Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth St. NW., Washington, D.C. 20005. Henry Andersen, Inc., seeks authority to merge the interstate operating rights and property of Henry Andersen of Texas, Inc., its wholly-owned subsidiary, into Henry Andersen, Inc., for ownership, management, and operation. W. Henry Andersen, the sole stockholder of Henry Andersen, Inc., also seeks authority to control the merged rights through the merger. The operating rights to be merged are contained in Permit No. MC-139091, and Certificate No. MC-148245, and sub numbers thereunder, authorizing the transportation of vacuum bottles and fillers lunch and picnic boxes, plastic articles and meat and meat products and frozen foods, from and to specified points in the states of TX, KS, NE, IA, IL, LA, MI, TN, OH, and CT. All operating authority of Henry Andersen of Texas, Inc., is to be merged. This does not purport to be a complete description of said operating rights. Henry Andersen, Inc., is authorized pursuant to Permit No. MC-135553 and Certificate No. Mc-145252 and subs thereunder to transport meat and meat

products, chimney assemblies, doors, chemicals, and related products, plastic film, to, from and between various specified points or areas in the United States. Henry Andersen, Inc., was authorized to control Henry Andersen of Texas, Inc., formerly Logan Motor Lines, Inc., in No. MC-F-13697F. Application for TA has not been filed. Condition: Athough W. Henry Andersen has signed the application as Chairman of the Board of each of the involved carriers, he has not signed in his own right as the party who will control the merged rights after consummation of the transaction. Thus, our approval is conditioned upon W. Henry Andersen seeking joinder in the application as such party who will control the merged rights.

MC-F-14742, filed November 20, 1981. ROBERT D. BOWHAY (Bowhay) (P.O. Box 150, Summerfield, KS 66541)—Purchase (Portion)—SULLIVAN TRANSFER & STORAGE CO. (Sullivan) (301 North 8th Street, Lincoln, NE 68508). Representatives: Donald L. Stern, Ste. 610, 7171 Mercy Road, Omaha, NE 68106, and Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. Bowhay seeks authority to purchase certain operating rights of Sullivan, generally for the transportation by irregular routes of (1) *metal products*, between Peoria, IL and Kansas City, MO, on the one hand, and on the other, points in Lancaster County, NE; (2) *textile mill products and machinery*, between Chicago, IL and points in Fulton County, IL, on the one hand, and, on the other, points in Lancaster County, NE; (3) *petroleum, natural gas and their products*, between Tulsa, OK, on the one hand, and, on the other, points in Lancaster County, NE; and (4) *metal products*, between points in Pueblo County, CO and Lancaster County, NE.

Note.—Bowhay has filed an application for temporary authority concurrently with the purchase application.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-36047 Filed 12-17-81; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-1 (Sub-No. 134)]

Rail Carriers; Chicago & North Western Transportation Co.—Abandonment—in Webster County, IA; Notice of Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that the Commission, Review Board Number 3, has issued a certificate authorizing the Chicago and North Western Transportation Company to abandon its rail line between milepost 1.7 near Gypsum to railroad milepost 6.9 near Evanston, a distance of 5.2 miles in Webster County, IA, subject to certain conditions. Since no investigation was instituted, the requirement of Section 1121.38(b) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this notice. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-36045 Filed 12-16-81; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-43 (Sub-No. 76)]

Rail Carriers; Illinois Central Gulf Railroad Co.—Abandonment—at Middleton, near Bemis, in Chester, Madison and Hardeman Counties, TN; Notice of Findings

The Commission has found that the public convenience and necessity permit the Illinois Central Gulf Railroad Company to abandon its 35.8-mile rail line between Middleton, TN (milepost 368.6) and Bemis, TN (milepost 404.4) (excluding Middleton and Bemis) in Chester, Madison and Hardemann Counties, TN. A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) It is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to the Deputy Director, Section of Finance, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1121.38.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-36044 Filed 12-16-81; 8:45 am]

BILLING CODE 7035-01-M

[F.D. No. 30,000 and Related Dockets]

Rail Carriers; Union Pacific Corp. and Union Pacific Railroad Co.—Control—Missouri Pacific Corp. and Missouri Pacific Railroad Co.

AGENCY: Office of Policy and Analysis, Energy and Environment Branch, ICC.

ACTION: Notice of availability of addendum to environmental assessment previously prepared for above-entitled proceeding.

SUMMARY: On or about September 2, 1981 the ICC's Energy and Environment Branch served on all parties of record to the above-entitled proceeding a copy of an environmental assessment which analyzed the environmental impacts of the applicants' proposals for consolidation of the Union Pacific Railroad Company, the Missouri Pacific Railroad Company, and the Western Pacific Railroad Company. Comments on the environmental assessment were invited and a number of these were in fact received.

The Energy and Environment Branch has now prepared an addendum to the environmental assessment. This document responds to issues raised in comments. A copy of the addendum will be served on all parties who filed comments on the environmental assessment. Other interested members of the public may obtain a copy of the addendum upon request made to John O'Connell, Energy and Environment Branch, Room 5380, Interstate Commerce Commission, Washington, DC 20423, Tel. (202) 275-7872.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-36046 Filed 12-16-81; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. MC-43]

Motor Carriers; Lease and Interchange of Vehicles by Motor Carriers

Decided: December 3, 1981.

Kenosha Auto Transport Corporation (MC-30837) and Dallas & Mavis Forwarding Co., Inc. (MC-29886) have filed a petition for waiver of Subpart B (§§ 1057.11 and 1057.12) of the Lease and Interchange of Vehicles Regulations (49 CFR Part 1057), with respect to equipment augmented between them.

Findings: 1. Petitioners are commonly controlled and administer a common safety program.

2. Petitioners have acceptable fitness records.

3. Greater economy and efficiency would result if the waiver were granted in part.

It is ordered: 1. The petition of Kenosha Auto Transport Corporation and Dallas & Mavis Forwarding Co., Inc., for waiver of Subpart B (Sections 1057.11 and 1057.12), is granted, except for paragraph (b) of § 1057.11, with respect to equipment augmented between them, provided petitioners or their authorized representatives agree in writing that the lessee shall have control and responsibility for the operation of the equipment from the time possession is taken by the lessee and the receipt required under paragraph (b) of § 1057.11 is given to the lessor until possession of the equipment is returned to the lessor and the receipt required under paragraph (b) of § 1057.11 is received by the lessee or possession of the equipment is returned to the lessor or given to another authorized carrier in an interchange of equipment. A copy of the agreement must be carried in the equipment while it is in the possession of the lessee.

2. The waiver granted in this decision does not affect the application of the leasing regulations to a lease between an owner-operator and the lessor carrier.

By the Motor Carrier Leasing Board, Board Members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-36049 Filed 12-16-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 81-33022, appearing at page 56513 in the issue of Tuesday, November 17, 1981, the motor carrier number reading, "MC 133134 (Sub-5)" in the seventeenth line of column two of page 56516 should have read, "MC 153134 (Sub 5)" instead.

BILLING CODE 1505-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-95]

Certain Surface Grinding Machines and Literature for the Promotion Thereof; Request for Comments Regarding Proposed Termination

AGENCY: U.S. International Trade Commission.

ACTION: A request for public comment on the proposed termination of two respondents based on settlement agreements and the proposed termination of two respondents based on consent order agreements.

SUMMARY: The settlement agreements in question would result in the termination of the investigation as to respondents Jones and Henry Tool Co. and Cactus State Machinery Company. The consent order agreements would result in the termination of the investigation as to respondents Equipment Importers, Inc. dba Jet Equipment and Tool and Kabaco Tools, Inc. dba KBC Machinery. This notice requests public comments on the proposed terminations of the aforementioned respondents on the basis of the agreements in question.

DATE: Comments will be considered if received on or before January 6, 1982. Comments should conform with § 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8), and should be addressed to Kenneth R. Mason, Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

SUPPLEMENTARY INFORMATION: Complainant Brown and Sharpe Manufacturing Company and respondents Jones and Henry Tool Co. and Cactus State Machinery Company moved in separate joint motions for termination of this investigation as to those respondents on the basis of settlement agreements. The Commission investigative attorney supports the motions. The presiding officer recommended that the separate joint motions be granted. Complainant, respondents Equipment Importers, Inc. dba Jet Equipment and Tool and Kabaco Tools, Inc. dba KBC Machinery, and the Commission investigative attorney have also moved in separate joint motions to terminate Equipment Importers and Kabaco Tools from this investigation on the basis of consent order agreements.

Notice of the institution of the investigation was published in the **Federal Register** of January 22, 1981 (46 FR 7107).

Settlement Agreements

The settlement agreements provide in pertinent part as follows:

Respondent shall refrain from importing, buying, selling, leasing or transferring reproductions, copies, imitations or simulations of surface grinding machines from Taiwan or other countries into the United States identified under the designations "510", "612", "824", "1024", "1030", "1244" and "1236" or which are of the type heretofore offered for sale by Lian Feng Machine Co.

Respondent shall refrain from copying, reprinting, using, selling, or distributing any unauthorized copies of printed material prepared or owned by B & S [Brown & Sharpe] and bearing a B & S copyright notice.

Respondent shall refrain from printing, distributing, or authorizing the printing of promotional material referring to B & S or its trademarks, except in connection with the sale or servicing of B & S equipment.

Respondent shall refrain from using any B & S printed material, whether or not protected by copyright, in connection with the maintenance, repair, or sale of surface grinding machines or components thereof, other than B & S surface grinding machines or components thereof.

Respondent shall refrain from importing, buying, selling, or otherwise transferring surface grinding machines made in foreign countries which simulate the trade dress of B & S high precision surface grinding machines.

Respondent agrees to give to B & S two copies of all catalogs, manuals, advertisements and promotional pieces promoting or making reference to surface grinding machines made by Lian Feng Machine Co. that have been used, sold, or distributed by Respondent.

Respondent shall deliver to B & S prior to May 1, 1981 in affidavit form a statement relating to Respondent's purchase and sale of surface grinding machines made or sold by Lian Feng Machine Co., including (a) the total number purchased; (b) the dates of purchase; (c) the price paid; (d) the total number in inventory; (e) the total number sold; (f) the price of each sale; (g) the date of each sale.

Respondent shall deliver to B & S prior to May 1, 1981, all copies of catalogs, manuals, and advertisements in its possession that were prepared by or for Lian Feng Machine Co. that

contain reference to surface grinding machines that are reproductions of B & S high precision surface grinding machines that have been sold under the designations "510", "612", "824", "1024", "1030", "1244" and/or "1236".

B & S and the Respondent agree to file a joint motion before the Commission to terminate the investigation with respect to Respondent without prejudice.

B & S agrees to refrain from instituting any civil action for any matters which have been raised in the complaint filed with the Commission.

B & S releases the Respondent from any and all claims arising from issues raised in the B & S complaint filed in the investigation, including but not limited to copyright and trademark infringement and unfair competition.

Consent Order Agreements

The consent order agreements provide in pertinent part as follows:

Respondent will refrain from importing surface grinding machines directly or indirectly from Taiwan or other countries of the type and style which are reproductions, copies, imitations or simulations in whole or significant part of B & S surface grinding machines including those that have been sold under the designations "510", "612", "818", "824", "1024", "1030", "1224", and "1236" or are of the type or style offered heretofore by Lian Feng Machine Co. of Taiwan, China, under the designations, "612", and "618", "718", and "818" and/or those identified by the complainant. Respondent will refrain from selling, leasing or otherwise transferring all surface grinding machines identified in the proceeding sentence that were imported into the United States after July 15, 1981 or after the effective date of this order, whichever occurs first.

Respondent shall (a) refrain from copying, reprinting, using, selling or distributing unauthorized copies of manuals, catalogs, brochures or other printed material prepared or owned by B & S and bearing a B & S copyright notice (b) refrain from using or distributing for use any B & S manual catalog, or other printed material, or copies thereof in whole or in part, whether or not protected by copyright, in connection with the maintenance, repair or sale of surface grinding machines and components thereof, other than B & S surface grinding machines and components thereof; (c) refrain from using photographs of B & S surface grinding machines in any manner to market surface grinding machines except those of B & S; (d) refrain from using B & S Micromaster, B & S or other rigistered trademarks of B & S or colorable imitations thereof except in connection with the sale of B & S products; (e) refrain from any act which suggests or creates an impression that Respondent is selling surface grinding machines made by B & S, except to the extent that such is true.

Respondent shall file a report under oath with the Commission within thirty (30) days of the anniversary date of the effective date of this order and annually for two (2) years thereafter.

Respondent shall notify the Commission at least 20 days prior to any proposed material change in the Respondent's organization during the two (2) year period commencing on the anniversary date of the effective date of this order.

In determining whether there has been compliance with the requirements and prohibitions of this Consent Order the Commission may consider evidence of any activity engaged in by the Respondent which is brought to its attention or of which it becomes aware.

Respondent shall retain all records relating to the importation, sale or distribution of surface grinding machines made or received in the conduct of its business for two (2) years from the close of the fiscal year to which they pertain.

For the purpose of determining or securing compliance with this Consent Order the Commission shall, upon written notice to the Respondent, be permitted to inspect and copy records and documents in the possession of or under the control of the Respondent relating to matters contained in this Consent Order and to interview officers, directors, agents, partners, or employees of the Respondent regarding matters contained in this Consent Order.

Written Comments Requested

In order to discharge its statutory obligation to consider the public interest, the Commission seeks written comments from interested persons regarding the effects of terminating this investigation as to respondents Jones and Henry Tool Co., Cactus State Machinery Company, Kabaco Tools, Inc. dba KBC Machinery, and Equipment Importers, Inc. dba Jet Equipment and Tool on the Basis of the agreements in question on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the production of like or directly competitive articles in the United States, and (4) U.S. consumers. All written comments must be filed with the Secretary to the Commission no later than January 6, 1982. In addition, pursuant to 19 CFR 210.14(a)(2), the Commission has requested comments from the Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and the U.S. Customs Service.

Additional Information

The original and 19 copies of all written submissions must be filed with the Secretary to the Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request *in camera* treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. The Commission will either accept the submission in confidence or return it. All nonconfidential written submissions will be available for public inspection at the Secretary's office.

FOR FURTHER INFORMATION CONTACT: Clarease E. Mitchell, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436; telephone 202–523–0148.

By order of the Commission.

December 14, 1981.

Kenneth R. Mason,

Secretary.

[FR Doc. 81-36118 Filed 12-16-81; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 78–81]

Privacy Act of 1974; Notice of Modified System of Records

Pursuant to subsection (e)(4) of the Privacy Act of 1974, 5 U.S.C. 552a, the Department of Justice, Federal Bureau of Investigation, is republishing the following system of records, which most recently was published in the Federal Register on July 8, 1981.

FBI Alcoholism Program (JUSTICE/FBI–014)

This system has been reprinted below to reflect that its examination from the access provisions of the Privacy Act (5 U.S.C. 552a(d)) has been removed. In addition, a separate order on rulemaking is being published in today's Federal Register to accomplish this removal from Title 28 of the Code of Federal Regulations.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order No. 793–78, the system notice is hereby revised to show that the system

is not exempt from any Privacy Act provisions.

Dated: December 1, 1981.

Kevin D. Rooney,

Assistant Attorney General for Administration.

JUSTICE/FBO–014

SYSTEM NAME:

FBI Alcoholism Program

SYSTEM LOCATION:

FBI Headquarters, Administrative Services Division, 10th and Pennsylvania Avenue, N.W., Washington, D.C. 20535; and FBI Field Divisions.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains information on current and former FBI employees who have been counseled or otherwise treated regarding alcohol abuse or referred to the Alcoholism Program Coordinator or Counselor.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains correspondence and records regarding employees and/or their families who have been referred to the Alcoholism Program Coordinator or Counselor, the results of any counseling which may have occurred, recommended treatment and results of treatment, in addition to interview appraisals and other notes or records of discussions held with employees relative to this program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The maintenance of this system is authorized by Pub. L. 91–616 and Pub. L. 92–255, as amended by Pub. L. 93–282, Section 122, and the implementing regulations, 42 CFR Part 2.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USES AND THE PURPOSE OF SUCH USES:

All disclosures of information pertaining to an individual are made in compliance with Public Law No. 91–616, Section 333, and the Confidentiality of Alcoholism and Drug Abuse Patient Records Regulations, 42 CFR Part 2.2, as amended, for the sole purpose of administering the program.

These records are used to document the nature of an individual's alcohol abuse problem and progress made, and to record an individual's participation in and the results of community or private sector treatment or rehabilitation programs.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are retrieved by employee's name.

SAFEGUARDS:

Files are maintained in locked file cabinets, or safes under the immediate control of the Alcoholism Program Coordinator or other authorized individuals. Access is strictly limited to the Coordinator and other authorized personnel.

RETENTION AND DISPOSAL:

Pursuant to the preliminary injunction with modifications issued by Judge Harold H. Greene, FBI destruction programs have been suspended. *American Friends Service Committee* v. *Webster* (D.D.C.), Civil Action No. 79–1655.

SYSTEM MANAGER(S) AND ADDRESS:

Director, FBI J. Edgar Hoover Building, 10th and Pennsylvania Avenue, N.W., Washington, D.C. 20635.

NOTIFICATION PROCEDURES:

Inquiry concerning this system should be in writing and made to the system manager listed above.

RECORD ACCESS PROCEDURES:

Requests made by employees should be made in writing to the Director, FBI, Washington, D.C. 20535. Requests must contain employee's full name, date and place of birth, and current office of assignment and/or home address where records are to be sent. If the individual making the request is a former employee, he/she must submit a duly notarized signature in order to establish identity. In addition, the requester must specify the location of the system of records sought, i.e., those maintained at FBI headquarters or those maintained in a particular field division.

CONTESTING RECORD PROCEDURES:

Requests for correction/amendment of records in this system should be made in writing to the Director, FBI, Washington, D.C. 20535, specifying the information to be amended, and the reasons and justifications for requesting such amendment.

RECORD SOURCE CATEGORIES:

See categories of individuals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 81–36017 Filed 12–16–81; 8:45 am]

BILLING CODE 4410–02–M

Proposed Consent Decree in Action to Enjoin Discharge of Air Pollutants

In accordance with Department policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on December 1, 1981, a proposed consent decree in *United States of America* v. *United Cement Co., a division of Texas Industries, Inc.*, Civil # EC–80–279–LS–P, was lodged with the United States District Court for the Northern District of Mississippi. The proposed decree would require that the defendant operate a clinker cooler at its Artesia, Mississippi, Portland cement plant in compliance with Clean Air Act emission limit regulations.

The Department will receive for a period of thirty (30) days from the date of this notice (January 18, 1982) written comments relating to the proposed decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, U.S. Department of Justice, Tenth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530, and should refer to *United States of America* v. *United Cement Co.*, D.J. Ref. No. 90–5–2–1–353.

A copy of the proposed consent decree may be examined at: (1) the Office of United States Attorney, Northern District of Mississippi (Attn.: Patricia Rodgers), Room 255, Federal Building, 91 West Jackson Avenue, Oxford, Mississippi 38655; (2) the Office of the Regional Counsel, Region IV, U.S. Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, Georgia 30365; and (3) the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 1254, Tenth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, U.S. Department of Justice, Room 1254, Tenth Street and Pennsylvania Ave., N.W., Washington, D.C. 20530. In order to cover the reproduction costs, all requests for copies must be accompanied by a check or money order in the amount of $1.20 (10 cents per

page) payable to the Treasurer of the United States.

Carol E. Dinkins,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 81-36009 Filed 12-16-81; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Reports, Recommendations, Responses; Availability

• **Special Investigation Report.** *Air Traffic Control System (NTSB-SIR-81-7).* Related recommendations A-154 through -156 to Federal Aviation Administration, Dec. 10, re use of NASA's Aviation Safety Reporting System by controllers, use of student evaluations prepared by training personnel as controller replacement tool, and monitoring of standardization of ATC practices/proficiency of controllers using staff specialist and first-line supervisors.

• **Special Study.** *Cabin Safety in Large Transport Aircraft (NTSB-AAS-81-2).* Related recommendations A-139 through -143 to Federal Aviation Administration, Oct. 6: consolidate crashworthiness requirements for transport category aircraft; revise 14 CFR 25.561 to eliminate "minor crash landing" and to include descriptive crash model; establish interim standards for design of seat and restraint systems and cabin furnishings; establish interim standards for static and dynamic testing of seat/restraint systems; establish procedures for periodic review of crashworthiness state of the art.

• **Highway Accident Report.** *ARA Services, Inc., Tour Bus, Denali National Park and Preserve, Alaska, June 15, 1981 (NTSB-HAR-81-7).* Related recommendations H-81-82 through -87 to National Park Service: Clarify minimum and maximum road width standards; require tour busdriver training, require convex mirrors on both sides of buses; require installation and use of occupant restraints on tour buses; determine if other national parks have similar road/bus conditions and correct where necessary; establish roadway/bridge improvement program.

• **Safety Effectiveness Evaluation.** *Federal Highway Administration (FHWA) Non-Interstate Resurfacing, Restoration, and Rehabilitation Program (NTSB-SEE-81-4).*—Related recommendations H-81-88 through -92 to the Secretary, DOT, to direct FHWA to (1) review and document current State practices in RRR projects, (2) develop analysis to describe design criteria for RRR projects, (3) prepare analysis showing best combination of construction/reconstruction and RRR projects, (4) develop/publish a plan to monitor/evaluate impact of RRR projects on Federal-aid Highway System, and (5) administer RRR program under existing new construction standards.

• **Recommendation Responses from.** *Federal Aviation Administration: Dec. 1, A-73-2 and -5:* will amend 25.787(b) to require service wear/deterioration consideration in design; has amended 25.783, all lavatory doors must be designed so that no one can be trapped inside. *Dec. 1, A-74-98:* finds no need for auto-discharge fire extinguishers in transport aircraft lavatory waste containers. *Dec. 1, A-81-74-102 and -103:* has amended 25.772 to require means of cabin entry other than through cockpit door; has withdrawn change to 121.313, not cost-beneficial. *Dec. 1, A-81-97 and -98:* Boeing 727 Operations Manual being revised. *Dec. 1, A-81-119 and 120:* Issued AD 39-3236, inspections of elevator torque tube fasteners; incidence of elevator buffet is not a Convair fleet-wide problem. *Dec. 1, A-81-124 through -127:* plans no action on DC-10 galley personnel lift circuitry pending review; will not issue AD to DC-10 operators re Douglas SB 25-266; will review galley personnel/food cart lift door interlock system design; has issued GENOT to regions re galley door and regions will review training programs.

Note.—Single copies of reports, recommendations, 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 obtainable from National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22161.)

B. Sharon Flemming,

Director, Executive Secretariat.

December 11, 1981.

[FR Doc. 81-35906 Filed 12-16-81; 8:45 am]

BILLING CODE 4910-58-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-364]

Alabama Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 11 to Facility Operating License No. NPF-8 issued to Alabama Power Company (the licensee), which revised Technical specifications for operation of the Joseph M. Farley Nuclear Plant, Unit No. 2 (the facility) located in Houston County, Alabama. The amendment was effective on October 12, 1981.

The amendment modifies the Technical Specifications to allow one-time temporary relief from diesel generator operability and surveillance frequency requirements for three days during repairs to diesel generator 1-2A. The amendment was authorized on an expedited basis to maintain the plant at a steady-state condition and avoid a shutdown transient shown by our evaluation to be unnecessary but require by Technical Specifications unless amended.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the request for amendment dated October 12, 1981, (2) the Commission's letter to the licensee dated October 13, 1981, (3) Amendment No. 11 to License No. NPF-8 and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 3rd day of December 1981.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 81-36081 Filed 12-16-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-247]

Consolidated Edison Company of New York, Inc.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 74 to Facility Operating License No. DPR-26, issued to the Consolidated Edison Company of New York, Inc. (the licensee), which revised Technical Specifications for operation of the Indian Point Nuclear Generating Unit No. 2 (the facility) located in Buchanan, Westchester County, New York. The amendment is effective as of the date of issuance.

The amendment modifies the Technical Specifications to account for the effects that degraded grid voltage may have on plant operations.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated April 27, 1981, (2) Amendment No. 74 to License No. DPR-26, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the White Plains Public Library, 100 Martine Avenue, White Plains, New York. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 10th day of December 1981.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 81-36082 Filed 12-16-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-245]

Northeast Nuclear Energy Co.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 80 to Provisional Operating License No. DPR-21, issued to The Connecticut Light and Power Company, The Hartford Electric Light Company, Western Massachusetts Electric Company, and Northeast Nuclear Energy Company (the licensees), which revised the Technical Specifications for operation of the Millstone Nuclear Power Station, Unit 1 (the facility), located in the Town of Waterford, Connecticut. The amendment is effective within 30 days of its date of issuance.

The amendment establishes a new scale for a vessel level setpoint that is consistent with the installation of a common reference level required by TMI Action Item II.K.3.27 in NUREG-0737.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendment dated October 9, 1981, (2) Amendment No. 80 to License No. DPR-21, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 11th day of December 1981.

For the Nuclear Regulatory Commission.

Thomas V. Wambach,

Acting Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 81-36083 Filed 12-16-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-282 and 50-306]

Northern States Power Co.; Notice of Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 52 and 46 to Facility Operating License Nos. DPR-42 and DPR-60 issued to Northern States Power Company (the licensee), which revised Technical Specifications for operation of Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2 (the facilities) located in Goodhue County, Minnesota. The amendments are effective as of the date of issuance.

The amendments revise the common Technical Specifications for the Prairie Island Nuclear Generating Plant Unit Nos. 1 and 2 to limit conditions for operation and establish surveillance requirements of the reactor coolant system and secondary coolant activities.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated November 12, 1981, (2) Amendment Nos. 52 and 46 to License Nos. DPR-42 and DPR-60, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Environmental Conservation Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401. A copy of items (2)

and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 4th day of December, 1981.

For the Nuclear Regulatory Commission.

R. A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 81-36084 Filed 12-16-81; 8:45 am]

BILLING CODE 7590-01-M

Draft Regulatory Guide; Notice of Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, MS 901-4 (which should be mentioned in all correspondence concerning this draft guide), is entitled "Identification of Values for Inclusion in Inservice Testing Programs" and is intended for Division 1, "Power Reactors." It is being developed to provide guidance on the NRC staff's practice in identifying valves for inclusion in the licensee's inservice testing program and the information needed by the staff for its review of the program.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review, have not been reviewed by the NRC Regulatory Requirements Review Committee, and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by February 23, 1982.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated in Rockville, Maryland this 10th day of December 1981.

For the Nuclear Regulatory Commission.

G. A. Arlotto,

Director, Division of Engineering Technology, Office of Nuclear Regulatory Research.

[FR Doc. 81-36080 Filed 12-16-81; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-18334; File No. SR-MSE-81-11]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Stock Exchange, Inc.

In the matter of market maker quotations in cabinet issues; comments requested on or before January 7, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s (b)(1), notice is hereby given that on November 23, 1981, the Midwest Stock Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed fule change establishes a program which provides for the voluntary dissemination of continuous two-sided quotations by market makers in those issues lacking a registered specialist (Cabinet Issues). Any floor member who is willing to abide by the dictates of the program may request to be assigned as the market maker for a subject issue. Once a market maker is assigned to such an issue, it will no longer be classified as a Cabinet Issue. Under the program, a market maker who agrees to provide the quotes for a Cabinet System issue will be considered the "Post" for the issue, and will handle limit orders under the same guidelines which apply to specialists except for application of the Best requirement which will be limited to 100 shares.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to increase the number of quoted MSE issues by establishing a program in which floor members can volunteer to act as market makers providing continuous two-sided quotations in issues currently relegated to trading in the exchange's Cabinet System.

The basis under the Act for the proposed rule change is Section 6(b)(5) since it is believed that the assignment of Cabinet Issues to Market Makers who will disseminate a continuous two-sided quote for such issues will work towards a more competitive national market system in the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Stock Exchange, Incorporated does not believe that any

burdens will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C.

Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before January 7, 1982.

For the Commission By the Division of Market Regulation pursuant to delegated authority.

Dated: December 14, 1981.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-36107 Filed 12-16-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18333; File No. SR-NYSE-81-26]

Self-Regulatory Organizations; Proposed Rule Change by New York Stock Exchange, Inc.

In the matter of rate increases affecting the floor brokerage component of the transaction charge; comments requested on or before January 7, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 9, 1981 the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change.

The Exchange is instituting rate increases affecting the Floor Brokerage component of the Transaction Charge.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C), of the most significant aspects of such statements.

(A) The purpose of this change is to offset in part the increased costs of supplying services provided by the Exchange. These costs include manpower, systems, and utilities. Projected usage of these services before the price increase is insufficient to cover these related costs. The Basis under the Act for the proposed rule change is Section 6(b)(4) permitting the rules of an Exchange to provide for equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its services.

(B) *Self-Regulatory Organization's Statement on Burden on Competition.* The fee changes are not expected to create a burden on competition.

(C) *Self-Regulatory Organization's Statement of Comments on the Proposed Rule Change Received From Members, Participants, or Others.* The Exchange has not received any comments on this proposed change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19 (b)(3) of the Securities Exchange Act of 1934 and subparagraph (c) of Securities Exchange Act Rule 19 b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such action if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purpose of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C. Copies os such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before January 7, 1982.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 14, 1981.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-36108 Filed 12-16-81; 8:45 am]

BILLING CODE 8010-01-M

Federal Aviation Administration

Legal Opinion as to the Recordability of Artisans' Liens and Identification of Those States From Which Such Liens Will Be Accepted

The Federal Aviation Administration Aircraft Registration Branch (Registry) has received many inquiries from the public as to the acceptance and the procedural requirements for artisans' liens submitted for recording against specific aircraft on which work has been provided, fuel and equipment added, or storage provided. A recent study indicates that the procedural requirements vary among the States, and since the Federal Aviation administration is required by Section 506 of the Federal Aviation Act of 1958 (49 U.S.C. 1406) to recognize the validity of instruments submitted for recordation in accordance with State law, those procedural aspects critical to the submission for recordation must be given effect.

Because of the substantial interest to the aviation community and the modification to the Registry procedures, the Federal Aviation Administration has concluded that the information contained in a legal opinion given to one of those inquiring should receive broad dissemination.

Accordingly, the Federal Aviation Administration publishes its response to Attorney James N. Davis, of Daytona Beach, Florida, concerning the recordability of an aircraft artisan's lien submitted for recordation to the Registry.

FOR FURTHER INFORMATION CONTACT: Mr. R. Bruce Carter, Office of the Aeronautical Center Counsel, Mike Monroney Aeronautical Center, P O. Box 25082, Oklahoma City, Oklahoma 73125, Telephone (405) 686–2296.

Issued in Oklahoma City, Oklahoma on December 8, 1981.

Joseph T. Brennan,
Aeronautical Center Counsel.

November 2, 1981.

Mr. James N. Davis,
Attorney at Law, 428 North Peninsula Drive, Daytona Beach, Florida

Re: N5595L; Claim of Lien

Dear Mr. Davis: We appreciate very much the dialogue we have had with you on mechanic's liens (or more properly, artisan's liens), and welcome the information you have provided on such laws and cases in Florida. We recognize that historically attorneys in Florida, and elsewhere, have asserted, and recorded, both locally and with the FAA Registry, liens in favor of artisans, hangarkeepers, and fuelers for work, services, and supplies on aircraft, and we have no quarrel with the existence of such liens, and the manner of foreclosing them, each aspect determined by applicable State law.

However, we are of the opinion that the right to assert such claims of lien by recording them with the Registry must be governed by State legislation in order to assure uniformity and nondiscriminatory standards. We also recognize that this involves a change in the Registry procedures. The Registry has previously accepted such liens, but has experienced some difficulty with liens which have not been released, claimants who can no longer be found, and some liens which are alleged to be spurious, but have nevertheless found their way into the recorded documents against certain aircraft. At the present time, the Registry is named a party in two suits to clear the title to aircraft encumbered by mechanics' liens, asking for either a purge of the records, or clear title in the record owner of the aircraft. Of course, we will abide by the judgment of the court in each case.

Our survey of the statutes of the laws of States, and three other jurisdictions for which the Registry provides aircraft recording and registration services under the Federal Aviation Act, shows 16 States or territories which have recording, or notice provisions for personal property liens:

Alaska	Nebraska
Arkansas	Oklahoma
Georgia	Oregon
Illinois	South Carolina
Indiana	South Dakota
Kansas	Virgin Islands
Kentucky	Washington
Maine	Wyoming

The common elements of the notice statute is the presence or absence of the following requirements:

—The time within which the claim must be recorded;

—Whether the claim must be signed by the claimant, or may be signed by his agent or attorney;

—Whether the claim must be verified;

—Where the claim is to be filed (Of course, for aircraft, there is Federal preemption of place of filing: The FAA Aircraft Registry at Oklahoma City).

These elements are not available by statute in Florida. We recognize that by precedent and case law these liens have been recorded in various offices in Florida, and accorded judicial recognition, but not because required to be noticed by any Florida statute.

Therefore, in the interest of consistency, and because the recordability of such documents must be governed by State law (Federal Aviation Act of 1958, Section 506 (49 U.S.C. 1406)), we have advised the FAA Registry effective immediately to accept for recordation only mechanic's (artisan's) liens from those States listed above. We recognize that the State statutes may change in this regard, and we have already been contacted for the purpose of suggesting appropriate State legislation, which we do by reference to those State statutes that have the notice provisions. Where States do change their notice statutes to provide for recordation of personal property liens, specifically aircraft, we will modify our list to accommodate those States. Specifically, we have had inquiries to date from Florida, California, Texas, and Nevada.

We will continue to record judgments against aircraft owners for liens on their aircraft, where the aircraft is specifically identified in the judgment by make, model, serial number, and registration (N#). Additionally, where the State statute provides for lien foreclosure by selling the aircraft at public or private auction (the claimant being in possession), we will recognize the sale in support of an application for registration when the applicant sends us a copy of the applicable law, his affidavit of compliance with that law, and copies of the public notice and notice sent to the registered owner.

We appreciate very much the material you have sent, and the opportunity to explain our advice to the Registry.

Sincerely,

Joseph T. Brennan,
Aeronautical Center Counsel.

[FR Doc. 81-35831 Filed 12-16-81; 8:45 am]
BILLING CODE 4910-13-M

[Summary Notice No. PE-81-32]

Petitions for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I) and of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number

involved and must be received on or before: January 4, 1982.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), and (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on December 11, 1981.

John H. Cassady,

Deputy Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemption

Docket No.	Petitioner	Regulations affected	Description of relief sought
22454	Empire Airlines, Inc	14 CFR 135.261(b)	To permit petitioner to reduce the crew rest requirement from 10 hours of consecutive rest to 8 hours of consecutive rest during the 24 hours preceding the planned completion of the assignment.
18864	Continental Helicopters, Inc.	14 CFR 135.261(b)	Extension of Exemption No. 2701 which permits petitioner to assign a flight crewmember, and to permit a flight crewmember to accept an assignment, without compliance with the 10-consecutive hours rest period required during the 24-hour period preceding the planned completion of the assignment.
22452	Provincetown-Boston Airline, Inc	14 CFR 121.311	To permti petitioner to operate its DC-3 and Martin 404 aircraft beyond the March 6, 1982, compliance date without installation of seat belt/shoulder harness at each flight deck station.
20243	Summit Airlines, Inc	14 CFR 121.623(a)	Extension of Exemption No. 3149 which permits petitioner to operate its CV-580 aircraft without listing at least one alternate airport for each destination airport in the flight release.
16787	Petroleum Helicopters, Inc	14 CFR 133.1(b) and 133.45(a)(3)	Extension of Exemption No. 2534 which permits the use of petitioner's Bell 212 and Puma SA-330 helicopters to lower and hoist harbor pilots, on an external hoist, to and from ships at sea.
22358	Zantop International Airlines, Inc	14 CFR 121.311	To permit petitioner to operate its DC-6, CV-340/440, and L-188 aircraft after the March 6, 1982, compliance date without installation of the required combined safety belt and shoulder harness.
21444	The Flying Tiger Line, Inc	14 CFR 121.391(a)	Reconsideration of a Denial of Exemption to allow petitioner to transport up to nine passengers without the presence of a flight attendant on the upper deck of B-747- 245F and 249F series cargo-only aircraft when the aircraft are in a 12 to 20-seat configuration.
22458	Western Airlines, Inc	14 CFR 121.411(a)(6)	To permit petitioner to use check airmen in its B-727 simulator training program who do not hold Class III medical certificates.
22456	Arabian American Oil Company	14 CFR 91.200	To permit petitioner to operate its F-27 aircraft after the March 6, 1982, compliance date without installation of the combined safety belt and should harness at each required flight attendant seat in the passenger compartment and at each flight deck station.
22348	Steven S. Fern	14 CFR 61.65(e)(1)	To permit petitioner to apply for an instrument-helicopter rating even though he does not have the required 50 hours of cross-country flight experience in helicopters.
21776	Louis McCollum	14 CFR 61.58(c)(1) and 91.4	Reconsideration of a Denial of Exemption to permit petitioner to serve as pilot in command of certain large aircraft without completing the proficiency or flight checks required in each particular type of aircraft.
22115	Piedmont Aviation, Inc	14 CFR 121.391(a)	Reconsideration of a Denial of Exemption to permit petitioner to block off 12 seats and to operate its B-737 aircraft with two flight attendants when a third flight attendant cannot be made available without undue delay or flight cancellation.
22328	The Flying Tiger Line, Inc	14 CFR 121.578	To permit petitioner to operate their B747-132 aircraft until August 20, 1982 without compliance with the provisions of the cabin ozone concentration regulations.
22468	Eastern Air Lines, Inc	14 CFR 121.311(f)	To permit petitioner to operate its DC-9 and B-727 aircraft after March 6, 1982, compliance date without installation of combined safety belt and shoulder harness on flight attendant seats in the passenger compartment.
22463	Cochise Airlines	14 CFR 121.311	To permit petitioner to operate its Convair 440 aircraft after March 6, 1982, compliance date without installation of combined safety belt and should harness at each flight deck station and on each flight attendant seat in the passenger compartment.
22467	USAir	14 CFR 121.311(f)	To permit petitioner to operate its DC-9-31 and BAC 1-11 aircraft after March 6, 1982, compliance date without installation of combined safety belt and should harness on flight attendant seats in the passenger compartment.

Dispositions of Petitions for Exemption

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
22053	Zantop Int'l Airlines, Inc	14 CFR 91.305 (b)(2)(1)	To allow petitioner to operate DC-8 aircraft in the U.S. until January 1985 without meeting the January 1, 1983 50 percent phased fleet noise compliance requirement. *DENIED 11/25/81.*
22351	World Airways, Inc	14 CFR 121.318(b)(2)	To permit petitioner to operate its DC-8 and DC-10 aircraft after November 30, 1981 without having a public address system at each floor-level exit in a passenger compartment which is readily accessible to a flight attendant seated in a seat adjacent to that exit. *PARTIAL GRANT 11/30/81.*
22433	Eastern Airlines, Inc	14 CFR 121/318(b)(2)	To permit petitioner to operate its B-727 aircraft after December 1, 1981 without having a public address system at each floor-level exit in a passenger compartment which is readily accessible to a flight attendant seated in a seat adjacent to that exit. *GRANTED 11/30/81.*

DISPOSITIONS OF PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
22198	Pilgram Airlines	14 CFR 121.503(e)	To permit petitioner's flight crewmembers to fly more than 1,000 hours annually. *DENIED 12/1/81.*
19634	Douglas Aircraft Co	14 CFR 121.310(d)(4)	Extension of Exemption 3055 which permits the operation of DC-8 aircraft with an emergency light system without a cockpit control device that has an "on," "off," "armed" position. *GRANTED 12/1/81.*
21977	Bradley G. Clark	14 CFR 65.91(c)(1)	To enable petitioner to become eligible for an inspection authorization without meeting the requirement to have held an A&P license for 3 years. *DENIED 12/1/81.*
22413	Braniff Airways	14 CFR 121.318(b)(2)	To permit petitioner to operate its B-747 aircraft after December 1, 1981 without having a public address system at each floor-level exit in a passenger compartment which is readily accessible to a flight attendant seated in a seat adjacent to that exit. *GRANTED 12/3/81.*
21717	Dade Helicopter Service, Inc	14 CFR 145.47(a) 145.49(a)	To permit petitioner to qualify for a repair station certificate without meeting the equipment and material requirements of the FAR. *DENIED 11/16/81.*
22352	Air Florida, Inc	14 CFR 121.318(b)(2)	To permit petitioner to operate B-737 aircraft after December 1, 1981, without having a public address system at each floor-level exit in a passenger compartment which is readily accessible to a flight attendant seated in a seat adjacent to that exit. *GRANTED 12/1/81.*
21989	Sundance International Airlines	14 CFR 121.291(a)(1)	To permit petitioner to introduce its B-727-100 series aircraft configured with 129 passenger seats into passenger-carrying service without first conducting a full-seating capacity emergency evacuation demonstration. *CONSIDERED WITHDRAWN 12/2/81.*
21792	Aeronaves de Mexico, S.A	Portions of 14 CFR Parts 21 & 91	To permit petitioner to operate two leased, U.S.-registered, DC-10-15 aircraft, N10038 and N1003N, and two DC-9-30 aircraft, N1003P and N1003U, using FAA-approved master minimum equipment lists (MMEL) and to maintain the aircraft under continuous airworthiness maintenance programs. *GRANTED 12/8/81.*
22059	Pacific Alaska Airlines	14 CFR 45.13(e)	To permit the installation of an aircraft identification plate on an aircraft other than that from which removed. *withdrawn 12/8/81.*

[FR Doc. 81-35974 Filed 12-16-81; 8:45 am]
BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA); Special Committee 136—Installation of Emergency Locator Transmitters (ELT) in Aircraft; 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 Special Committee 136 on Installation of Emergency Locator Transmitters (ELT) in Aircraft to be held on January 14-15, 1982 in RTCA Conference Room 267, 1717 H Street, N.W., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the Eleventh Meeting Held on September 24-25, 1981; (3) Review Comments on Final Report on Installation of Emergency Locator Transmitters Within Aircraft; (4) Review First Draft of Minimum Performance Standards for Emergency Locator Transmitters: (5) Discussion of Transition Plan for Implementing Committee Recommendations; and (6) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1717 H Street, N.W., Washington, D.C. 20006; (202) 296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on December 8, 1981.

Karl F. Bierach,

Designated Officer.

[FR Doc. 81-36039 Filed 12-16-81; 8:45 am]
BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA); Special Committee 137—Airborne Area Navigation Systems; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 137 on Airborne Area Navigation Systems to be held on January 26-28, 1982 in RTCA Conference Room 267, 1717 H Street, N.W., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of Eighth Meeting Held on October 27-29, 1981; (3) Review of Comments Received on Minimum Operational Performance Standards for VOR/DME Based Airborne Area Navigation Systems; (4) Review of Working Group Report on Non-VOR/DME Airborne Area Navigation Equipment; and (5) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1717 H Street, N.W., Washington, D.C. 20006; (202) 296-0484. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on December 8, 1981.

Karl F. Bierach,

Designated Officer.

[FR Doc. 81-36038 Filed 12-16-81; 8:45 am]
BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; Williams, Mountrail and Ward County, North Dakota

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Williams, Mountrail & Ward County, North Dakota.

FOR FURTHER INFORMATION CONTACT: Marvin Espeland, Division Administrator, Federal Highway Administration, P.O. Box 1755,

Bismarck, ND 58502. Telephone Number is (701) 225–4011. (FTS 783–4204).

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the North Dakota State Highway Department will prepare an Environmental Impact Statement (EIS) on a highway improvement porject in North Dakota.

The proposed project would involve the construction of two-lane roadway parallel to the existing roadway on US Highway #2 from the Junction US Highway 85 to the Junction of US Highway 52 West of Minot. The purpose of the project is to provide a four-lane divided highway.

Alternates under consideration from Junction US Highway 52 to Berthold consist of which side of the existing facility to construct the additonal roadway. At Ray, North Dakota, an alternate bypass the city and two alternates through the city are proposed. Throughout the ramainder of the project, the added roadway will be constructed on the south side of the existing roadway. The "No Action Alternate" is also proposed.

Letters soliciting views and comments on the proposed project were sent to various federal, state and local agencies. The Draft EIS will be available for public and agency review and comment. A public hearing will be held to discuss alternates and impacts of the proposed action. Public notice will be given for the time and place of the public hearing. No formal scoping meeting will be held.

Issued on December 9, 1981.

Marvin I. Espeland,

Division Administrator.

[FR Doc. 81-35983 Filed 12-16-81; 8:45 am]

BILLING CODE 4910-22-M

Urban Mass Transportation Administration

[FHWA Docket No. 81-10]

Urban Transportation Planning Comprehensive Review; Request for Public Comment

AGENCIES: Federal Highway Administration (FHWA), Urban Mass Transportation Administration (UMTA), DOT.

ACTION: Notice and request for comment.

SUMMARY: As part of FHWA and UMTA's continuing efforts to evaluate their programs, and in light of the shift in Federal priorities for capital programs and the President's efforts to eliminate the intrusion of the Federal Government into essentially State and local issues, a comprehensive review of the urban transportation planning process is being undertaken. As part of this effort, a document entitled, "Solicitation of Public Comment on the Appropriate Federal Role in Urban Transportation Planning—Issues and Options," was prepared. The purpose of this notice is to announce the availability of this document and request comments on it from the general public.

DATE: Written comments are due on or before January 29, 1982.

ADDRESS: Copies of the document may be obtained from: FHWA, Urban Planning Division, HHP–21, 400 Seventh Street, SW., Washington, D.C. 20590. Submit written comments to FHWA Docket No. 81–10, Federal Highway Administration, Room 4205, HCC–10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: FHWA: Thomas P. Kozlowski, Urban Planning Division (202) 426–2961; or Jerry Bonne, Office of the Chief Counsel, (202) 426–0791; or UMTA: Robert Kirkland, Office of Planning Assistance (202) 426–4991; or Anthony Anderson, Office of the Chief Counsel (202) 426–1906. All located at 400 Seventh Street, SW., Washington, D.C. 20590. FHWA office hours are from 7:45 a.m. to 4:15 p.m. ET., UMTA office hours are from 8:30 a.m. to 5:00 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: This notice requests comments on the document, "The Appropriate Federal Role in Urban Transportation Planning—Issues and Options." It was prepared as part of FHWA and UMTA's efforts to evaluate their role in urban transportation planning and its purpose is to solicit ideas, reactions, and recommendations from the general pulbic as to what the Federal role should be.

The paper addresses overall evaluative policy questions on the need for the process, its benefits, costs and its relationships to other programs. It also focuses on action-oriented issues and proposes questions and options to be considered.

The comments received along with FHWA and UMTA's experience in administering the urban transportation planning process and possible legislative action will be used to define FHWA and UMTA's future role. Recommendations as to legislative, regulatory and administrative changes will be made. If it is decided to revise any regulations a notice of proposed rulemaking will be published in the **Federal Register.**

(Catalog of Federal domestic Assistance Program Number 20.205, Highway Research, Planning and Construction; 20.500, Urban Mass Transportation Capital Grants; 20.501, Urban Mass Transportation Capital and Operating Assistance Formula Grants. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to these programs)

Issued on: December 10, 1981.

Arthur E. Teele, Jr.,

UMTA Administrator.

R. A. Barnhart,

Federal Highway Administrator.

[FR Doc. 81-35869 Filed 12-16-81; 8:45 am]

BILLING CODE 4910-22-M

Federal Railroad Administration

[FRA Waiver Petition Docket HS–81–22]

Maryland and Pennsylvania Railroad Co.; Petition for Exemption From the Hours of Service Act

In accordance with 49 CFR 211.41 and § 211.9, notice is hereby given that the Maryland and Pennsylvania Railroad (Ma & Pa) has petitioned the Federal Railroad Administration (FRA) for an exemption from the Hours of Service Act (83 Stat. 464, Pub. L. 91–169, 45 U.S.C. 64a(e)). That petition requests that the Ma & Pa be granted authority to permit certain employees to continuously remain on duty for in excess of twelve hours.

The Hours of Service Act currently makes it unlawful for a railroad to require or permit specified employees to continuously remain on duty for a period in excess of twelve hours. However, the Hours of Service Act contains a provision that permits a railroad, which employs no more than fifteen employees who are subject to the statute, to seek an exemption from this twelve hour limitation.

The Ma & Pa seeks this exemption so that it can permit certain employees to remain continuously on duty for periods not to exceed sixteen hours. The petitioner indicates that granting this exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs no more than fifteen employees and has demonstrated good cause for granting this exemption.

Interested persons are invited to participate in this proceeding by submitting written views or comments.

FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. Communications concerning this proceeding should identify the Docket Number, Docket Number HS–81–22, and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. Communications received before January 29, 1982, will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments, during regular business hours in Room 5101, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

(Sec. 5 of the Hours of Service Act of 1969 (45 U.S.C. 64a), 1.49(d) of the regulations of the Office of the Secretary, 49 CFR 1.49(d))

Issued in Washington, D.C. on December 4, 1981.

Joseph W. Walsh,

Chairman, Railroad Safety Board.

[FR Doc. 81–35752 Filed 12–16–81; 8:45 am]

BILLING CODE 4910–06–M

[FRA Waiver Petition Docket HS–81–21]

Sierra Railroad Co.; Petition for Exemption From the Hours of Service Act

In accordance with 49 CFR 211.41 and § 211.9, notice is hereby given that the Sierra Railroad (Sierra) has petitioned the Federal Railroad Administration (FRA) for an exemption from the Hours of Service Act (83 Stat. 464, Pub. L. 91–169, 45 U.S.C. 64a(e)). That petition requests that the Sierra be granted authority to permit certain employees to continuously remain on duty for in excess of twelve hours.

The Hours of Service Act currently makes it unlawful for a railroad to require or permit specified employees to continuously remain on duty for a period in excess of twelve hours. However, the Hours of Service Act contains a provision that permits a railroad, which employs no more than fifteen employees who are subject to the statute, to seek an exemption from this twelve hour limitation.

The Sierra seeks this exemption so that it can permit certain employees to remain continuously on duty for periods not to exceed sixteen hours. The petitioner indicates that granting this exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs no more than fifteen employees and has demonstrated good cause for granting this exemption.

Interested persons are invited to participate in this proceeding by submitting written views or comments. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. Communications concerning this proceeding should identify the Docket Number, Docket Number HS–81–21, and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590. Communications received before January 29, 1982, will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments, during regular business hours in Room 5101, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

(Sec. 5, Hours of Service Act of 1969 (45 U.S.C. 64a), 1.49(d) of the regulations of the Office of the Secretary, 49 CFR 1.49(d))

Issued in Washington, D.C. on December 4, 1981.

Joseph W. Walsh,

Chairman, Railroad Safety Board.

[FR Doc. 81–35950 Filed 12–16–81; 8:45 am]

BILLING CODE 4910–06–M

DEPARTMENT OF THE TREASURY

Customs Service

[TMK–2–CO:R:E:E]

Application for Recordation of Trade Name; SON-EXPORT, S.A. de C.V.

Application has been filed pursuant to § 133.12, Customs Regulations (19 CFR 133.12), for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name SON-EXPORT, S.A. de C.V., used by Son-Export, S.A. de C.V., a company governed by the laws of The Republic of Mexico, located at Plutarco Elias Calles y Rosales #124, Desp. 3003, Hermosillo, Sonora, Mexico.

The application states that the trade name is associated with fresh frozen shellfish (shrimp). Appropriate accompanying papers were submitted with the application.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Any such submission should be addressed to the Commissioner of Customs, U.S. Customs Service, Washington, D.C. 20229, in time to be received not later than February 18, 1982.

Notice of the action taken on the application for recordation of the trade name will be published in the **Federal Register.**

Anthony L. Piazza,

Acting Director, Entry, Procedures and Penalties Division.

[FR Doc. 81–36064 Filed 12–16–81; 8:45 am]

BILLING CODE 4820–02–M

Sunshine Act Meetings

Federal Register
Vol. 46, No. 242
Thursday, December 17, 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: 10 a.m., Tuesday, December 22, 1981.

PLACE: 2033 K Street, N.W., Washington, D.C., fifth floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Regulation 1.56, Prohibition of Guarantees by FCM's.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1888-81 Filed 12-15-81; 12:27 pm]

BILLING CODE 6351-01-M

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10 a.m., Tuesday, December 22, 1981.

PLACE: 2033 K Street, N.W., Washington, D.C., fifth floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

CPO/CTA Employee Registration
Gross Margining of Omnibus Accounts

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1883-81 Filed 12-15-81; 9:27 am]

BILLING CODE 6351-01-M

3

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Thursday, December 24, 1981.

PLACE: 2033 K Street, N.W., Washington, D.C., Eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:
Surveillance Briefing.

[S-1884-81 Filed 12-15-81; 9:28 am]

BILLING CODE 6351-01-M

4

FEDERAL COMMUNICATIONS COMMISSION

The Federal Communications Commission will hold a Closed Meeting on the subjects listed below on Thursday, December 17, 1981, following the Open Meeting which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

Hearing—1—Joint Petition for approval of a settlement agreement in the Stamford, Connecticut, comparative AM and FM renewal proceedings (Docket Nos. 19872-73, and BC Docket Nos. 80-650-60). Exceptions to the Initial Decision in Docket Nos. 19872-73 and related pleadings.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen P. Peratino, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: December 10, 1981.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-1891-81 Filed 12-15-81; 1:54 pm]

BILLING CODE 6712-01-M

5

FEDERAL COMMUNICATIONS COMMISSION

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, December 17, 1981, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, D.C.

Agenda, Item No., and Subject

General—1—*Title:* Fourth Notice of Inquiry Relating to Preparation for an International Telecommunication Union (ITU) 1983 World Administrative Radio Conference (WARC) for Mobile Telecommunications. *Summary:* The Commission seeks to inform the public and to obtain comments of interested persons on the U.S. Draft Proposals for the 1983 World Administrative Radio Conference for Mobile Telecommunications.

General—2—Renewal of Radio Broadcasting Advisory Committee. The Advisory Committee on Radio Broadcasting has assisted the Commission in preparing for the Region 2 Administrative Radio Conference, now being held in Rio. The committee's charter expires 31 December 1981. To enable the Commission to utilize its expertise in this area while considering the results of the Conference, it is proposed to renew the committee for one year.

Private Radio—1—*Title:* Memorandum Opinion and Order concerning application for review, filed by John Fabick Tractor Company, of Private Radio Bureau action denying its request for rule waivers and dismissing its applications for authority to use a VHF band Forestry Conservation Radio Service frequency in the Business Radio Service. *Summary:* The FCC will consider whether to grant or deny the application for review, filed by John Fabick Tractor Company, of Private Radio Bureau action which denied Fabick's request for waivers of Sections 90.25(b) and 90.75(b) of the rules to permit its use of a VHF band frequency allocated to the Forestry Conservation Radio Service for a wide area land mobile radio system in portions of Illinois and Missouri in the Business Radio Service.

Private Radio—2—*Title:* Report and Order concerning the general exemption from the radiotelegraph requirements for cargo vessels of 1600 gross tons and upward engaged on coastwide voyages. *Summary:* The Commission will consider granting a general exemption from the radiotelegraph requirements of the Communications Act cargo ships of 1600 gross tons and upward when navigated on domestic voyages along the coasts of the contiguous 48 states. The ships will be required to have specific radiotelephone equipment for both terrestrial and satellite communications and also meet additional operational requirements.

Common Carrier—1—*Title:* Petition for Reconsideration of the Commission's action deferring the proceeding in Docket No. 20694, 59 FCC 2d 240 (1976). *Summary:* The Commission will consider whether to continue deferral of the proceeding in Docket No. 20694 concerning the joint application for authority for additional expenditures for the Hawaii-3/Transpac-2 Cable System (File No. 8241-M *et al.*)

Common Carrier—2—*Title:* Petition for declaratory ruling by ARINC that surcharges for access to telephone exchanges by interstate private line users must be tariffed at the FCC rather than at state level. *Summary:* ARINC (Aeronautical Radio, Inc.) has filed a petition asking the FCC to issue a ruling that telephone companies which impose "access" surcharges for initiating or completing calls carried over private lines which terminate in their exchange areas must first comply with all the FCC's usual

tariff filing requirements. An access "surcharge" is a charge imposed on the private line users in addition to a charge equivalent to the exchange carrier's rate for local exchange service.

The prevalent form of private line access charge is the "open end" charge levied on users of "FX" ("foreign exchange" service. The FCC has not required telephone exchange carriers to submit tariff filings before revising their open end FX rates, as long as the rates to interstate users were kept equal to their rates for local exchange service.

According to ARINC, Rochester Telephone Company (RTC), New York Telephone Company, and Pacific Telephone and Telegraph (PTT) impose, or plan to impose, surcharges on FX users in addition to the usual open end charge. ARINC states that PTT and RTC also impose access surcharges on users of private lines terminating in their exchange areas in customer-controlled switching arrangements through which access to the local exchange networks can be established.

ARINC contends that by imposing these surcharges the carriers intend to unfairly shift revenue burdens from intrastate ratepayers to interstate private line users and that the FCC should therefore force the carriers to demonstrate in tariff filings that their surcharges are justified on the basis of costs.

Common Carrier—3—*Title:* American Telephone and Telegraph Company Tariff F.C.C. No. 260, Offering of Trunk-Side Switching Terminations to Customers of Switched Private Line Services. *Summary:* The Commission will consider whether to initiate on its own motion a rule making proceeding to determine the lawfulness of tariff provisions in AT&T's private line tariff which limit the ability of customers of switched private line services to connect their own equipment to the trunk side of Bell switches.

Common Carrier—4—*Title:* Procedures for Implementing the Deregulation of Customer Premises Equipment and Enhanced Services. (Second Computer Inquiry) *Summary:* Commission will consider whether to adopt staff's proposed notice of inquiry relating to implementation of Second Computer Inquiry.

Common Carrier—5—*Title:* In the Matter of Communications Satellite Corporation, File Nos. I-P-C-7387-8 237-CSG-P/L-80. Application for authority to construct and operate a communications satellite earth station at Cayey, Puerto Rico. *Summary:* The Commission will consider the applications of Comsat to construct and operate a satellite earth station on Puerto Rico to secure direct access to the INTELSAT network.

Common Carrier—6—*Title:* IRC applications to provide wholly domestic non-voice services. *Summary:* Commission will consider whether it is in the public interest to permit the five largest international record carriers to provide wholly domestic non-voice services between and among their various gateways and points of operation.

Common Carrier—7—*Title:* Cellular Communications Systems. *Summary:* Before the Commission is a *Memorandum Opinion and Order* which considers and resolves various petitions for reconsideration of the Commission's Report and Order in Docket 79-318, *Cellular Communications Systems*, 86 FCC 2d 469 (1981).

Common Carrier—8—*Subject:* CC Docket 78-196, Revision of USOA—Establishment of Advisory Committee Membership. *Summary:* The Commission will consider the appointment of the membership of the Telecommunications Industry Advisory Group.

Common Carrier—9—*Title:* Prescription of Revised Depreciation Rates (AT&T). *Summary:* The Commission will consider revised whole-life and remaining-life depreciation rates for all or portions of the plant for long lines department and the operating companies of the American Telephone & Telegraph Co.

Common Carrier—*Title:* Prescription of Revised Depreciation Rates (GTE). *Summary:* The Commission will consider revised remaining-life depreciation rates for all or portions of the plant of the companies of the GTE Service Corporation for which the Commission prescribes depreciation rates.

Common Carrier—*Title:* Prescription of Revised Depreciation Rates. (Continental Telephone Co. of Virginia) *Summary:* The Commission will consider revised remaining-life depreciation rates for all of the plant of the Continental Telephone Co. of Virginia.

Television—1—*Title:* Petition for Reconsideration filed by Scripps-Howard Broadcasting Company, licensee of Television Station KJRH, Tulsa, Oklahoma. *Summary:* The Commission will consider the assignment of the call letters KBJH to a new television station in Tulsa, Oklahoma.

Broadcast—1—*Title:* Application for Review filed by Northern Sun Corporation. *Summary:* The Commission will consider the competing requests of Northern Sun Corporation and First Media of Washington, Inc. for the relinquished KLFM call sign.

Broadcast—2—*Title:* Amendment of Part 73, Subpart E of the Commission's Rules concerning the operation of television broadcast stations by remote control. *Summary:* The FCC will consider whether to adopt the rules proposed in BC Docket No. 81-239. The *Notice* proposed to delete specific vertical interval test signals for remote control stations along with the accompanying mandatory transmission requirement.

Broadcast—3—*Title:* With reference to subsidiary use of FM and AM broadcast spectrum for utility load management purposes: *Report and Order*, Docket No. 81-352, concerning FM subsidiary communications authorization use; and *Notice of Proposed Rule Making*, concerning AM carrier use. *Summary:* On May 21, 1981, the Commission adopted a *Notice of Proposed Rule Making*, BC Docket No. 81-352, proposing to amend its FM subsidiary communications rule to permit commercial FM broadcast stations to transmit coded signals to manage energy loads by utility companies. This *Report and Order* will consider the action proposed in the *Notice*. In response to that *Notice*, a number of commenters requested that load management use also be permitted on the AM broadcast carrier. The Commission, in a *Notice of Proposed Rule Making*, will consider a proposal to amend its rules and allow such use.

Broadcast—4—*Title:* Amendment of Section 73.3597 of the Commission's Rules. (Applications for Voluntary Assignments or Transfers of Control) *Summary:* The Commission will consider whether to issue a *Notice of Proposed Rule Making* regarding changes in the three year holding period for broadcast stations.

Broadcast—5—*Title: Third Further Notice of Proposed Rule Making* in Docket No. 21474. (Broadcast Equal Employment Opportunity Rules) *Summary:* The Commission will consider whether to issue a *Third Further Notice of Proposed Rule Making* in its ongoing equal employment opportunity ("EEO") proceeding. The proposals under consideration would modify various data filing requirements.

Broadcast—6—*Title:* Reconsideration of the Broadcast Bureau's action assigning Channel 234 to Lockhart, Texas. *Summary:* The Commission will consider whether to affirm the assignment of Channel 234 to Lockhart, Texas, in view of a conflicting application for transmitter site relocation by Houston, Texas, FM Station KLEF.

Broadcast—7—*Title:* Changes in the rules relating to noncommercial, educational FM stations. *Summary:* The Commission will consider a *Third Report and Order* in Docket No. 20735 which would implement new protection criteria for Channel 6 TV reception.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: December 10, 1981.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-1898-81 Filed 12-15-81; 1:54 pm]

BILLING CODE 6712-01-M

6

FEDERAL COMMUNICATIONS COMMISSION

Deletion of agenda item from December 17th open meeting

The following item has been deleted at the request of the Common Carrier Bureau from the list of agenda items scheduled for consideration at the December 17, 1981, Open Commission Meeting and previously listed in the

Commission's Notice of December 10, 1981.

Agenda, Item No., and Subject

Commom Carrier—5—*Title:* In the Matter of Communications Satellite Corporation, File Nos. I–P–C–7387–8 237–CSG–P/L–80. Application for authority to construct and operate a communications satellite earth station at Cayey, Puerto Rico. *Summary:* The Commission will consider the applications of Comsat to construct and operate a satellite earth station on Puerto Rico to secure direct access to the INTELSAT network.

Issued: December 15, 1981.

William J. Tricarico,

Secretary, Federal Communciations Commission.

[S–1889–81 Filed 12–15–81; 1:53 pm]

BILLING CODE 6712–01–M

7

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 2:00 p.m. on Monday, December 14, 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 matters:

Memorandum and Resolution re: Recommended Definition of Bank Capital to be Used in Determining Capital Adequacy.

Memorandum and Resolution re: Mandatory Accrual Accounting Guidelines for Commercial Banks and Mutual Savings Banks.

Memorandum re: Renewal of lease for office space in the building located at 1709–11 New York Avenue, N.W., Washington, D.C.

By the same majority vote, the Board further determined that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: December 14, 1981.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1887–81 Filed 12–15–81; 11:37 am]

BILLING CODE 6714–01–M

8

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, December 14, 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 a recommendation regarding the liquidation of assets acquired by the Corporation from The Hamilton National Bank of Chattanooga, Chattanooga, Tennessee (Committee Case No. 45,008–L).

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 matters:

Request by Metropolitan Savings Bank, New York (Brooklyn), New York, for relief from a previously imposed condition of an order issued pursuant to section 18(c) of the Federal Deposit Insurance Act.

Request by Peoples Westchester Savings Bank, Tarrytown, New York, for relief from a previously imposed condition of an order issued pursuant to section 18(c) to the Federal Deposit Insurance Act.

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 added to the agenda in a meeting open to public observation; and that the matters added to the agenda could be considered in a closed meeting by authority 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)).

Dated: December 14, 1981.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1886–81 Filed 12–15–81; 11:37 am]

BILLING CODE 6714–01–M

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FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 10 a.m., Tuesday, December 22, 1981.

PLACE: 1700 G Street, N.W., board room, sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202–377–6679).

MATTERS TO BE CONSIDERED:

Bank Membership and Insurance of Accounts—Royal Oak Savings and Loan Association, Manteca, California

Request for Modification of Condition—Sentinel Savings and Loan Association, Sonora, California

Request for a Commitment to Insure Accounts—Silver State Savings and Loan Association, Las Vegas, Nevada

Bank Membership and Insurance of Accounts—Brookside Savings and Loan Association, Pasadena, California

Application for a Commitment to Insure Accounts—Charter Savings and Loan Association, Delray Beach, Florida

Request for a Commitment to Insure Accounts—Deposit Trust Savings and Loan Association, Monroe, Louisiana

No. 576, December 15, 1981.

[S–1885–81 Filed 12–15–81; 10:04 am]

BILLING CODE 6720–01–M

federal register

Thursday,
December 17, 1981

Part II

Department of Transportation

Federal Aviation Administration

Microwave Landing System Requirements for Non-Federal Navigational Facilities

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 171

[Docket No. 20669; Amdt. 171-11]

Microwave Landing System Requirements for Non-Federal Navigational Facilities

AGENCY: Federal Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes minimum standards and procedures for the approval, installation, operation, and maintenance of a Microwave Landing System (MLS) facility that is not operated and maintained by the FAA or other Federal agency. MLS is a system designed to take the place of the Instrument Landing System (ILS) used at commercial airports in the United States and around the world since 1945. MLS is projected to meet both civil and military requirements for the foreseeable future and to provide more flexibility in terminal area operations, abate noise, and be cost effective. MLS has been selected for standardization by the International Civil Aviation Organization (ICAO) for eventual installation at terminal areas of member States. The aviation community recognized the need for a new system to fulfill future requirements. MLS has been chosen to satisfy this need. Since these facilities may be operated and maintained by persons other than the FAA, the requisite standards and procedures to operate these facilities in the National Airspace System (NAS) must be provided in the form of a regulation to govern those activities. This amendment is consistent with the requirements of Executive Order 12291.

EFFECTIVE DATE: December 17, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Sotires P. Mantis, Airway Facilities Service, (AAF-720), Airway Systems Division, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3008.

SUPPLEMENTARY INFORMATION:

I. Background

This rule is based on Notice of Proposed Rule Making (NPRM), Notice Number 80-15, Non-Federal Navigation Facilities; Proposed Microwave Landing System Requirements (45 FR 59256) published in the **Federal Register** September 8, 1980. All interested persons have been given an opportunity to participate in the making of this rule and due consideration has been given to all information submitted.

The search for an adequate successor to the present ILS has been underway for several decades. ILS was adopted for national service in 1941 and has been installed at approximately 700 locations in the United States. ILS is also the international standard and as such is installed in many other locations worldwide. Although significant improvements in system design have been made since it entered service, ILS is basically the creation of an older technology which limits its utility in some applications and falls short of meeting the full range of operational requirements as now defined nationally and internationally.

In 1967, the Radio Technical Commission for Aeronautics (RTCA) formed a special committee (SC-117) to collect user requirements and synthesize a set of operational requirements which would meet the needs of a wide range of civil and military users for precision approach and landing guidance well into the future. The RTCA operational requirements emerged in 1969 with a recommendation that microwave systems using a Doppler or scanning beam signal format should be investigated for implementation.

In the early 1970s ICAO adopted similar operational requirements and invited member states to propose candidate systems as a successor to the standard ILS. In July 1971, a U.S. National Plan for the joint development of an MLS was published by the Department of Transportation (DOT), Department of Defense (DOD) and the National Aeronautics and Space Administration (NASA). The time referenced scanning beam (TRSB) MLS which emerged from this development program became the U.S. candidate system proposed for international adoption. In April 1978 ICAO selected the TRSB MLS for international standardization.

It should be noted that an interim standard microwave landing system (ISMLS) was adopted in 1975 for use at locations where a VHF/UHF ILS would not perform in an effective manner, or where the need for a low approach service would be better served by the use of the ISMLS. This system was intended as an adjunct to the ILS system and was considered necessary to fulfill some immediate aviation growth needs during a transition period. That transition period was the time necessary to develop an MLS which meets international standards.

II. Need for the Regulation

This regulation makes provision for approval of an instrument approach procedure using an MLS not provided by the Federal Government, which will satisfy the needs of various operators. Among these are operators who desire an instrument approach procedure but do not qualify for Federally provided equipment; operators who qualify for Federally provided equipment but prefer an MLS to an ILS; operators with locations on which the ILS cannot be properly sited; and operators who desire immediate installation of an MLS system without having to wait for the installation of a Federal system.

In the next one to three years the FAA expects no more than ten facilities to be installed and five to ten per year thereafter. These numbers, however, are estimates since there is no way of identifying the requirements for privately funded facilities. The numbers will vary depending upon manufacturer prices and consumer needs.

There are no current FAA MLS facilities; however, FAA is preparing Federal specifications to proceed with a procurement of approximately 95 systems beginning in 1983. The FAA has programmed for the installation of over one thousand systems by the year 2000.

The MLS system proposed herein provides for a $\pm 10°$ approach sector and a continuum of glideslopes consistent with a minimum vertical proportional guidance sector of 0.9° to 7.5°. This minimal system does not preclude the use of additional units to produce a system with a wider approach sector, steeper glidepaths, a back azimuth capability, precision DME, or the use of redundant units to maximize system availability. While the MLS specified in this proposal is the minimum system which would be approved for use in an IFR procedure, the provisions of this proposed subpart are not intended to prevent the selection of an MLS system which has increased performance characteristics, as long as the system selected performs in accordance with the standards now in process of publication by ICAO. A finding of no significant environmental impact can be found in the public docket for this rulemaking action.

III. Relationship to International Standards

Subsequent to the ICAO selection of an MLS in 1978, the process of creating and adopting international Standards and Recommended Practices (SARPS) has proceeded. The basic SARPS, which will assure interoperability between

ground and airborne equipment, was approved for inclusion in Annex 10 to the Convention of International Civil Aviation at the divisional meeting in April 1981 at Montreal.

All ground systems must be interoperable with regard to channeling, signal format, timing, and performance accuracy. This includes non-Federal, Federal, and International systems. The United States, as a member of ICAO comprising 148 member states, has contributed to the standardization of precision landing systems to insure interoperability worldwide. Both the FAR and FAA procurement specifications will be identical with respect to interoperability and performance requirements, both of which conform to the ICAO SARPS.

IV. General

This amendment adds a new subpart to Part 171 of the Federal Aviation Regulations to provide requirements for a non-Federal MLS facility. This rule sets forth minimum requirements that must be met before the FAA authorizes instrument flight rule approaches to the airport and air traffic control procedures incorporating that facility. Such a facility is designed to interface with existing and planned Federal facilities and systems.

The performance requirements of this rule are derived from the SARPS on MLS developed by ICAO. The SARPS as adopted by ICAO in Montreal in April 1981 are a culmination of the efforts of the member states. The United States, as a member, contributed and assisted in the recommendation process for inclusion of SARPS for MLS in the amendment of Annex 10. The FAA has and will continue to fully participate in the international standardization process.

In addition, persons affected by this rule should determine the applicability of FCC regulations to the installation and operation of the MLS. The regulations of the FCC applicable to radio frequency allocations and use are found in Parts 2 and 87 of Title 47 of the Code of Federal Regulations.

As part of the requirements, the FAA also incorporates by reference several technical documents in accordance with 5 U.S.C. 552. The following documents are available for inspection in accordance with § 171.71, and also at the Office of the Federal Register Information Center, Room 8301, 1100 L Street, NW., Washington, D.C. 20408, and may be purchased from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161: FAA Handbook 8260.3, through change 3 dated June 3, 1980, United States Standard for Terminal Instrument Procedures (TERPS), and FAA Handbook AOP 8200.1, through change 35, dated May 15, 1981, United States Standard Flight Inspection Manual.

In addition, the following publication of ICAO is available from ICAO, Aviation Building, 1080 University Street, Montreal 101, Quebec, Canada, Attention: Distribution Officer; International Standards and Recommended Practices, Aeronautical Telecommunications, Volume 1 of Annex 10 to ICAO, through amendment 61 dated April 10, 1980. This incorporated material is not subject to frequent change. Readers, however, should contact the FAA to assure that they are consulting the current edition. This incorporation by reference was approved by the Director of Federal Register on October 20, 1981.

V. Discussion of Comments

Forty-five comments were received in response to Notice 80–15. These represent views from a broad cross section of user groups including airport operators, state and county aviation authorities, pilot and airline associations, commuter airlines, manufacturers and others. The majority of the comments received supported the rule as proposed.

One commenter states that the implementation of non-Federal MLS at this time is "premature" and recommends that the rule be deferred until after implementation of the national MLS program. The FAA concludes an immediate requirement exists for a non-Federal MLS program. At the MLS public hearings in January 1981, there was an overwhelming positive response to rapid transition to MLS in both the Federal and non-Federal areas. This view is supported by a positive response to the proposed rule from the many segments of the aviation community.

One commenter states that the proposed rule, as written, would not encourage rapid and widespread implementation of non-Federal MLS. This was based on the assessment that the specified system accuracy and volumetric coverage requirements were excessive and, in their view, favored larger airports. The FAA does not agree. The rule specifies requirements for a minimum capability, single accuracy system as defined by ICAO and should prove beneficial at all airports, large or small.

Several commenters state that the requirements of specification FAA–G–2100, incorporated by reference in various sections of the rule, which provides general equipment requirements, and governs quality control, type testing, reliability and maintainability, establishes environmental requirements, and identifies component selection parts lists, are excessive. They contend that the specification levies reliability and maintainability requirements which are inappropriate for non-Federal application and the inclusion of FAA–G–2100 would have a negative cost impact on the program. After further analysis, the FAA concurs that the inclusion of FAA–G–2100 would increase the initial cost of a non-Federal MLS; therefore, all reference to FAA–G–2100 is deleted from the rule, however, the requirement to design for high reliability and maintainability remains in § 171.323. These requirements provide for system integrity.

One commenter concludes MLS is not ready for implementation since no FAA (Federal) MLS system exists. The FAA recognizes the need for implementation of Federal MLS where needs and justifications are provided; however, this rule provides the public a means to establish an MLS without Federal justification. Since the public is soliciting for MLS at this time, the FAA is providing for a non-Federal MLS standards consistent with ICAO recommendations. Further, the FAA is currently preparing Federal specifications in conformance with ICAO, resulting in a compatible interface between Federal and non-Federal MLS.

Several commenters suggested relaxing, tightening, deleting or adding to the MLS functions, signal formats, tolerances, specifications, performance, and definitions. As already noted, the FAA concurs with the ICAO SARPS and the rule reflects these standards.

The majority of the comments to the proposed rule involved specific technical issues concerning the MLS. These comments are addressed in the sections that follow:

Section 171.303 Definitions.

The rule describes twenty four definitions in an initial section that apply throughout the subpart.

One commenter objected to the stated definition of "mean time between failures" and submitted a revised definition. The revised definition submitted defines "mean time between outages." After analysis, the FAA concludes that the use of the phrase "mean time between failures" is correct but that a definition is needed for the word "failure" to avoid

misinterpretation of the meaning of that word.

Another commenter states that the definition of "minimum glidepath" is ambiguous and it is not clear whether the word consistent as used in the definition means the highest angle or the lowest angle. The FAA concludes that the definition conforms to the definition given in the SARPS and is not ambiguous. (The term "SARPS" is used herein to describe the provisions agreed upon by ICAO at the April 1981 meeting in Montreal, concurred in by the FAA.)

Additionally, the FAA adds to the rule a definition for "beamwidth," and revises the definitions of "MLS approach reference datum," "MLS back azimuth reference datum," "data rate," and "path following error" to make these definitions consistent with ICAO standards. The definition for "clearance guidance sector" is revised to be consistent with the use of the terms "fly-left/fly-right clearance" as used in § 171.311(i)(2)(iv) and Figure 8.

Section 171.305 Requests for IFR procedure.

That section lists the requirements for each person who requests an IFR procedure based on an MLS facility which that person owns. The required information includes a description of the facility and shows that the equipment meets specified performance requirements; a proposed procedure for operating the facility; a proposed maintenance organization and manual; a statement of intent to meet the requirements of the subpart, and a demonstration that the MLS facility has an acceptable level of operational reliability and maintainability. A provision also specifies the procedures to be followed after the FAA inspects and evaluates the facility. No comments were received on these requirements and the rule is adopted without change.

Section 171.307 Minimum requirements for approval.

That section prescribes the minimum requirements that must be met before the FAA approves an IFR procedure for an MLS facility. Those requirements relate to performance, installation, operation, maintenance, operational records, inspection, withdrawal from service, and costs.

One commenter suggests that the FAA should bear all costs of FAA-required normal flight and ground inspections. This suggestion is not accepted since the requirement as written in the rule reflects existing FAA policy; furthermore, the systems proposed by this order are systems installed and maintained by the owner for his benefit at his own expense. As stated in the rule, the owner must bear all costs of installation and flight inspection prior to commissioning. The rule is adopted as proposed.

Section 171.309 General requirements.

That section describes the MLS as a precision approach and landing guidance system which provides position information and various ground to air data. It also states that the position information is provided in a wide coverage section and is determined by an azimuth angle measurement, an elevation angle measurement and a range (distance) measurement.

An MLS constructed to meet the requirements of this subpart must include: approach azimuth equipment, associated monitor, remote control and indicator equipment; approach elevation equipment, associated monitor, remote control and indicator equipment; a means for the transmission of basic data words, associated monitor, remote control and indicator equipment; and distance measuring equipment (DME), associated monitor, remote control and indicator equipment. In addition, MLS may include as an option, back azimuth equipment, associated monitor, remote control and indicator equipment; a wider proportional guidance; precision DME, associated monitor, remote control and indicator equipment; and VHF marker beacons (75 MHz), associated monitor, remote control and indicator equipment. That section also prescribes environmental ambient conditions covering temperature, humidity, wind, hail, rain, and ice loading that the electronic equipment must meet when installed in shelters and outdoors. The MLS and its components must meet specified standards prescribed under this subpart.

One commenter suggests specifying the MLS performance requirements as those contained in ICAO SARPS, thus eliminating the need for §§ 171.311 through 171.319. This commenter points out that other Subparts of FAR 171 incorporate by reference performance requirements contained in ICAO SARPS. The FAA concludes that due to the present unavailability of an ICAO MLS SARPS publication, the specifications must be fully presented in this rule.

Another commenter requests that an option be granted allowing the requirement of § 171.309(b)(3) which provides a means for the transmission of data, to be included with § 171.309(b)(1) which includes the azimuth equipment. The FAA disagrees. The order of the paragraphs as proposed does not inhibit the combining of functions where appropriate but provides clarity and this change is not accepted.

Another commenter asks whether or not DME monitor, remote control, and indicator equipment could be integrated with the MLS. After analysis of this comment, the FAA agrees that the equipment can be integrated. Therefore, the rule is changed in §§ 171.309 (b) and (c) by including a note stating that this equipment may be integrated.

Another commenter requests a clearer definition of the capabilities of remote control and indicator equipment. Accordingly, a note is added to § 171.309(b)(4) setting the minimum requirements for the remote control and indicator equipment.

One commenter points out that § 171.309(c)(2), which provides for a wider proportional guidance sector, does not include the wider proportional guidance sector cited in § 171.317, Elevation performance requirements. An addition is made to § 171.309(c)(2) citing § 171.317.

Another commenter recommends that 15 degrees of proportional guidance be specified on the elevation equipment instead of 7.5 degrees. Since the SARPS specifies the minimum elevation proportional guidance as 7.5 degrees, proportional guidance above 7.5 degrees is optional, and the rule is adopted as proposed.

Several commenters object to the service and environmental conditions requirements as specified in § 171.309(d). One commenter states that the requirements are too restrictive and appear to be written for FAA procurement. Another commenter suggests specifying optional environmental requirements for different climatic conditions. Another commenter states that a reduced ambient temperature requirement would reduce costs and satisfy the requirements of most of the purchasers of the equipment. After considering these comments, the FAA concludes that a change in the service and environmental condition requirements would be inconsistent with standardized design concepts. Electronic equipment installed outdoors must conform to environmental standards regardless of geographical placement. A geographic boundary for climatic variations would be difficult to describe. For example, even though Florida would seem an inappropriate locale for the use of de-icers, there are occasions when de-icers would be necessary. The rule is adopted as proposed.

Several commenters object to the applicability of specification FAA-G-2100 as it relates to DME and markers. Clarification is made to § 171.309 which

now describes DME and marker requirements separately in two paragraphs (e) and (f), respectively. It is made clear that when DME, or markers are components of MLS, they must conform to the requirements of FAR 171, Subpart G and H, respectively. All reference to Specification FAA–G–2100 is removed from this rule.

Additionally, in accordance with the requirements of SARPS, a change is made in § 171.309(b)(4). This change deletes the mandatory requirement for a marker beacon and a note is added which permits the use of a VHF marker beacon (75 MHz) in lieu of a DME at locations where the VHF marker beacon (75 MHz) is already located. Also §§ 171.309(c) (3) and (4) are added allowing as an option the use of a precision DME and marker beacon respectively. The rain requirements in § 171.309(d)(4) are restated for clarification since the proposed wording was confusing.

Section 171.311 Signal format requirements.

That section provides for signals radiated by the MLS which must conform to the signal format which describes specific minimum requirements such as frequency assignment, tranmission rates and sequences, digital codes, and data modulation.

One commenter interprets § 171.311(a) Frequency Assignment to mean that all ground equipments must operate on more than one channel. This is not the intent. The ground components must operate on a single frequency assignment; however, the design of the ground equipment must allow for the capability to incorporate any one of the 200 listed channels with minimum adjustment. Accordingly the rule is changed to clarify this fact.

One commenter suggests deleting the requirement for short-term frequency stability. No changes are made since the above requirements are consistent with the SARPS, and the rule is adopted as proposed.

A recommendation is made to delete the requirement for OCI signals and another commenter recommends that OCI be made mandatory on all installations. The FAA does not agree. The OCI pulse requirements are needed to accommodate those sites where OCI signal is necessary to suppress false courses. The need for OCI signal is highly site dependent and not considered essential at all minimum capability system installations. OCI signal remains an option to be provided as needed.

Another commenter states that the preamble of the signal format should indicate carrier transmission termination time. The FAA concurs and a note is added to Tables 2, 4a, 4b, 5, and 7, in § 171.311 explaining that when the "event time slot begins, the previous event time slot ends."

Another commenter recommends that the test pulses of the system test pulse requirements in § 171.311 should be artificially beam shaped. After reevaluation the system test pulse requirements are eliminated as the characteristics of the pulses have not been standardized; however, the time slot is retained.

One commenter suggests deleting the high rate approach azimuth function in § 171.311(f). The FAA concludes that this function has applicable system benefits. The rule is adopted as proposed.

Another commenter requests more information on the meaning of the phrase "undesirable flag action" in § 171.311(i)(2)(ii). After further evaluation the FAA concludes that this phrase is inappropriate and it is deleted. One commenter suggests clarification of the phrase "positive clockwise angles" in § 171.311(i)(2)(iii)(B) as it is ambiguous. The FAA concludes that this phrase is in common use and is widely understood. The rule is adopted as proposed.

One commenter suggests deleting the clearance function in § 171.311(i)(2)(iv) based on the premise that insufficient testing has been performed on this function. This commenter makes this same point again regarding § 171.313. The FAA concludes that the clearance function must be retained as a design option to be required at minimum capability installations where proportional guidance is provided to less than ±40 degrees in accordance with ICAO SARPS. A commenter also suggests that the width of the clearance pulse be equivalent to the scanning beam pulse (150 μs) for a 3° beamwidth. This change is not acceptable since tests of the clearance signal resulted in the optimization of the clearance pulse width as stated. Another commenter states that it is inconsistent to use the phrase "right clearance pulse/left clearance pulse" in the text of § 171.311(i)(2)(iv) and to use the phrase "fly-right clearance pulse/fly-left clearance pulse" in Figure 8 of § 171.311. The FAA concurs and the phrase "fly-right clearance pulse/fly-left clearance pulse" is inserted accordingly. Another commenter recommends deletion of the clearance function in § 171.311(i)(2)(iv) and replacing it with full proportional scan to that angle necessary to overcome erroneous signals which are generated at a particular site by causes such as multipath. The FAA concludes that deletion of the clearance function can optionally be permitted if the required approach guidance sector is provided by proportional guidance and adds a phrase so stating to that section.

Another commenter states that the data element in § 171.311(j)(3) requires ground equipments to do something which is not yet defined. This data element is undefined; however, a space in the timing sequence for the data element remains. In the future, the data transmission of the operational status of the equipment in use will be standardized and defined. A standard format for this Basic Data Word requirement has not been formalized; however, this data word space must be available in the data timing for future use and definition.

One commenter states that the allowable range of the back azimuth distance in Basic Data Word Seven is not balanced against the allowable range of the approach azimuth to threshold distance in Basic Data Word One in § 171.311, Table 8. After further analysis, the FAA concludes that the 3,100 meter (10,000 feet) maximum permitted in Basic Data Word One is sufficient for this application.

Another commenter suggests the need for additional Basic Data regarding DME distance information. The FAA concurs and includes this information in Tables 3 and 8 of § 171.311 and §§ 171.311(j) (17), (18), and (19), as recommended by ICAO.

Additionally, § 171.311(c)(1) and Figure 1 of this section are changed so that the phase transition is made without amplitude modulation and the phase rate of change is consistent with the requirements of paragraph (d) of this section. This change makes the DPSK compatible with the receiver decoding circuit chosen by the Radio Technical Committee on Aeronautics, Special Committee—139 (RTCA SC–139) for MLS receiver standards and as agreed upon by ICAO at the meeting in Montreal in April 1981.

Section 171.313 Azimuth performance requirements.

The performance requirements for the azimuth equipment components of the MLS are listed. Included are requirements concerning approach and back azimuth coverage, siting, accuracy, and antenna coordinates and characteristics.

Some commenters recommend relaxing the accuracy and coverage requirements. Another suggests

establishing various levels or categories of MLS service. The provisions of the SARPS, which were approved for adoption by ICAO in April 1981, served as the technical base for the requirements of the rule. Comments which suggest changes to the accuracy, coverage, signal format, or timing cannot be implemented since this would make the rule inconsistent with SARPS.

One commenter states that there is no means to indicate to the airborne receiver whether the azimuth antenna coordinates are, as permitted in § 171.313(d), conical or planar. The small displacements between conical and planar beams in this sector are operationally acceptable and need not be identified. Further, highest capability users can obtain this information from auxiliary data transmissions, where provided. The rule is adopted as proposed.

One commenter states that a "fundamental problem" exists with including airborne error and ground system error with the specification of accuracy on a system basis in regard to Table 10 in § 171.313. Another commenter, with regard to Table 10, states that the CMN error accuracy requirement should be annotated "for information only" since it was only "a recommendation" in the SARPS. Beam stepping noise is controlled by the CMN value for the ground subsystem. The values stated in Table 10 limit the beam stepping noise of the ground equipment; therefore, it is a requirement rather than a recommendation. The system accuracy numbers give the equipment designer the information he needs on allowances for propagation errors. The rule is adopted as proposed.

One commenter suggests inclusion of the degradation allowance to the approach azimuth accuracy requirement. The FAA concurs and § 171.313(e) is modified to include the degradation allowance to make the rule consistent with the SARPS.

One commenter states that in § 171.313(a)(1) a reduction in the specified ±40 degree coverage sector when intervening obstacles prevent full coverage should be allowed. After further analysis, the FAA concurs. A reduction in the specified ±40 degree coverage sector must be permitted when full coverage is prevented by intervening obstacles. Therefore, a sentence is added to the end of § 171.313(a)(1) to so provide.

One commenter states that in § 171.313(a)(3) the proportional guidance requirements in the runway region do not allow for offset installations for a minimum system. The FAA concludes that this requirement should not apply to azimuth offset installations and, therefore, the statement, "This requirement does not apply to azimuth offset installations," is added to the rule.

One commenter states that in § 171.313(f)(1) the drift requirement for the approach azimuth antenna characteristics should be reduced and furthermore met without internal environmental control equipment. The FAA concludes that the given tolerances are adequate for system performance; however, the FAA agrees that the service conditions should be met without internal environmental control equipment to provide for maximum system availability and integrity and the rule is changed in § 171.313(f)(1) to so require.

One commenter suggests that in § 171.313(f)(2) the beam pointing error be defined, and another commenter states that drift and beam pointing error be deleted due to the inability to separate the two in actual field installations. After further evaluation, the FAA concludes that beam pointing error is defined in § 171.313(f) (1) and (2) as is the requirement that the measurement be made in a multipath free environment. Another commenter suggests that beam pointing error be deleted as it is overly restrictive. Beam pointing error cannot be deleted because it is needed to assure linearity of the azimuth guidance in the centerline region and acceptable PFE when flying orthogonal to the centerline; however, the required coverage within which the beam pointing error applies is reduced from full coverage to ±0.5 degree of the zero degree azimuth.

Several commenters request that § 171.313(f)(3) on boresighting be expanded to include means other than only mechanical or optical for accomplishing the boresight procedure. The FAA concludes that electrical boresighting procedures can be utilized and the option for electrical boresighting is added to the rule. Another commenter requests that the antenna alignment tolerance in this section be relaxed. The FAA does not agree and the antenna alignment tolerance is adopted as proposed to insure system accuracies.

One commenter states that § 171.313(f)(4) refers to "sidelobe levels shown in Figure 10"; however, Figure 10 does not mention sidelobes and therefore reference to sidelobe levels in Figure 10 is deleted. The commenter further states that no minimum beamwidth is specified and that there is no limit to the amount of beam broadening that may occur off boresight of the scanning antenna. The FAA concurs. This section is changed to permit the beamwidth to broaden from the value at boresight by a factor of 1/cos D, where D is the angle off boresight. The scanning beam pulse width is now specified as 0.5 degrees minimum and 5.0 degrees maximum anywhere in proportional coverage. Another commenter suggests expanding this section to include effective sidelobe levels. The FAA concurs and adds a new § 171.313(f)(4)(ii) on effective sidelobe levels. One commenter states that the sidelobe levels specified are three decibels stronger than those shown in specification FAA-ER-700-08C. The change in the rule to specify effective sidelobe levels removes this ambiguity.

One commenter states that in § 171.313(g)(1) the minimum proportional guidance for back azimuth is omitted from the proposed rule. Also, that certain provisions are missing for siting the back azimuth. The FAA concurs and adds a provision for the minimum proportional guidance for back azimuth and provisions for siting the back azimuth in § 171.313(h) (1) through (6).

With reference to § 171.313(g)(4), one commenter states that the back azimuth power density levels are excessive, based on the reduced back azimuth range requirement. After further analysis, the FAA concludes that the minimum power densities required for back azimuth are consistent with the levels required in ICAO SARPS and are not excessive. Another commenter states that back azimuth coverage could be misinterpreted to mean that back azimuth must be provided at all facilities. The requirements for back azimuth in § 171.309 are clearly stated and should not be misinterpreted to mean that back azimuth must be provided at all facilities. The rule is adopted as proposed.

In addition a new § 171.313(f)(6) is added describing the radiation pattern of the data antenna. Also § 171.313(j) is expanded by adding back azimuth accuracy degradation allowances. These requirements were inadvertently omitted from the proposed rule and are now included to be consistent with ICAO SARPS.

Section 171.315 Azimuth monitor system requirements.

This section prescribes monitor systems that must provide an "Executive Alert" to the designated control points if any one of several conditions persist, such as an abnormal reduction in radiated power.

One commenter submits extensive revision to § 171.315 on azimuth monitor requirements. This proposal is not adopted as it is not necessary that the

rule specify the arrangement of the monitor system. Another commenter describes the timing accuracy tolerance (reference Table 11) as unrealistic due to a 10 μsec switching time. He further states that this requirement may also be difficult if not impossible to check during routine maintenance monitor checks. Table 11 specifies the timing tolerances for events internal to the transmitting equipment and is easily measured. The 10 microseconds referenced concern a rise time which occurs subsequent to the event time; therefore, the stated timing accuracy is a realistic requirement. This commenter also advises including degradation allowance in § 171.315(a)(1). The FAA concurs and degradation allowance is included in this section.

One commenter states that when referring to internal timing accuracies in Table 11 of § 171.315 that a specification should be included to indicate that the scan must be symmetrical about the mid scan point. The FAA concurs and adds Note 1 to Table 11 indicating that the tolerances shown therein apply to the timing of the specific events as shown in Tables 2, 4a, 4b, 5 and 7 of § 171.311.

Section 171.317 Approach elevation performance requirements.

The performance requirements for the elevation equipment components of the MLS included are requirements as to elevation coverage, siting, accuracy, and antenna coordinates and characteristics.

This section generated a number of comments. Many of the comments to § 171.313 were either repeated or are similar to the comments in this section. Accordingly, the explanations given earlier are equally valid here and are not repeated.

One commenter states that the threshold crossing height (TCH) requirement of this section does not provide for STOL aircraft. After further analysis, the FAA concludes that elevation siting requirements for STOL operations should be included. Section 171.317(b)(2)(i) is added to the rule to include TCH requirements for STOL aircraft operations.

Several commenters suggest that elevation accuracy degradations of § 171.317(d)(1) be allowed to be consistent with ICAO SARPS. The FAA concurs. This section is changed so that degradation limits are included in the rule to conform to SARPS.

Information relative to the glidepath planar angle was inadvertently omitted in the proposed rule and is now included in § 171.317(b)(2) to be consistent with ICAO SARPS.

Section 171.319 Approach elevation monitor system requirements.

That section prescribes monitor systems that must provide an "Executive Alert" to the designated control points if any one of several conditions persist, such as an abnormal reduction in radiated power.

One commenter states that § 171.319(a)(1) should include a reference to § 171.317(d). The FAA concurs and the reference is added to the rule.

One commenter states that § 171.319(a) should include requirements that when multiple sensor inputs are used to monitor a single parameter, at least two sensors must agree. The FAA disagrees. A monitor must insure integrity; however, it is left to the designer to incorporate specific design parameters. The rule is adopted as proposed.

One commenter suggests deletion in § 171.319(a)(1) of the phrase "consistent with published approach procedures and obstacle clearance criteria." The FAA concurs that the deletion removes an undesirable restriction on monitoring and deletes the phrase.

Section 171.321 DME and marker performance requirements.

DME equipment must meet the performance requirements prescribed in Subpart G of this part and marker beacon equipment must meet the performance requirements prescribed in Subpart H of this part. Both subparts impose requirements that performance features must comply with International Standards and Recommended Practices, Aeronautical Telecommunications, Part I, to ICAO Annex 10.

One commenter suggests including the DME location and the zero range point in this section. After further consideration the FAA concurs and includes in this section the location of the DME and zero range point.

One commenter suggests that a reference to compass locators should be added to § 171.321. The FAA concludes that a compass locator is not part of an MLS and no changes are made in this section.

Section 171.323 Fabrication and installation requirements.

The MLS facility must be permanent in nature, located, and installed in accordance with best commercial engineering practices, and with applicable safety codes and Federal Communications Commission (FCC) licensing requirements. Suitable primary and secondary power sources must be provided. The facility must also have, or be supplemented by ground, air or landline communications services with the location of antenna phase centers and the runway centerline at threshold determined by a survey within certain limits of accuracy.

One commenter states that § 171.323 (a) and (b) appear to be beyond the scope of the minimum requirements, further stating that the requirements of § 171.323 (b), (d), and (e) should be a "market place" item rather than Federal regulations. These requirements are provided to ensure maintainability and integrity of the MLS which is part of the NAS. These are the minimum requirements. No change is made since the requirements as stated are in the best interest of the owner and the NAS and the rule is adopted as proposed.

Two commenters suggest that in § 171.323(b) of the proposed rule traveling wave tube amplifiers (TWTA) should not be excluded from use. The FAA concurs and a phrase is added to § 171.323(b) that in addition to allowing the use of solid state amplifiers the rule permits the use of TWTA.

One commenter states inconsistencies in referencing Tables 10 and 13 for maintenance alerts in § 171.323(c). The FAA concurs and the references to Tables 10 and 13 are deleted from § 171.323(c). Several commenters further state that the requirements for interfacing with FAA remote monitoring are unclear. The FAA concurs and states in § 171.323(d) that this requirement may be complied with by the addition of optional software and/or hardware in space provided in the original equipment. Furthermore, this interface requirement exists only in the event the sponsor requests the FAA to assume ownership of the MLS.

One commenter requests a reduction of the requirement to operate on the battery backup power in § 171.323(h) and also a clarification of the intent that battery power is not required for the environmental subsystem or de-icing. After further analysis, the FAA concurs. The requirement for battery operations was reduced from 3 hours to 2 hours. This reduction will reduce costs and not significantly impact operation. The text further clarifies that radome de-icers and the environmental systems need not operate from the battery during periods when prime power is not available.

One commenter states that in § 171.323(l) the marking and accuracy of the location of the phase centers of the antenna enclosures is beyond the minimum requirements of this regulation. The antenna phase centers must be marked, since this is considered essential in satisfying siting and installation requirements. Furthermore, the accuracy of the established phase centers is considered essential to flight inspection. Experience has shown that

many operational problems have been the result of poor location surveys. Meaningful flight inspection is not possible without precise location of the origin of the signal. Therefore, the FAA concludes that the marking and the accuracy of the location of the phase centers of the antenna enclosures must be a requirement; however, this section is clarified by specifying the two separate accuracy requirements necessary to locate both the MLS datum point and the lateral and vertical offsets from the MLS datum point. The survey accuracy requirement for latitude, longitude and mean sea level elevation of the MLS datum point is ±3 meters (±10 feet) laterally and ±0.3 meter (±1.0 foot) vertically, while the accuracy for lateral and vertical offsets from the MLS datum point for the other elements referenced to it is ±0.3 meter (±1.0 foot) laterally and ±0.03 meter (±0.1 foot) vertically. Another commenter requests clarification on who is to conduct the survey. The responsibility for conducting the antenna phase center survey is clarified in this Section and clearly states that the owner must bear all costs of the survey.

Section 171.325 Maintenance and operations requirements.

The owner of the facility must establish an adequate maintenance system and provide qualified maintenance personnel to maintain the facility at the level attained at the time it was commissioned. The owner must have an approved operations and maintenance manual that sets forth the mandatory procedures for operations and periodic and emergency maintenance.

One commenter questions the requirement in § 171.325(a) for written approval of the qualification of maintenance personnel. This requirement is deleted since the criteria for its application are not finalized. One commenter states that procedures in § 171.325(c)(17) for conducting ground checks of the DME and marker beacon are not described. The requirement to ground check DME and marker beacons is deleted as no formal procedure exists for ground checking these components.

One commenter states that § 171.325(e) on equipment modifications is ambiguous in that it is not clear whether or not manufacturers' suggested modifications are mandatory. The FAA concurs. The statement was ambiguous and the paragraph is revised so that all FAA approved modifications must be accomplished.

One commenter states that § 171.325(g) could permit various FAA regions to establish changes and maintenance procedures without public process and concludes that this provision should be deleted. After further analysis, the FAA concurs. FAA regions should not be permitted to establish changes and maintenance procedures, therefore, § 171.325(g) is deleted from the rule. One commenter states that requirements for FAA approved test equipment in § 171.325(i) is outside the scope of the MLS proposal. The FAA concludes that the test equipment used on the NAS facilities must be approved by the FAA to insure system integrity and is within the scope of the proposal. The rule is adopted as proposed.

One commenter suggests that the inservice test evaluation of the system in § 171.325(k) should be made more specific to avoid multiple interpretations in the field. The FAA concurs and adds information to this section specifying the frequency of checking the monitor and the length of the burn-in time. Another commenter suggests adding the DME to the list of equipment being checked in § 171.325(k). The FAA concurs and the DME is added.

Section 171.327 Operational Records.

The owner of the facility, or his maintenance representative, must submit the following data at the indicated time to the appropriate FAA regional office: (1) Facility Equipment Performance and Adjustment Data (FAA Form 198); (2) Facility Maintenance Log (FAA Form 6030–1); and (3) Technical Performance Records (FAA Form 6830).

One commenter questions whether or not the forms referenced in this section contained reasonable data requirements as the specific forms were not included in the proposed rule for examination. The FAA concludes that these forms are necessary and they are required in all other non-Federal facilities. These forms constitute a record establishing a description and the operational performance requirements for each components of the MLS. The rule is adopted as proposed.

VI. The Amendment

Accordingly, Part 171 of the Federal Aviation Regulations (14 CFR Part 171) is amended, effective December 17, 1981, by adding a new Subpart J to read as follows:

PART 171—NON-FEDERAL NAVIGATION FACILITIES

* * * * *

Subpart J—Microwave Landing System (MLS)

Sec.

Authority: Secs. 305, 307, 313(a), 601, and 606, Federal Aviation Act of 1958, as amended (49 U.S.C. 1346, 1348, 1354(a), 1421, 1426); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).

Subpart J—Microwave Landing System (MLS)

§ 171.301 Scope.

This subpart sets forth minimum requirements for the approval, installation, operation and maintenance of non-Federal Microwave Landing System (MLS) facilities that provide the basis for instrument flight rules (IFR) and air traffic control procedures.

§ 171.303 Definitions.

As used in this subpart:

"Back azimuth reference datum" means a point located 15 meters (50 feet) above the runway centerline at the runway midpoint.

"Basic data" means data transmitted by the ground equipment that are associated directly with the operation of the landing guidance system.

"Beamwidth" means the width of the scanning beam main lobe measured at the −3 dB points and defined in angular units on the boresight, in the horizontal plane for the azimuth function and in the vertical plane for the elevation function.

"Clearance guidance sector" means the volume of airspace, inside the coverage sector, within which the azimuth guidance information provided is not proportional to the angular displacement of the aircraft, but is a constant fly-left or fly-right indication of the direction relative to the approach course the aircraft should proceed in order to enter the proportional guidance sector.

"Control Motion Noise (CMN)" means those fluctuations in the guidance which

affect aircraft attitude, control surface motion, column motion, and wheel motion. Control motion noise is evaluated by filtering the flight error record with a band-pass filter which has corner frequencies at 0.3 radian/sec and 10 radians/sec for azimuth data and 0.5 radian/sec and 10 radians/sec for elevation data.

"Data rate" means the average number of times per second that transmissions occur for a given function.

"Differential Phase Shift Keying (DPSK)" means differential phase modulation of the radio frequency carrier with relative phase states of 0 degree or 180 degrees.

"Failure" means the inability of an item to perform within previously specified limits.

"Guard time" means an unused period of time provided in the transmitted signal format to allow for equipment tolerances.

"Integrity" means that quality which relates to the trust which can be placed in the correctness of the information supplied by the facility.

"Mean corrective time" means the average time required to correct an equipment failure over a given period, after a service technician reaches the facility.

"Mean course error" means the mean value of the azimuth error along a specified radial of the azimuth function.

"Mean glide path error" means the mean value of the elevation error along the glidepath of the elevation function.

"Mean time between failures (MTBF)" means the average time between equipment failures over a given period.

"Microwave Landing System (MLS)" means the MLS selected by ICAO for international standardization.

"Minimum glidepath" means the lowest angle of descent along the zero degree azimuth that is consistent with published approach procedures and obstacle clearance criteria.

"MLS approach reference datum" means a point 15 meters (50 feet) above the runway threshold on the minimum glidepath.

"MLS back azimuth reference datum" means a point 15 meters (50 feet) above the runway centerline at the runway midpoint.

"MLS datum point" means a point defined by the intersection of the runway centerline with a vertical plane perpendicular to the centerline and passing through the elevation antenna phase center.

"Out of Coverage Indication (OCI)" means a signal radiated into areas outside the intended coverage sector where required to specifically prevent invalid removal of an airborne warning indication in the presence of misleading guidance information.

"Path Following Error (PFE)" means the guidance perturbations which could cause aircraft displacement from the desired course or glidepath. It is composed of a path following noise and of the mean course error in the case of azimuth functions, or the mean glidepath error in the case of elevation functions. Path following errors are evaluated by filtering the flight error record with a second order low pass filter which has a corner frequency at 0.5 radian/sec for azimuth data or 1.5 radians/sec for elevation data.

"Path Following Noise (PFN)" means that portion of the guidance signal error which could cause aircraft displacement from the actual mean course line or mean glidepath as appropriate.

"Split-site ground station" means the type of ground station in which the azimuth portion of the ground station is located on the centerline beyond the stop end of the runway, and the elevation portion is located alongside the runway near the approach end.

"Time Division Multiplex (TDM)" means that each function is transmitted on the same frequency in time sequence, with a distinct preamble preceding each function transmission.

§ 171.305 Requests for IFR procedure.

(a) Each person who requests an IFR procedure based on an MLS facility which that person owns must submit the following information with that request:

(1) A description of the facility and evidence that the equipment meets the performance requirements of §§ 171.309, 171.311, 171.313, 171.315, 171.317, 171.319, and 171.321 and is fabricated and installed in accordance with § 171.323.

(2) A proposed procedure for operating the facility.

(3) A proposed maintenance organization and a maintenance manual that meets the requirements of § 171.325.

(4) A statement of intent to meet the requirements of this subpart.

(5) A showing that the facility has an acceptable level of operational reliability and an acceptable standard of performance. Previous equivalent operational experience with a facility with identical design and operational characteristics will be considered in showing compliance with this subparagraph.

(b) FAA inspects and evaluates the MLS facility; it advises the owner of the results, and of any required changes in the MLS facility or in the maintenance manual or maintenance organization. The owner must then correct the deficiencies, if any, and operate the MLS facility for an in-service evaluation by the FAA.

§ 171.307 Minimum requirements for approval.

(a) The following are the minimum requirements that must be met before the FAA approves an IFR procedure for a non-Federal MLS facility:

(1) The performance of the MLS facility, as determined by flight and ground inspection conducted by the FAA, must meet the requirements of §§ 171.309, 171.311, 171.313, 171.315, 171.317, 171.319, and 171.321.

(2) The fabrication and installation of the equipment must meet the requirements of § 171.323.

(3) The owner must agree to operate and maintain the MLS facility in accordance with § 171.325.

(4) The owner must agree to furnish operational records as set forth in § 171.327 and agree to allow the FAA to inspect the facility and its operation whenever necessary.

(5) The owner must assure the FAA that he will not withdraw the MLS facility from service without the permission of the FAA.

(6) The owner must bear all costs of meeting the requirements of this section and of any flight or ground inspection in accordance with the FAA Flight Inspection Manual made before the MLS facility is commissioned, except that the FAA may bear certain costs subject to budgetary limitations and policy established by the Administrator. Incorporated by reference is Flight Inspection Manual, FAA Handbook 8200.1 through change 35, dated May 15, 1981, which prescribed standardized procedures for flight inspection of air navigation facilities. It is available from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161 and also available for inspection at the Office of the Federal Register Information Center, Room 8301, 1100 L Street, NW., Washington, D.C., 20408.

(b) [Reserved]

§ 171.309 General requirements.

The MLS is a precision approach and landing guidance system which provides position information and various ground-to-air data. The position information is provided in a wide coverage sector and is determined by an azimuth angle measurement, an elevation angle measurement and a range (distance) measurement.

(a) An MLS constructed to meet the requirements of this subpart must include:

(1) Approach azimuth equipment, associated monitor, remote control and indicator equipment.

(2) Approach elevation equipment, associated monitor, remote control and indicator equipment.

(3) A means for the transmission of basic data words, associated monitor, remote control and indicator equipment.

(4) Distance measuring equipment (DME), associated monitor, remote control and indicator equipment.

(5) Remote controls for paragraph (a) (1), (2), (3), and (4) of this section must include as a minimum on/off and reset capabilities and may be integrated in the same equipment.

(6) At locations where a VHF marker beacon (75 MHz) is already installed, it may be used in lieu of the DME equipment.

(b) In addition to the equipment required in paragraph (a) of this section the MLS may include:

(1) Back azimuth equipment, associated monitor, remote control and indicator equipment.

(2) A wider proportional guidance sector which exceeds the minimum specified in §§ 171.313 and 171.317.

(3) Precision DME, associated monitor, remote control and indicator equipment.

(4) VHF marker beacon (75 MHz), associated monitor, remote control and indicator equipment.

(5) The MLS signal format will accomodate additional functions (e.g., flare elevation) which may be included as desired. Remote controls for paragraphs (b) (1), (2) and (3) of this section must include as a minimum on/off and reset capabilities, and may be integrated in the same equipment.

(c) MLS ground equipment must be designed to operate on a nominal 120/240 volt, 60 Hz, 3-wire single phase AC power source and must meet the following service conditions:

(1) AC line parameters, DC voltage, elevation and duty:

120 VAC nominal value—102 V to 138 V (±1 V)*
240 VAC nominal value—204 V to 276 V (±2 V)*
60 Hz AC line frequency—57 Hz to 63 Hz (±0.2 Hz)*
24 VDC nominal value—20 V to 30 V (±0.25 V)*

*Note.—Where discrete values of the above frequency or voltages are specified for testing purposes, the tolerances given in parentheses indicated by an asterisk apply to the test instruments used to measure these parameters.

Elevation—0 to 3,000 meters (10,000 feet) above sea level
Duty—Continuous, unattended

(2) Ambient conditions within the shelter for electronic equipment installed in shelters are:

Temperature, −10°C to +50°C
Relative humidity, 5% to 90%

(3) Ambient conditions for electronic equipment and all other equipment installed outdoors (for example, antenna, field detectors, and shelters):

Temperature, −50°C to +70°C
Relative humidity, 5% to 100%

(4) All equipment installed outdoors must operate satisfactorily under the following conditions:

Wind Velocity: The ground equipment shall remain within monitor limits with wind velocities of up to 70 knots from such directions that the velocity component perpendicular to runway centerline does not exceed 35 knots. The ground equipment shall withstand winds up to 100 knots from any direction without damage.
Hail Stones: 1.25 centimeters (½ inch) diameter.
Rain: Provide required coverage with rain falling at a rate of 50 millimeters (2 inches) per hour, through a distance of 9 kilometers (5 nautical miles) and with rain falling at the rate of 25 millimeters (1 inch) per hour for the additional 28 kilometers (15 nautical miles).
Ice Loading: Encased in 1.25 centimeters (½ inch) radial thickness of clear ice.
Antenna Radome De-Icing: Down to −6°C (20°F) and wind up to 35 knots.

(d) The transmitter frequencies of an MLS must be in accordance with the frequency plan approved by the FAA.

(e) The DME component listed in paragraph (a)(4) of this section must comply with the minimum standard performance requirements specified in Subpart G of this part.

(f) The marker beacon components listed in paragraph (b)(4) of this section must comply with the minimum standard performance requirements specified in Subpart H of this part.

§ 171.311 Signal format requirements.

The signals radiated by the MLS must conform to the signal format in which angle guidance functions and data functions are transmitted sequentially on the same C-band frequency. Each function is identified by a unique digital code which initializes the airborne receiver for proper processing. The signal format must meet the following minimum requirements:

(a) *Frequency Assignment.* The ground components (except DME/Marker Beacon) must operate on a single frequency assignment or channel, using time division multiplexing. These components must be capable of operating on any one of the 200 channels spaced 300 KHz apart with center frequencies from 5031.0 MHz to 5090.7 MHz and with channel numbering as shown in Table 1. The operating radio frequencies of all ground components must not vary by more than ±10 KHz from the assigned frequency. Any one transmitter frequency must not vary more than ±50 Hz in any one second period.

TABLE 1.—FREQUENCY CHANNEL PLAN

Channel No.	Frequency (MHz)
500	5031.0
501	5031.3
502	5031.6
503	5031.9
504	5032.2
505	5032.5
506	5032.8
507	5033.1
508	5033.4
509	5033.7
510	5034.0
511	5034.3
598	5060.4
599	5060.7
600	5061.0
601	5061.3
698	5090.4
699	5090.7

(b) *Polarization.* (1) The radio frequency emissions from all ground equipment must be nominally vertically polarized. Any horizontally polarized radio frequency emission component from the ground equipment must not have incorrectly coded angle information such that the limits specified in paragraphs (b)(2) and (3), of this section are exceeded.

(2) Rotation of the receiving antenna thirty degrees from the vertically polarized position must not cause the guidance information to change by more than 40% of the allowable path following error applicable at that location.

(3) All system accuracy limits must be met with the receiving antenna up to thirty degrees from the vertically polarized position.

(c) *Modulation Requirements.* Each function transmitter must be capable of DPSK and continuous wave (CW) modulations of the RF carrier which have the following characteristics:

(1) *DPSK.* The DPSK signal must have the following characteristics:

bit rate	15.625KHz
bit length	64 usec.
logic "0"	no phase transition
logic "1"	phase transition
phase transition	less than 10μsec.
phase tolerance	± 10 degrees

It is intended that the phase transition be made without amplitude modulation. Figure 1 illustrates the phase characteristics of two logic "1" bits in sequence. Control must be such that the time interval for phase transition does not exceed 10μsec and the phase rate of change is consistent with the requirements of paragraph (d) of this section. The phase characteristic inside

section. The phase characteristic inside the transition region must be as linear as possible and in no case deviate more than ± 90 degrees from a linear transition.

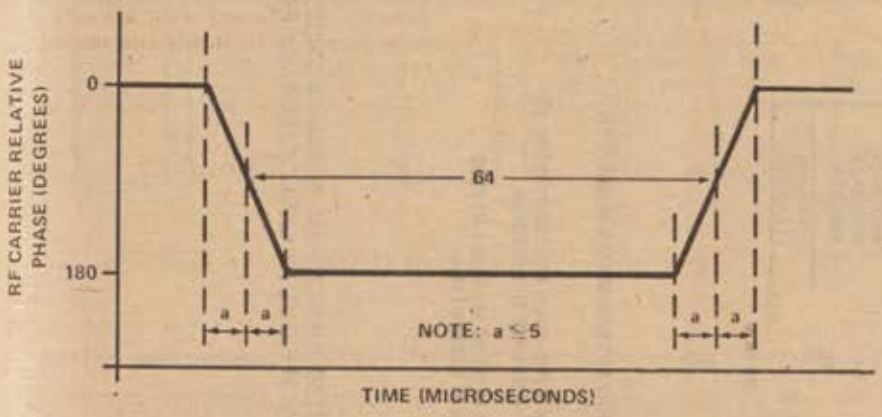

FIGURE 1. DPSK PHASE CHARACTERISTICS

(2) *CW.* The CW pulse transmissions and the CW angle transmissions as may be required in the signal format of any function must have characteristics such that the requirements of paragraph (d) of this section are met.

(d) *Radio Frequency Signal Spectrum.* The transmitted signal must be such that during the transmission time, the mean power density above a height of 600 meters (2000 feet) does not exceed -100.5 dBW/m^2 for angle guidance and -95.5 dBW/m^2 for data, as measured in 150 KHz bandwidth centered at a frequency of 840 KHz or more from the assigned frequency.

(e) *Synchronization.* Synchronization between the azimuth and elevation components is required and, in split-site configurations, would normally be accomplished by landline interconnections. Synchronization monitoring must be provided to preclude function overlap.

(f) *Transmission Rates.* Angle guidance and data signals must be transmitted at the following average repetition rates:

Function	Average data rate (Hertz per second)
Approach Azimuth	13 ± 0.5
High Rate Approach Azimuth	[1] 39 ± 1.5
Approach Elevation	39 ± 1.5
Back Azimuth	6.5 ± 0.25
Basic Data	[2]

[1] The higher rate is recommended for azimuth scanning antennas with beamwidths greater than two degrees. It should be noted that the time available in the signal format for additional functions is limited when the higher rate is used.

[2] Refer to Basic Data Functions Timing, Table 7.

(g) *Transmission Sequences.* Sequences of angle transmissions which will generate the required repetition rates are shown in Figures 2 and 3.

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NOTES:

1. WHEN BACK AZIMUTH IS PROVIDED, BASIC DATA WORD #2 MUST BE TRANSMITTED ONLY IN THIS POSITION.
2. BASIC DATA WORDS MAY BE TRANSMITTED IN ANY OPEN TIME PERIODS.
3. THE TOTAL TIME DURATION OF SEQUENCE #1 PLUS SEQUENCE #2 MUST NOT EXCEED 134 ms.

FIGURE 2. TRANSMISSION SEQUENCE PAIR WHICH PROVIDES FOR ALL MLS ANGLE GUIDANCE FUNCTIONS

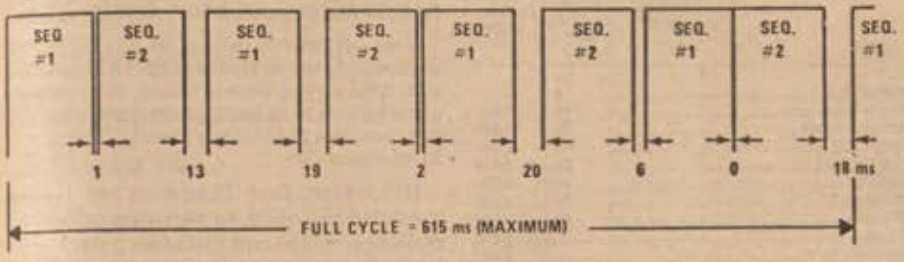
NOTES:

1. BASIC DATA WORDS MAY BE TRANSMITTED IN ANY OPEN TIME PERIODS.
2. WHEN BACK AZIMUTH IS PROVIDED, BASIC DATA WORD #2 MUST BE TRANSMITTED ONLY IN THIS POSITION.
3. THE TOTAL TIME DURATION OF SEQUENCE #1 PLUS SEQUENCE #2 MUST NOT EXCEED 134 ms.

FIGURE 3. TRANSMISSION SEQUENCE PAIR WHICH PROVIDES FOR THE MLS HIGH RATE APPROACH AZIMUTH ANGLE GUIDANCE FUNCTION

BILLING CODE 4910-13-C

(h) *TDM Cycle.* The time periods between angle transmission sequences must be varied so that exact repetitions do not occur within periods of less than 0.5 second in order to protect against synchronous interference. One such combination of sequences is shown in Figure 4 which forms a full multiplex cycle. Basic data may be transmitted during suitable open times within or between the sequences.



NOTE: Angle sequences are those from Figure 2 or 3. Do not mix sequences.

FIGURE 4. A COMPLETE FUNCTION MUTIPLEX CYCLE

(i) *Function Formats (General).* Each angle function must contain the following elements: A preamble; sector signals; and a TO and FRO angle scan organized as shown in Figure 5a. Each data function must contain a preamble and a data transmission period organized as shown in Figure 5b.

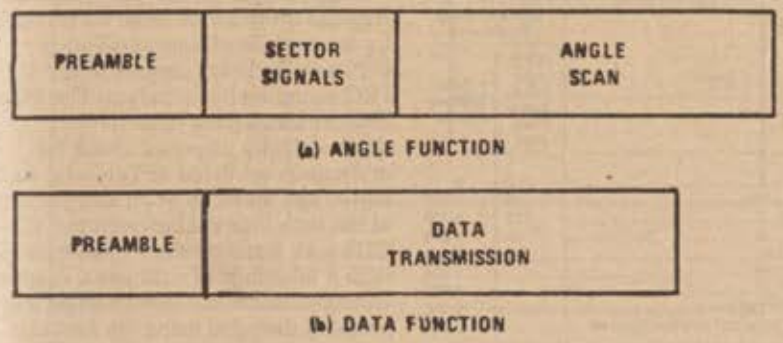


FIGURE 5. FUNCTION FORMAT

(1) *Preamble Format.* The transmitted angle and data functions must use the preamble format shown in Figure 6. This format consists of a carrier acquisition period of unmodulated CW transmission followed by a receiver synchronization code and a function identification code. The preamble timing must be in accordance with Table 2.

FIGURE 6.—PREAMBLE ORGANIZATION

	Carrier acquisition	Synchronization code	Function identification code
Clock pulse 0	13	18	25

(i) *Digital Codes.* The coding used in the preamble for receiver synchronization is a Barker code logic 11101. Receiver timing is established on the transition to the last bit (I_5) of the code (see Table 2). The function identification codes must be as shown in Table 3. The last two bits (I_{11} and I_{12}) of the code are parity bits obeying the equations:

$I_6+I_7+I_8+I_9+I_{10}+I_{11}=\text{Even}$
$I_6+I_8+I_{10}+I_{12}=\text{Even}$

(ii) *Data Modulation.* The digital code portions of the preamble must be DPSK modulated in accordance with § 171.311(c)(1) and must be transmitted throughout the function coverage volume.

TABLE 2.—PREAMBLE TIMING [1]

Event	Event time slot begins at: [2] 15.625 kHz clock pulse (number)	Time (milliseconds)
Carrier acquisition (CW transmission)	0	0
Receiver reference time code:		
$I_1=1$	13	0.832
$I_2=1$	14	0.896
$I_3=1$	15	0.960
$I_4=0$	16	1.024
$I_5=1$	17	[3] 1.088
Function identification code:		
I_6	18	1.152
I_7	19	1.216
I_8	20	1.280
I_9 (see Table 3)	21	1.344
I_{10}	22	1.408
I_{11}	23	1.472
I_{12}	24	1.536
End preamble	25	1.600

[1] Applies to all functions transmitted.
[2] The previous event time slot ends at this time.
[3] Reference time for receiver synchronization for all function timing.

TABLE 3.—FUNCTION IDENTIFICATION CODES

Function	Code I_6	I_7	I_8	I_9	I_{10}	I_{11}	I_{12}
Approach azimuth	0	0	1	1	0	0	1
High rate approach azimuth	0	0	1	0	1	0	0
Approach elevation	1	1	0	0	0	0	1
Back azimuth	1	0	0	1	0	0	1
Basic data 1	0	1	0	1	0	0	0
Basic data 2	0	1	1	1	1	0	0
Basic data 3	1	0	1	0	0	0	0
Basic data 4	1	0	0	0	1	0	0
Basic data 5	1	1	0	1	1	0	0
Basic data 6	0	0	0	1	1	0	1
Basic data 7	1	1	1	0	0	1	0
Basic data 8	1	0	1	0	1	1	1

(2) *Angle Function Formats.* The timing of the angle transmissions must be in accordance with Tables 4a, 4b, and 5. The actual timing of the TO and FRO scans must be as required to meet the accuracy requirements of §§ 171.313 amd 171.317.

(i) *Preamble.* Must be in accordance with requirements of § 171.311(i)(1).

(ii) *Sector Signals.* In all azimuth formats, sector signals must be transmitted to provide Morse Code identification, airborne antenna selection, and system test signals. These signals are not required in the elevation

formats. In addition, if the signal from an installed ground component results in a valid indication in an area where no valid guidance exists, OCI signals must be radiated as provided for in the signal format (see Tables 4a, 4b, and 5). The sector signals are defined as follows:

(A) *Morse Code.* DPSK transmissions that will permit Morse Code facility identification in the aircraft by a four letter code starting with the letter "M" must be included in all azimuth functions. They must be transmitted and repeated at approximately equal intervals, not less than six times per minute, during which time the ground subsystem is available for operational use. When the transmissions of the ground subsystem are not available, the identification signal must be suppressed. The audible tone in the aircraft is started by setting the Morse Code bit to logic "1" and stopped by a logic "0" (see Tables 4a and 4b). The identification code characteristics must conform to the following: The dot must be between 0.13 and 0.16 second in duration, and the dash between 0.39 and 0.48 second. The duration between dots and/or dashes must be one dot plus or minus 10%. The duration between characters (letters) must not be less then three dots.

(B) *Airborne Antenna Selection.* A signal for airborne antenna selection shall be transmitted as a "zero" DPSK signal lasting for a six-bit period (See Tables 4a and 4b).

TABLE 4a.—APPROACH AZIMUTH FUNCTION TIMING

Event	Event time slot begins at: [1]	
	15.625 kHz clock pulse (number)	Time (milliseconds)
Preamble	0	0
Morse code	25	1.600
Antenna select	26	1.664
Rear OCI	32	2.048
Left OCI	34	2.176
Right OCI	36	2.304
TO test	38	2.432
TO scan [2]	40	2.560
Pause		8.760
Mid scan point		9.060
FRO scan [2]		9.360
FRO test		15.560
End function (airborne)		15.688
End guard time; end function (ground)		15.900

[1] The previous event time slot ends at this time.
[2] The actual commencement and completion of the TO and FRO scan transmissions are dependent on the amount of proportional guidance provided. The time slots provided will accommodate a maximum scan of ±62 degrees. Scan timing must be compatible with accuracy requirements.

TABLE 4b.—HIGH RATE APPROACH AZIMUTH AND BACK AZIMUTH FUNCTION TIMING

Event	Event time slot begins at: [1]	
	15.625 kHz clock pulse (number)	Time (milliseconds)
Preamble	0	0
Morse code	25	1.600
Antenna select	26	1.664
Rear OCI	32	2.048
Left OCI	34	2.176
Right OCI	36	2.304
TO test	38	2.432
TO scan [2]	40	2.560
Pause		6.760
Mid scan point		7.060
FRO scan [2]		7.360
FRO test		11.560
End function (airborne)		11.688
End guard time; end function (ground)		11.900

[1] The previous event time slot ends at this time.
[2] The actual commencement and completion of the TO and FRO scan transmissions are dependent upon the amount of proportional guidance provided. The time slots provided will accommodate a maximum scan of ±42 degrees. Scan timing must be compatible with accuracy requirements.

TABLE 5.—APPROACH ELEVATION FUNCTION TIMING

Event	Event time slot begins at: [1]	
	15.625 kHz clock pulse (number)	Time (milliseconds)
Preamble	0	0
Processor pause	25	1.600
OCI	27	1.728
TO scan [2]	29	1.856
Pause		3.406
Mid scan point		3.606
FRO scan [2]		3.806
End function (airborne)		5.356
End guard time; end function (ground)		5.600

[1] The previous event time slot ends at this time.
[2] The actual commencement and completion of the TO and FRO scan transmissions are dependent upon the amount of proportional guidance provided. The time slots provided will accommodate a maximum scan of −1.5 degrees to +29.5 degrees. Scan timing must be compatible with accuracy requirements.

(C) *OCI.* Where OCI pulses are used, they must be: (*1*) Greater than any guidance signal in the OCI sector; (*2*) at least 5dB less than the level of the scanning beam within the proportional guidance sector; and (*3*) for azimuth functions with clearance signals, at least 5dB less than the level of the left (right) clearance pulses within the left (right) clearance sector. The duration of each pulse measured at the half amplitude points must be 100 (±10) microseconds and the rise and fall times must be less than 10 microseconds.

Note.—If desired, two pulses may be sequentially transmitted in each OCI time slot. Where pulse pairs are used, the duration of each pulse must be 45 (±5) microseconds and the rise and fall times must be less than 10 microseconds.

(D) *System Test.* Time slots are provided in Tables 4a and 4b to allow radiation of TO and FRO test pulses. Radiation of these pulses is not required, however, since the characteristics of these pulses have not yet been standardized.

(iii) *Angle encoding.* The encoding must be as follows:

(A) *General.* Azimuth and elevation angles are encoded by scanning a narrow beam between the limits of the proportional coverage sector first in one direction (the "TO" scan) and then in the opposite direction (the "FRO" scan). Angular information must be encoded by the amount of time separation between the beam centers of the TO and FRO scanning beam pulses. The TO and FRO transmissions must be symmetrically disposed about the midscan point listed in Table 4a, 4b, 5, and 7. The midscan point and the center of the time interval between the TO and FRO scan transmissions must coincide with a tolerance of ±10 μsec. Angular coding must be linear with angle and properly decoded using the formula:

$$\theta = \frac{V}{2}(T_o - t)$$ where:

θ = Receiver angle in degrees
V = Scan velocity in degrees per microsecond
T_o = Time separation in microseconds between TO and FRO beam centers corresponding to zero degrees.
t = Time separation in microseconds between TO and FRO beam centers

The timing requirements are listed in Table 6 and illustrated in Figure 7.

TABLE 6.—ANGLE SCAN TIMING CONSTANTS

Function	Max value of t_i (μsec)	T_m (μsec)	V(deg/μsec)	T_m (μsec)	Pause time (μsec)	T_i (μsec)
Approach azimuth	13,000	6,500	0.02	7,972	600	13,128
High rate approach azimuth	9,000	4,500	.02	5,972	600	9,128
Approach elevation	3,500	3,350	.02	2,518	400	NA
Back azimuth	9,000	4,500	.02	5,972	600	9,128

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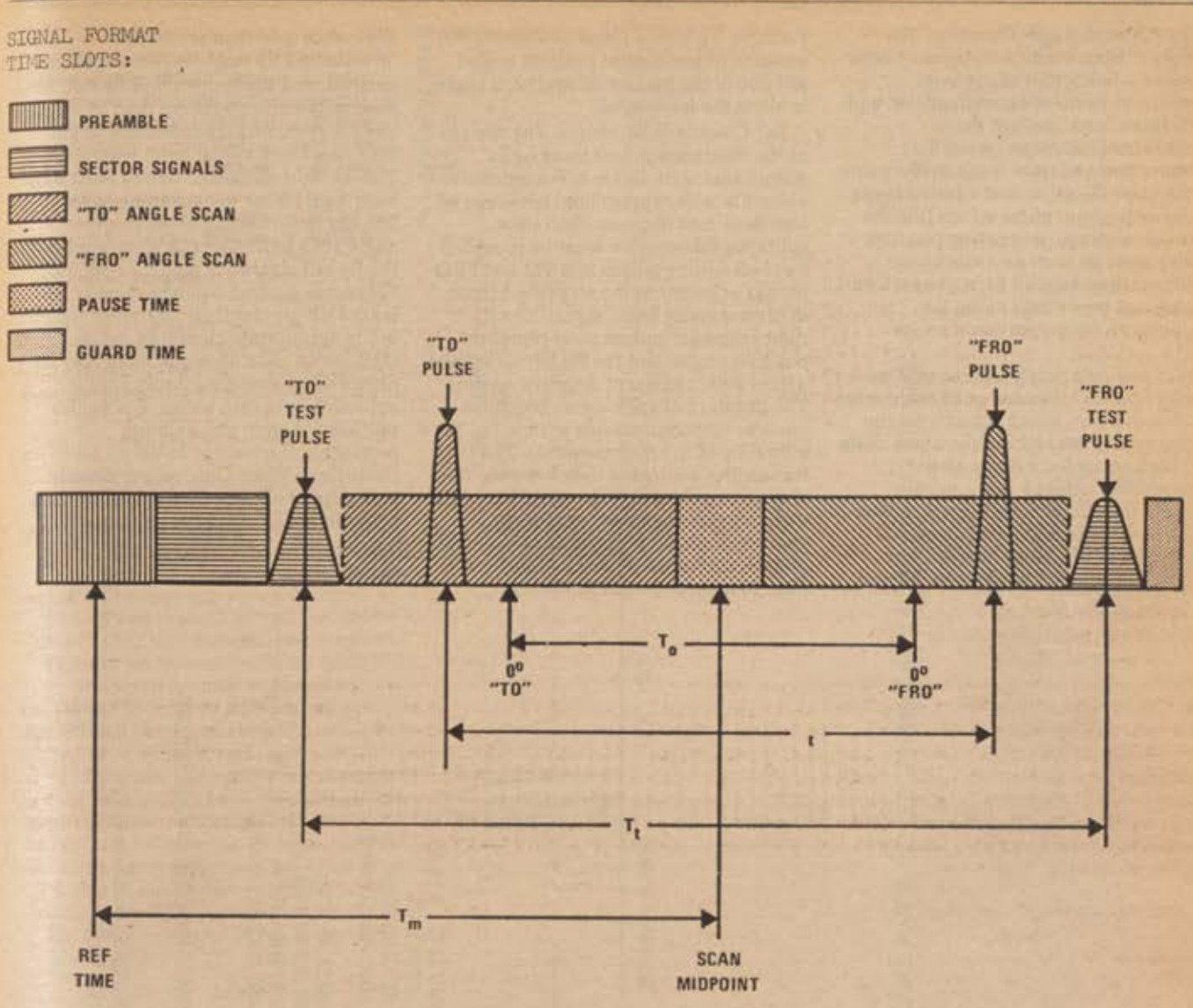

FIGURE 7. AZIMUTH ANGLE SCAN TIMING (NOT TO SCALE)

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(B) *Azimuth Angle Encoding.* The radiation from azimuth equipment must produce a beam that scans from negative to positive azimuth angles and then scans back through the proportional coverage sector. The antenna has a narrow beam in the plane of the scan direction and a broad beam in the orthogonal plane which fills the vertical coverage. Increasing positive angles must be seen as a clockwise rotation when viewed from above. Zero angle must be defined along the midpoint of the proportional sector.

(C) *Elevation Angle Encoding.* The radiation from elevation equipment must produce a beam which scans from the horizon up to the highest elevation angle and then scans back down to the horizon. The antenna has a narrow beam in the plane of the scan direction and a broad beam in the orthogonal plane which fills the horizontal coverage. Elevation angles are defined from the horizonal plane containing the antenna phase center; positive angles are above the horizontal and zero angle is along the horizontal.

(iv) *Clearance Guidance.* The timing of the clearance pulses must be in accordance with figure 8. For azimuth elements with proportional coverage of less than ±40 degrees, clearance guidance information must be provided by transmitting pulses in a TO and FRO format adjacent to the stop/start times of the scanning beam signal. The fly right clearance pulses must represent positive angles and the fly left clearance pulses must represent negative angles. The duration of each clearance pulse must be 50 microseconds with a tolerance of ±5 microseconds. The transmitter switching time between the clearance pulses and the scanning beam transmissions must not exceed 10 microseconds. The rise time at the edge of each clearance pulse must be less than 10 microseconds. In the right clearance guidance sector, the transmitted fly right clearance pulses must exceed the transmitted fly left clearance pulses by more than 15 dB and must exceed the sidelobes of the scanning beam signal by at least 5 dB. The fly right clearance pulses must be at least 5 dB below the scanning beam leval at the scanning beam positive angle scan limit. The converse applies to the fly left clearance guidance sector. Clearance guidance pulses must be at least 5 dB greater than any other signal in the appropriate clearance sector. Optionally, clearance guidance may be provided by scanning throughout the approach guidance sector. For angles outside the approach azimuth proportional coverage limits as set in Basic Data Word One, proper decode and display of clearance guidance must occur to the limits of the guidance region.

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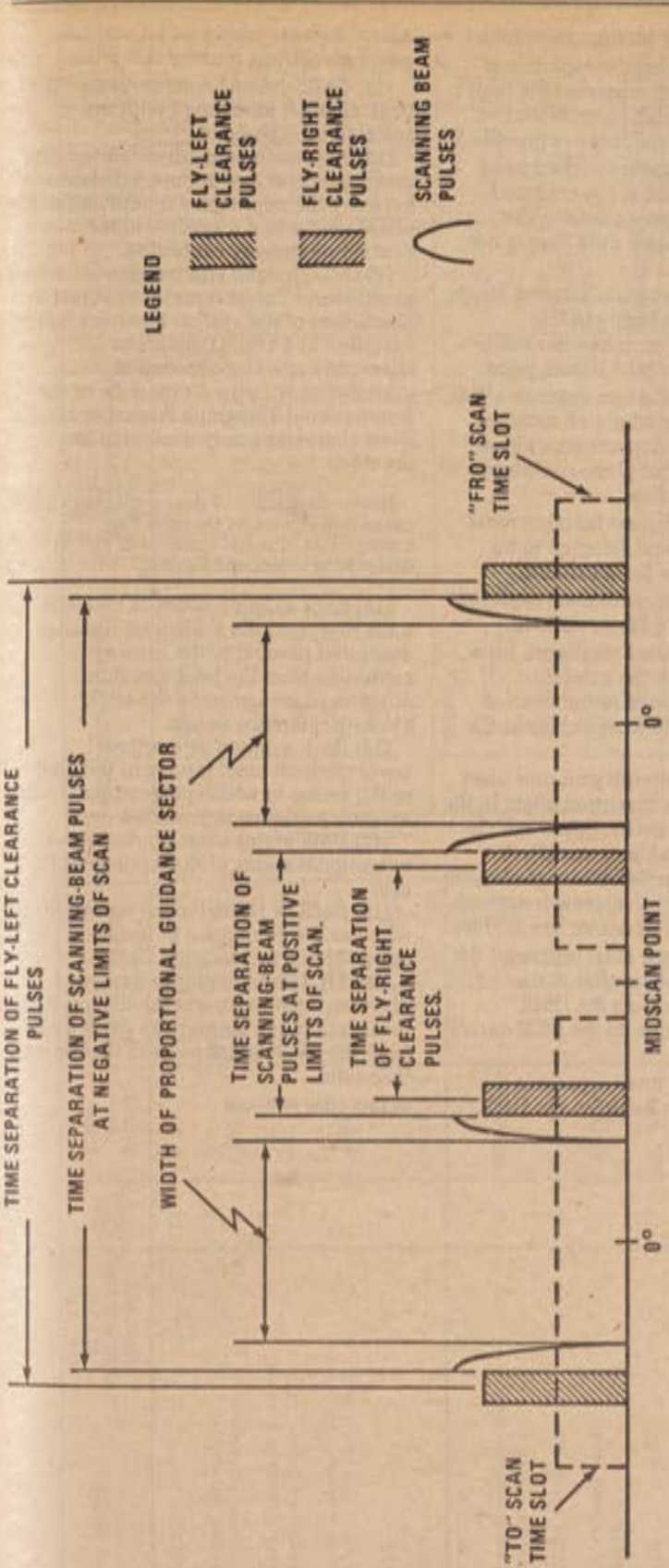

FIGURE 8. CLEARANCE PULSE TIMING FOR AZIMUTH FUNCTIONS

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(3) *Data Function Format.* Basic data words provide equipment characteristics and certain siting information. Basic data words must be transmitted from an antenna located at the approach azimuth or back azimuth site which provides coverage throughout the appropriate sector. Data function timing must be in accordance with Table 7 as follows:

TABLE 7.—BASIC DATA FUNCTION TIMING

Event	Event time slot begins at:[1]	
	15.625 kHz clock pulse (number)	Time (milliseconds)
Preamble	0	0
Data transmission (bits I_{31}–I_{00})	25	1.600
Parity Transmission (bits I_{31}–I_{00})	43	2.752
End function (airborne)	45	2.880
End guard time; end function (ground)		3.100

[1] The previous event time slot ends at this time.

(i) *Preamble.* Must be in accordance with requirements of § 171.311(i)(l).

(ii) *Data Transmissions.* Basic data must be transmitted using DPSK modulation. The content and repetition rate of each basic data word must be in accordance with Table 8. For data containing digital information, binary number 1 must represent the lower range limit with increments in binary steps to the upper range limit shown in Table 8.

(j) *Basic Data Word Requirement.* Specific basic data word requirements are as follows:

(1) Approach azimuth to threshold distance must represent the distance measured parallel to the runway centerline from the approach azimuth antenna to runway landing threshold.

(2) Approach azimuth proportional coverage limit must represent the limit of the sector in which proportional approach azimuth guidance is provided.

(3) Ground equipment performance level must represent the operational status of the equipment in use. The exact use of this basic data item is not yet defined.

(4) Approach elevation antenna height must represent the height of the elevation antenna phase center relative to the height of the MLS datum point.

(5) Approach elevation antenna offset must represent the minimum distance between the elevation antenna phase center and a vertical plane containing the runway centerline.

(6) Back azimuth next function must indicate that the next function to be transmitted will be back azimuth.

(7) Minimum glidepath must represent the minimum glidepath as defined.

(8) Beamwidth must represent, for a particular function, the antenna beamwidth as defined to the nearest least significant bit provided for in the data word.

(9) Approach azimuth guidance alert must represent the elevation angle in the specified azimuth sector below which guidance is unreliable or unsafe. A binary code "0" on this message element must indicate that all approach azimuth angles in a particular sector are usable.

(10) DME distance must represent the distance measured parallel to the runway centerline from the DME antenna phase center to the MLS datum point.

(11) DME offset must represent the minimum distance between the DME antenna phase center and a vertical plane containing runway centerline.

(12) DME channel must represent the DME channel associated with the selected MLS channel.

(13) Approach azimuth antenna offset must represent the minimum distance between the approach azimuth antenna phase center and a vertical plane containing runway centerline.

(14) MLS ground equipment identification must represent the last 3 characters of the system identification specified in § 171.311(i)(2). The characters must be encoded in accordance with the 5-unit code of the International Telegraph Alphabet No. 2. Even character parity must also be provided.

Note.—Restriction of data content to alpha characters eliminates the need for transmission of signal numbers 29 and 30 designating letters and figures.

(15) Back azimuth antenna distance must represent the horizontal distance measured parellel to the runway centerline from the back azimuth antenna phase center to the back azimuth reference datum.

(16) Back azimuth proportional coverage limit must represent the limit of the sector in which proportional back azimuth guidance is provided.

(17) DME status must represent the operational status of the equipment in use.

(18) DME or DME/P must represent whether the equipment in use is conventional or precision DME.

(19) MLS datum point to threshold distance must represent the distance measured along the runway centerline from the MLS datum point to the runway threshold.

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TABLE 8. BASIC DATA

WORD	DATA CONTENT	MAX. TIME BETWEEN TRANSMISSIONS (SECONDS)	BITS USED	RANGE OF VALUES	LEAST SIGNIFICANT BIT	BIT NUMBER
1	PREAMBLE	0.4	12			$I_1 - I_{12}$
	Approach Azimuth to Threshold Distance		6	0M to 6300M	100M	$I_{13} - I_{18}$
	Approach Azimuth Proportional Coverage Limit		5	-10° to -60°	2°	$I_{19} - I_{23}$
	Approach Azimuth Proportional Coverage Limit		5	$+10^\circ$ to $+60^\circ$	2°	$I_{24} - I_{28}$
	SPARE		2			$I_{29} - I_{30}$
	PARITY		2	SEE NOTE 1		$I_{31} - I_{32}$
2	PREAMBLE	0.16	12			$I_1 - I_{12}$
	Ground Equipment Performance Level		2	SEE NOTE 2		$I_{13} - I_{14}$
	Minimum Glide-path		6	2° to 8.2°	0.1°	$I_{15} - I_{20}$
	Back Azimuth Next Function		1	SEE NOTE 3		I_{21}
	SPARE		7	SEE NOTE 6		$I_{22} - I_{28}$
	DME Status		2	SEE NOTE 2		$I_{29} - I_{30}$
	PARITY		2	SEE NOTE 1		$I_{31} - I_{32}$
3	PREAMBLE	10	12			$I_1 - I_{12}$
	Approach Azimuth Beamwidth		3	0.5° to 4°	0.5°	$I_{13} - I_{15}$
	Approach Elevation Beamwidth		3	0.5° to 2.5°	0.5°	$I_{16} - I_{18}$
	Flare Elevation Beamwidth		2	0.5° to 1°	0.25°	$I_{19} - I_{20}$

TABLE 8. BASIC DATA (Continued)

WORD	DATA CONTENT	MAX. TIME BETWEEN TRANSMISSIONS (SECONDS)	BITS USED	RANGE OF VALUES	LEAST SIGNIFICANT BIT	BIT NUMBER
	Approach Azimuth Sector guidance Alert					
	-60° to -20°		3	1° to 8°	1°	$I_{21} - I_{23}$
	-20° to -5°		2	1° to 4°	1°	$I_{24} - I_{25}$
	$+20^\circ$ to $+5^\circ$		2	1° to 4°	1°	$I_{26} - I_{27}$
	$+60^\circ$ to $+20^\circ$		3	1° to 8°	1°	$I_{28} - I_{30}$
	PARITY		2	SEE NOTE 1		$I_{31} - I_{32}$
4	PREAMBLE	10	12			$I_1 - I_{12}$
	DME Distance		11	0M to 8000 M	4M	$I_{13} - I_{23}$
	DME Offset		6	-155M to +155M	5M	$I_{24} - I_{29}$
	SPARE		1	SEE NOTE 7		I_{30}
	PARITY		2	SEE NOTE 1		$I_{31} - I_{32}$
5	PREAMBLE	10	12			$I_1 - I_{12}$
	Approach Azimuth Antenna Offset		7	-126M to +126M	2M	$I_{13} - I_{19}$
	DME or DME/P		1	SEE NOTE 7 DME = 0 DME/P = 1		I_{20}
	DME Channel		9	SEE NOTE 8		$I_{21} - I_{29}$
	SPARE		1			I_{30}
	PARITY		2	SEE NOTE 1		$I_{31} - I_{32}$

TABLE 8. BASIC DATA (Continued)

WORD	DATA CONTENT	MAX. TIME BETWEEN TRANSMISSIONS (SECONDS)	BITS USED	RANGE OF VALUES	LEAST SIGNIFICANT BIT	BIT NUMBER
6	PREAMBLE	10	12			$I_1 - I_{12}$
	MLS Ground Subsystem Identification (SEE NOTE 4)			LETTERS A to Z		
	Character 2		6			$I_{13} - I_{18}$
	Character 3		6			$I_{19} - I_{24}$
	Character 4		6			$I_{25} - I_{30}$
	PARITY		2	SEE NOTE 1		$I_{31} - I_{32}$
7	PREAMBLE	1	12	SEE NOTE 5		$I_1 - I_{12}$
	Ground Equipment Performance Level		2	SEE NOTE 2		$I_{13} - I_{14}$
	Back Azimuth Antenna Distance		5	0M to 310M	10M	$I_{15} - I_{19}$
	Back Azimuth Proportional Coverage Limit		4	-10° to -40°	2°	$I_{20} - I_{23}$
	Back Azimuth Proportional Coverage Limit		4	$+10^\circ$ to $+40^\circ$	2°	$I_{24} - I_{27}$
	Back Azimuth Beamwidth		2	1° to 4°	1°	$I_{28} - I_{29}$
	SPARE		1			I_{30}
	PARITY		2	SEE NOTE 1		$I_{31} - I_{32}$
8	PREAMBLE	10	12			$I_1 - I_{12}$
	Elevation Antenna Height		6	-0M +5.2M SEE NOTE 7	0.2M	$I_{13} - I_{18}$
	Elevation Antenna Offset		5	-150M to +150M SEE NOTE 7	10M	$I_{19} - I_{23}$
	MLS Datum Point to threshold distance		7	0M to 630M	5M	$I_{24} - I_{30}$
	PARITY		2	SEE NOTE 1		$I_{31} - I_{32}$

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TABLE 8. BASIC DATA (Continued)

NOTES

NOTE 1 Parity checks that there is an even number of ones in Bits I_{13} to I_{30} and obeys the equations:

$$I_{13} + I_{14} \cdots + I_{29} + I_{30} + I_{31} = \text{EVEN}$$

$$I_{14} + I_{16} + I_{18} \cdots + I_{28} + I_{30} + I_{32} = \text{EVEN}$$

NOTE 2 Coding not yet defined.

NOTE 3 Code for I_{21} is:

0= No Back Azimuth Transmission
1= Back Azimuth Transmission to follow

NOTE 4 Data word 6 is transmitted for both approach azimuth and back azimuth coverages alternately and at the 10-second maximum time between transmissions for each coverage sector, if back azimuth guidance is provided.

NOTE 5 Data word 7 is transmitted from the back azimuth equipment.

NOTE 6 These bits are reserved for future applications requiring high transmission rates.

NOTE 7 The convention for the coding of negative numbers is as follows:

MSB is the sign bit: 0 = +
1 = -

-Other bits represent the absolute value.

The convention for the antenna location is as follows: as viewed from the MLS approach reference datum looking toward the MLS datum point, a positive number shall represent a location to the right of the runway centre line (lateral offset) or above the runway (vertical offset).

NOTE 8 Coding not yet defined. 9 bits provide the capability to encode frequency and mode separately

§ 171.313 Azimuth performance requirements.

This section prescribes the performance requirements for the azimuth equipment of the MLS as follows:

(a) *Approach Azimuth Coverage Requirements.* The approach azimuth equipment must provide guidance information in at least the following volume of space (see Figure 9).

(1) Horizontally within a sector plus or minus 40 degrees about the runway centerline originating at the datum point and extending in the direction of the approach to 20 nautical miles from the runway threshold. The minimum proportional guidance sector must be plus or minus 10 degrees about the runway centerline. Clearance signals must be used to provide the balance of the required coverage, where the proportional sector is less than plus or minus 40 degrees. When intervening obstacles prevent full coverage, the ±40° guidance sector can be reduced as required.

(2) Vertically between:

(i) A conical surface originating 2.5 meters (8 feet) above the runway centerline at threshold inclined at 0.9 degree above the horizontal, and

(ii) A conical surface originating at the azimuth ground equipment antenna inclined at 15 degrees above the horizontal to a height of 6,000 meters (20,000 feet).

(iii) Where intervening obstacles penetrate the lower surface, coverage need be provided only to the minimum line of sight.

(3) Runway region.

(i) Proportional guidance horizontally within a sector 45 meters (150 feet) each side of the runway centerline beginning at the stop end and extending parallel with the runway centerline in the direction of the approach to join the approach region. This requirement does not apply to azimuth offset installations.

(ii) Vertically between a horizontal surface which is 2.5 meters (8 feet) above the farthest point of runway centerline which is in line of sight of the azimuth antenna, and, a conical surface originating at the azimuth ground equipment antenna inclined at 20 degrees above the horizontal up to a height of 600 meters (2,000 feet). This requirement does not apply to azimuth offset installations.

(4) Within the approach azimuth coverage sector defined in paragraph (a) (1), (2) and (3) of this section, the power densities must not be less than those shown in Table 9 but the equipment design must also allow for:

(i) Transmitter power degradation from normal by −1.5 dB;

(ii) Rain loss of −2.2 dB at the longitudinal coverage extremes.

(b) *Siting Requirements.* The approach azimuth antenna system must, except as allowed in paragraph (c) of this section:

(1) Be located on the extension of the centerline of the runway beyond the stop end;

(2) Be adjusted so that the zero degree azimuth plane will be a vertical plane which contains the centerline of the runway served;

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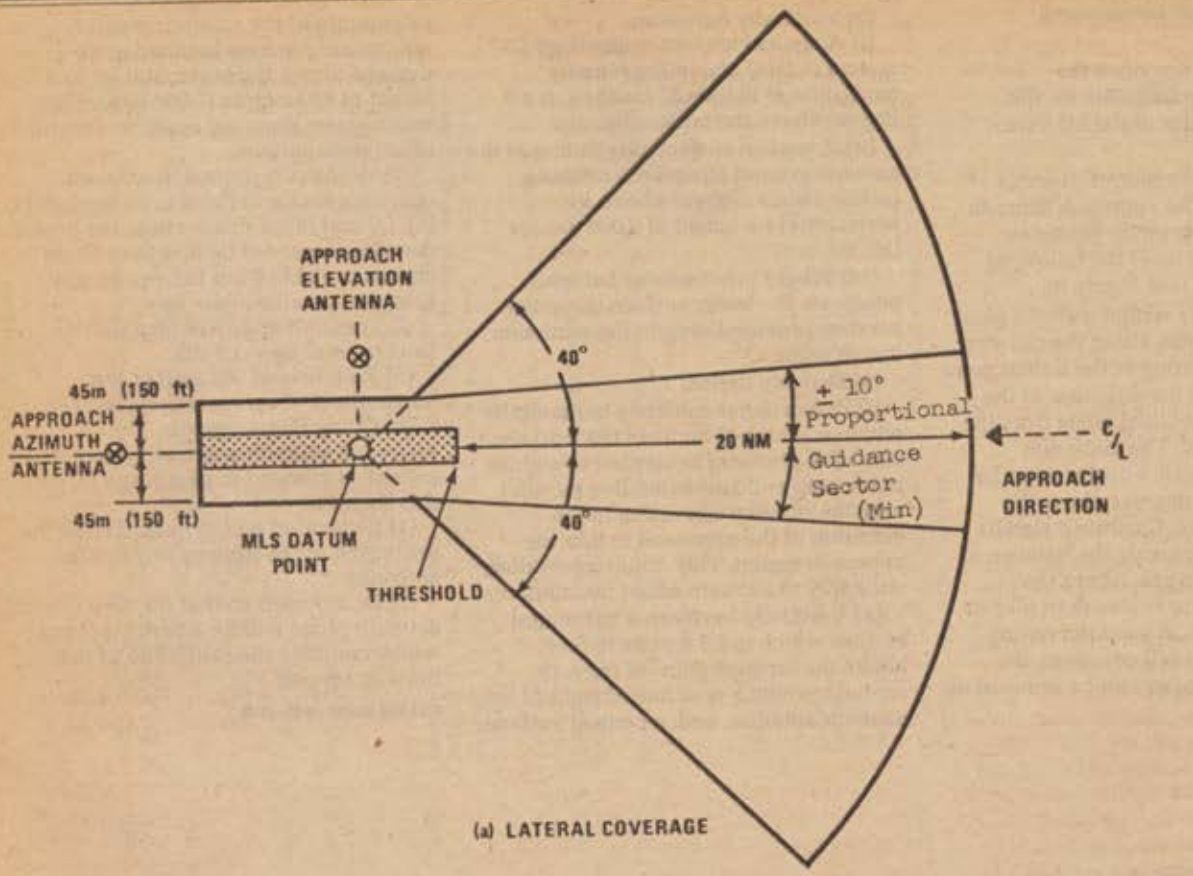

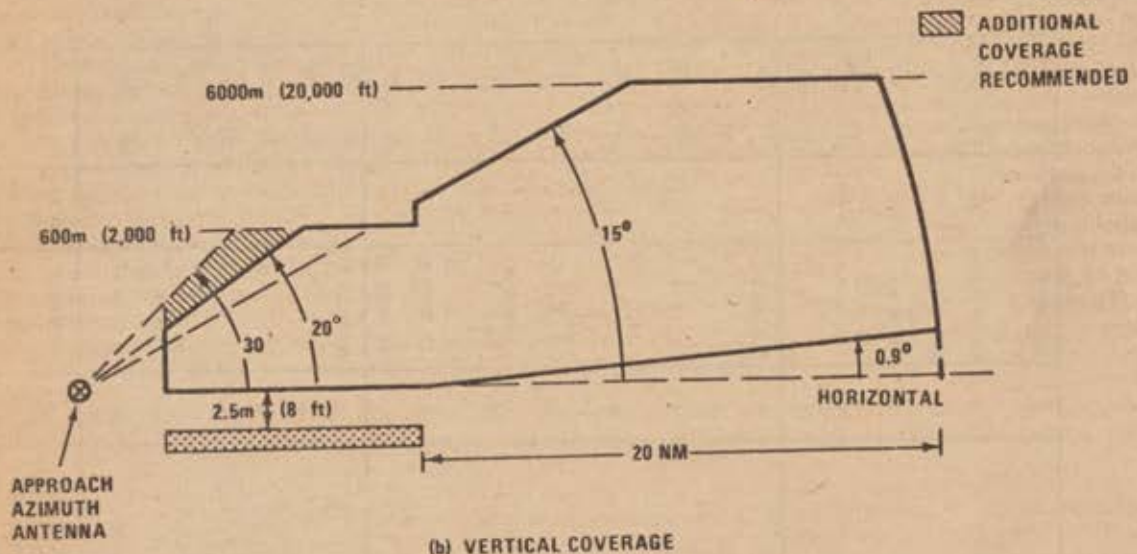

FIGURE 9. APPROACH AZIMUTH COVERAGE

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TABLE 9.—AZIMUTH POWER DENSITY REQUIREMENTS (dBW/m²)

Function	DPSK	Clearance	Antenna beamwidth (3dB)		
			1°	2°	3°
Approach azimuth	−89.5	−88	−88	−85.5	−82
High rate approach azimuth	−89.5	−88	−88	−88	−86.8
Back azimuth	−81	−88	−79.5	−77	−73.5

(3) Have the minimum height necessary to comply with the coverage requirements prescribed in paragraph (a) of this section;

(4) Be located at a distance from the stop end of the runway that is consistent with safe obstruction clearance practices;

(5) Not obscure any light of an approach lighting system; and

(6) Be installed on frangible mounts or beyond the 300 meter (1,000 feet) light bar.

(c) On runways where limited terrain prevents the azimuth antenna from being positioned on the runway centerline extended, and the cost of the land fill or a tall tower antenna support is prohibitive, the azimuth antenna may be offset. In an offset azimuth antenna is used, the criteria in Subpart C of Part 97 (TERPS) of this chapter is applicable. Incorporated by reference is United States Standard for Terminal Instrument Procedures (TERPS), FAA Handbook AOP 8260.3 through change 3, dated June 3, 1980, which prescribes standardized methods for use in designing instrument flight procedures. It is available from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161 and also available for inspection at the Office of the Federal Register Information Center, Room 8301, 1100 L Street, N.W., Washington, D.C. 20408.

(d) Antenna coordinates. The scanning beams transmitted by the approach azimuth equipment within ±40° of the centerline may be either conical or planar.

(e) Approach azimuth accuracy.

(1) The system and subsystem accuracies shown in Table 10 and the associated notes are required at the approach reference datum. From this point accuracy degradations must not exceed the following limits:

(i) *With distance.* The system PFE limit and PFN limit, expressed in angular terms at 20 nautical miles from the runway threshold along the extended runway centerline at the lower coverage limit is the lesser of either 2 times the value specified at the approach reference datum or 0.3 degrees. The CMN limits expressed in angular terms at 10 nautical miles from the reference datum along the extended runway centerline is 1.3 times the value specified at the approach reference datum or 0.1 degree, whichever is less.

(ii) *With azimuth angle.* The system PFE limit and PFN limit, expressed in angular terms at plus or minus 40 degrees azimuth angle is 1.5 times the value on the extended runway centerline at the same distance from the approach reference datum. The CMN limit, expressed in angular terms at plus or minus 40 degrees azimuth angle is 1.3 times the value on the extended runway centerline at the same distance from the approach reference datum.

(iii) *With elevation angle.* The system PFE and PFN limit, do not degrade from the lower coverage limit up to an elevation angle of 9 degrees. The system PFE limit or PFN limit expressed in angular terms at an elevation angle of 15 degrees from the approach azimuth antenna phase center is 2 times the value permitted below 9 degrees at the same distance from the approach reference datum and the same azimuth angle. The CMN limit does not degrade with elevation angle.

(2) The system and ground subsystem accuracies shown in Table 10 are to be demonstrated at commissioning as maximum error limits. Subsequent to commissioning, the accuracies are considered to be the 95% probability limits.

TABLE 10.—APPROACH AZIMUTH ACCURACIES AT THE APPROACH REFERENCE DATUM

Error type	System	Angular error (degrees)	
		Ground subsystem	Airborne[5] subsystem
PFE	±20 ft.[1 2] (6.1m).	±10 ft.[4]	±0.017
CMN	±10.5 ft. (3.2m)[1 4]	±0.030	±0.015

NOTES:
[1] Includes errors due to ground and airborne equipment and propagation effects.
[2] The system PFN component must not exceed ±3.5 meters (11.5 feet).
[3] The equivalent angular error must not exceed 0.12°.
[4] The system control motion noise must not exceed 0.1°.
[5] The airborne subsystem angular errors are provided for information only.

(f) Approach azimuth antenna characteristics are as follows:

(1) *Drift.* Any azimuth angle as encoded by the scanning beam at any point within the proportional coverage sector must not vary more than ±0.07 degree over the range of service conditions specified in § 171.309(d) without the use of internal environmental controls. Multipath effects are excluded from this requirement.

(2) *Beam pointing errors.* The azimuth angle as encoded by the scanning beam at any point within ±0.5 degree of the zero degree azimuth must not deviate from the true azimuth angle at that point by more than ±0.05 degree. Multipath and drift effects are excluded from this requirement.

(3) *Antenna alignment.* The antenna must be equipped with suitable optical, electrical or mechanical means or any combination of the three, to bring the zero degree azimuth radial into coincidence with the approach reference datum with a maximum error of 0.02 degree. Additionally, the azimuth antenna bias adjustment must be electronically steerable at least to the monitor limits in steps not greater than 0.01 degree.

(4) *Antenna far field patterns in the plane of scan.* On boresight, the azimuth antenna mainlobe pattern must conform to Figure 10, and the beamwidth must be such that, in the installed environment, no significant lateral reflections of the mainlobe exist along the approach course. In any case the beamwidth must not exceed three degrees. Anywhere within coverage the −3 dB width of the antenna mainlobe, while scanning normally, must not be less than 25 microseconds (0.5 degree) or greater than 250 microseconds (5 degrees). The antenna mainlobe may be allowed to broaden from the value at boresight by a factor of $1/\cos\phi$, where ϕ is the angle off boresight. The sidelobe levels must be as follows:

(i) *Dynamic sidelobe levels.* With the antenna scanning normally, the dynamic sidelobe level that is detected by a receiver at any point within the proportional coverage sector must be down at least 10dB from the peak of the main beam. Outside the coverage sector, the radiation from the scanning beam antenna must be of such a nature that receiver warnings will not be removed or suitable OCI signals must be provided.

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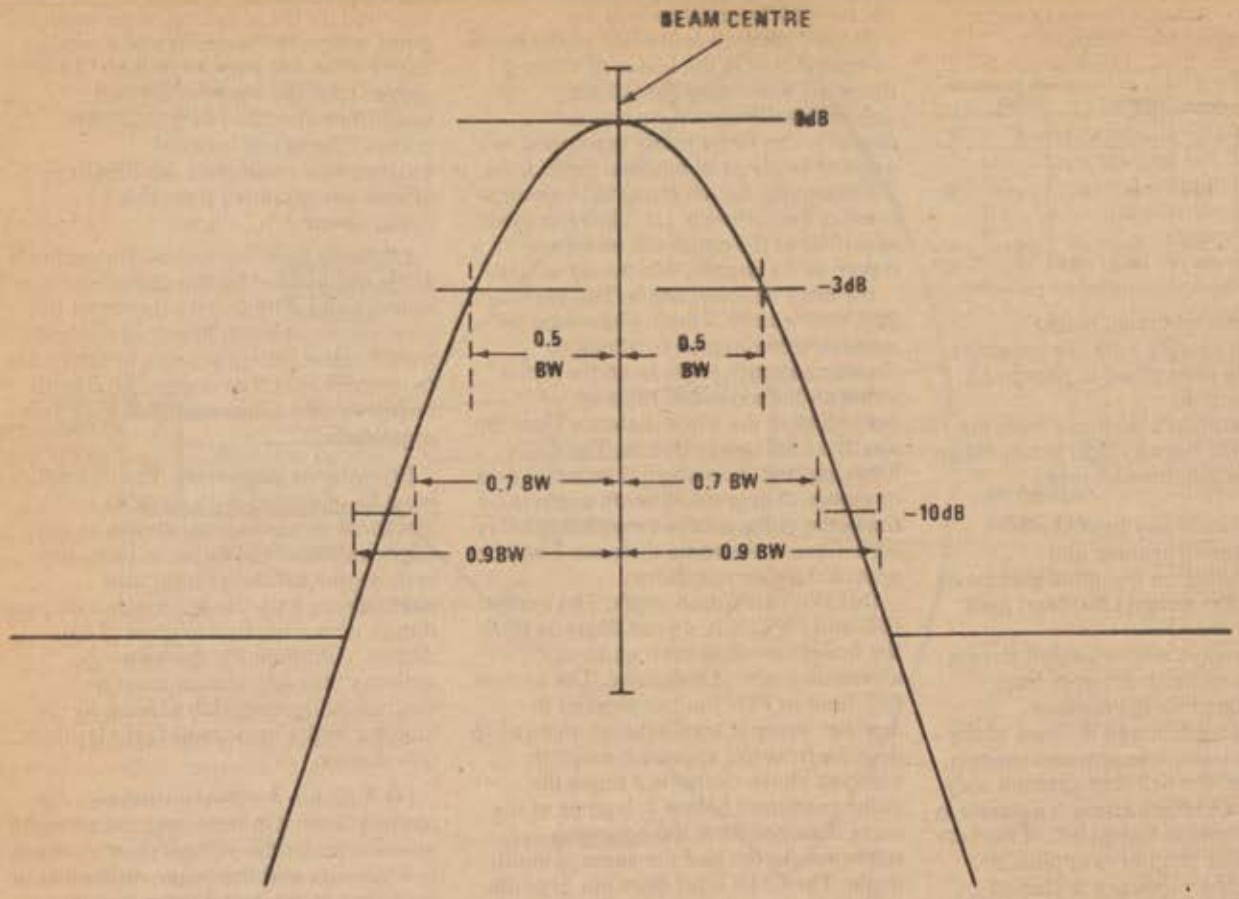

NOTES: THE BEAM ENVELOPE IS SMOOTHED BY A 26 kHz VIDEO FILTER BEFORE MEASUREMENT.
BW=BEAMWIDTH.

FIGURE 10. FAR FIELD DYNAMIC SIGNAL IN SPACE

BILLING CODE 4910-13-C

(ii) *Effective sidelobe levels.* With the antenna scanning normally, the sidelobe levels in the plane of scan must be such that, in the installed environment, errors contributed by sidelobe reflections will not exceed the angular equivalent of 9 feet at the approach reference datum over the required range of aircraft approach speeds.

(5) *Antenna far field pattern in the vertical plane.* The azimuth antenna free space radiation pattern below the horizon must have a slope of at least −8dB/degree at the horizon and all sidelobes below the horizon must be at least 13 dB below the pattern peak. The antenna radiation pattern above the horizon must satisfy both the system coverage requirements and the spurious radiation requirement.

(6) *Data antenna.* The data antenna must have horizontal and vertical patterns as required for its function.

(g) *Back azimuth coverage requirements.* The back azimuth equipment where used must provide guidance information in at least the following volume of space (see Figure 11):

(1) Horizontally within a sector plus or minus 20 degrees about the runway centerline originating at the back azimuth ground equipment antenna and extending in the direction of the missed approach at least to 5 nautical miles from the runway stop end. The minimum proportional guidance sector must be ±10 degrees about the runway centerline. Clearance signals must be used to provide the balance of the required coverage where the proportional sector is less than ±20 degrees.

(2) Vertically in the runway region between:

(i) A horizontal surface 2.5 meters (8 feet) above the farthest point of runway centerline which is in line of sight of the azimuth antenna, and,

(ii) A conical surface originating at the azimuth ground equipment antenna inclined at 20 degrees above the horizontal up to a height of 600 meters (2000 feet).

(3) Vertically in the back azimuth region between:

(i) A conical surface originating 2.5 meters (8 feet) above the runway stop end, inclined at 0.9 degree above the horizontal, and,

(ii) A conical surface originating at the missed approach azimuth ground equipment antenna, inclined at 15 degrees above the horizontal up to a height of 1500 meters (5000 feet).

(iii) Where obstacles penetrate the lower coverage limits, coverage need be provided only to minimum line of sight.

(4) Within the back azimuth coverage sector defined in paragraph (g) (1), (2), and (3) of this section, the power densities must not be less than those shown in table 9, but the equipment design must also allow for:

(i) Transmitter power degradation from normal by −1.5 dB.

(ii) Rain loss of −2.2 dB at the longitudinal coverage extremes.

(h) *Back azimuth siting.* The back azimuth equipment antenna must:

(1) Normally be located on the extension of the runway centerline at the threshold end;

(2) Be adjusted so that the vertical plane containing the zero degree course line contains the back azimuth reference datum;

(3) Have minimum height necessary to comply with the course requirements prescribed in paragraph (g) of this section;

(4) Be located at a distance from the threshold end that is consistent with safe obstruction clearance practices;

(5) Not obstruct any light of an approach lighting system; and

(6) Be installed on frangible mounts or beyond the 300 meter (1,000 feet) light bar.

(i) *Back azimuth antenna coordinates.* The scanning beams transmitted by the back azimuth equipment may be either conical or planar.

(j) *Back azimuth accuracy.* The requirements specified in § 171.313(e) apply except for the degradation allowance which must not exceed the following:

(1) *With distance.* The system PFE limit and PFN limit, expressed in angular terms at the maximum range and lower limit of coverage along the extended runway centerline is the lesser of either 2 times the value specified at the back azimuth reference datum or 0.6 degree. The CMN limit, expressed in angular terms at 7.5 nautical miles from the runway stop end along the extended runway centerline is 1.3 times the value specified at the back azimuth reference datum.

(2) *With azimuth angle.* The system PFE limit and PFN limit, expressed in angular terms at plus or minus 20 degree azimuth angle is 1.5 times the value on the extended runway centerline at the same distance from the back azimuth reference datum. The CMN limit, expressed in angular terms at plus or minus 20 degrees azimuth angle is 1.3 times the value on the extended runway centerline at the same distance from the back azimuth reference datum.

(3) *With elevation angle.* The system PFE limit and PFN limit do not degrade from the lower coverage limit up to an elevation angle of 9 degrees. The system PFE limit or PFN limit expressed in angular terms at an elevation angle of 15 degrees from the back azimuth antenna phase center is 2 times the value permitted below 9 degrees at the same distance from the back azimuth reference datum and the same azimuth angle. The CMN limit does not degrade with elevation angle.

(k) Back azimuth antenna characteristics. The requirements specified in § 171.313(f) apply.

(l) *Scanning conventions.* Figure 12 shows the approach azimuth and back azimuth scanning conventions.

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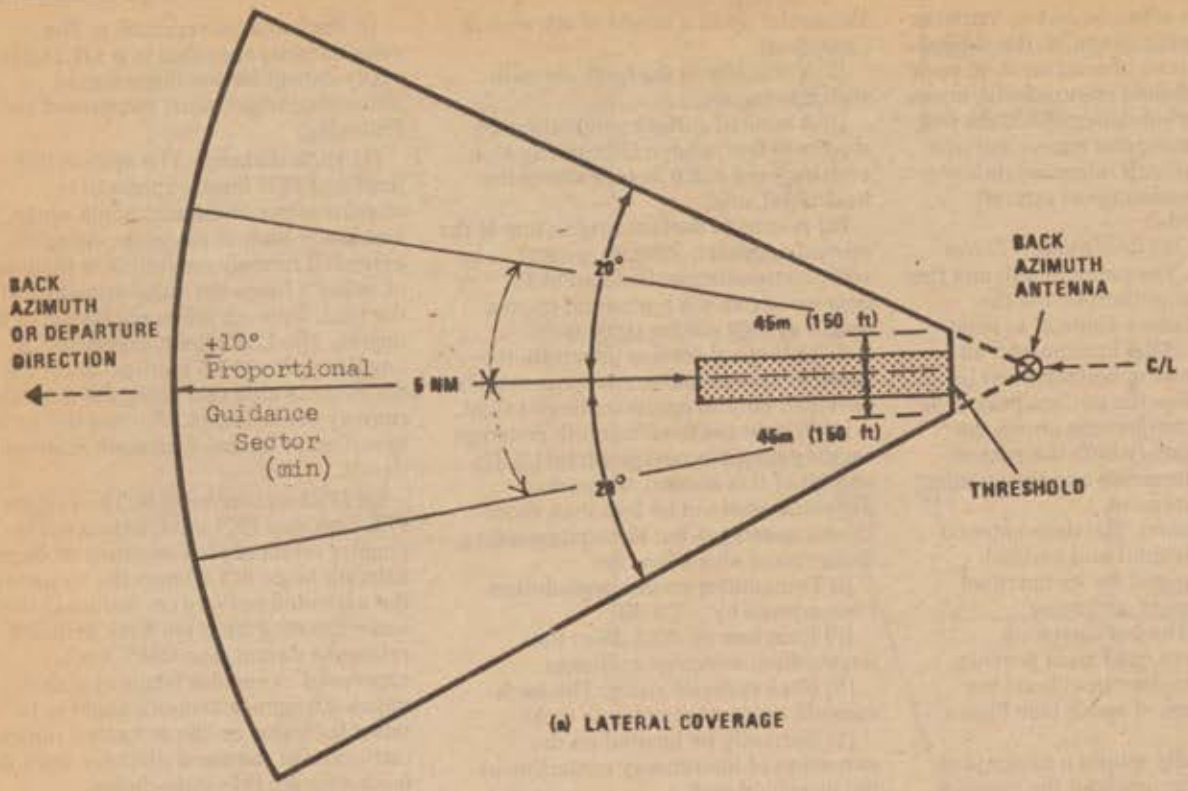
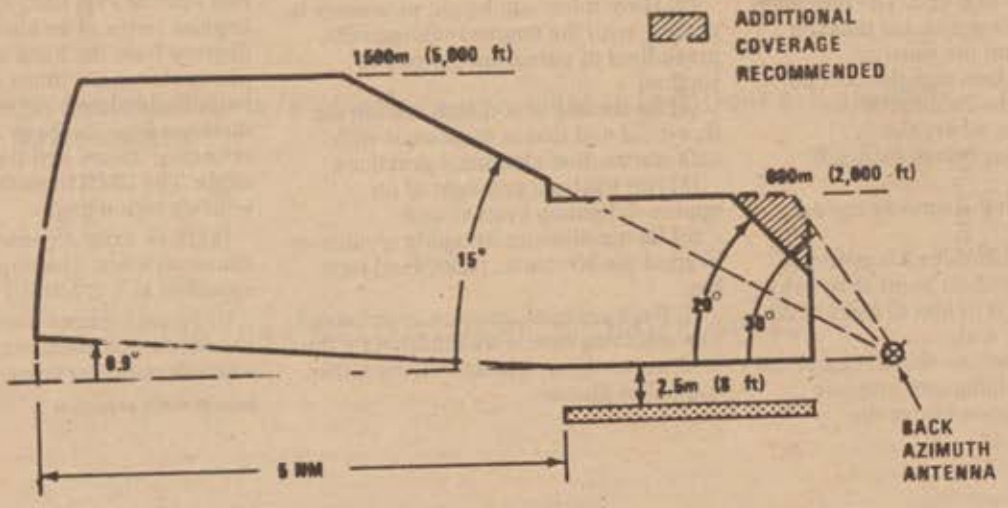


(a) LATERAL COVERAGE



(b) VERTICAL COVERAGE

FIGURE 11. BACK AZIMUTH COVERAGE

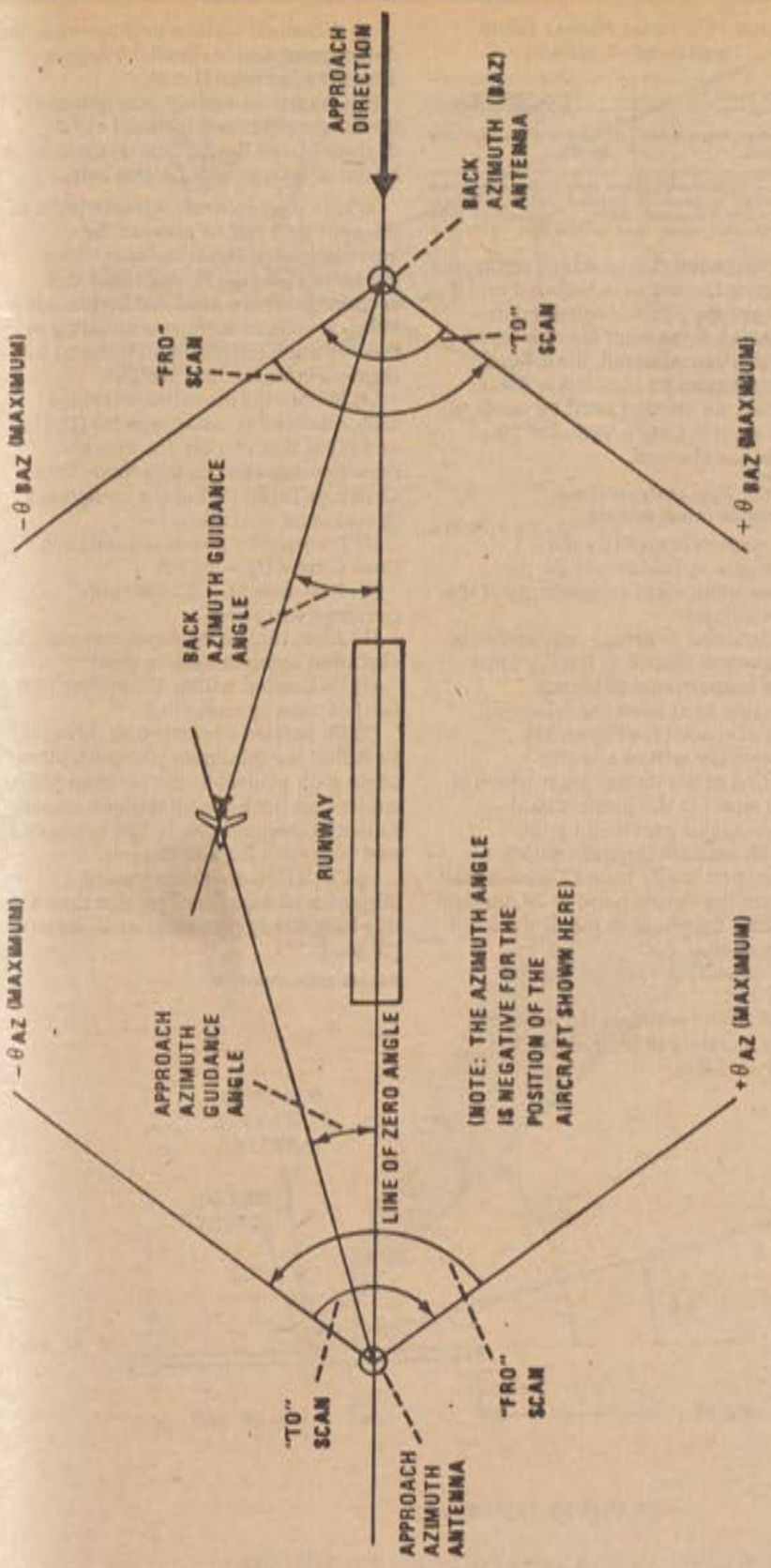


FIGURE 12. AZIMUTH GUIDANCE FUNCTIONS SCANNING CONVENTIONS

BILLING CODE 4910-13-C

§ 171.315 Azimuth monitor system requirements.

(a) The approach azimuth or back azimuth monitor system must cause the radiation to cease and a warning must be provided at the designated control point if any of the following conditions persist for longer than the periods specified:

(1) There is a change in the ground equipment contribution to the mean course error component such that the path following error at the reference datum or in the direction of any azimuth radial, exceeds the limits specified in § 171.313(e)(l) or § 171.313(j) for a period of more than one second.

(2) There is a reduction in the radiated power to a level not less than that specified in § 171.313(a)(4) or § 171.313(g)(4) for a period of more than one second.

(3) There is an error in the preamble DPSK transmissions which occurs more than once in any one second period.

(4) The timing standards specified in Table 11 are exceeded for a period of more than one second.

(5) There is an error in the time division multiplex synchronization of a particular azimuth function such that the requirement specified in § 171.311(e) is not satisfied and if this condition persists for more than one second.

(6) A failure of the monitor is detected.

TABLE 11.—SIGNAL FORMAT TIMING TOLERANCES

Signal format item	Timing tolerance
Clearance and OCI signals	As specified ±2 μsec.
DPSK phase transitions	As specified ±2 μsec.
TO-FRO scan timing (internal to scan).	As required to meet accuracy specs.

NOTE 1.—The tolerances shown apply to the timing of the specific events as shown in Tables 2, 4a, 4b, 5 and 7.
NOTE 2.—The timing jitter relative to the specified value plus the tolerance above, must be less than 1 μsec rms.

(b) The period during which erroneous guidance information is radiated must not exceed the periods specified in § 171.315(a). If the fault is not cleared within the time allowed, the ground equipment must be shutdown. After shutdown, no attempt must be made to restore service until a period of 20 seconds has elapsed.

§ 171.317 Approach elevation performance requirements.

This section prescribes the performance requirements for the elevation equipment components of the MLS as follows:

(a) *Elevation coverage requirements.* The approach elevation facility must provide proportional guidance information in at least the following volume of space (see Figure 13):

(1) Laterally within a sector originating at the datum point which is at least equal to the proportional guidance sector provided by the approach azimuth ground equipment.

(2) Longitudinally from 75 meters (250 feet) from the datum point to 20 nautical miles from threshold in the direction of the approach.

(3) Vertically within the sector bounded by:

(i) A surface which is the locus of points 2.5 meters (8 feet) above the runway surface;

(ii) A conical surface originating at the datum point and inclined 0.9 degree above the horizontal and,

(iii) A conical surface originating at the datum point and inclined at 7.5 degrees above the horizontal up to a height of 6000 meters (20,000 feet).

Where the physical characteristics of the approach region prevent the achievement of the standards under paragraph (a) (1), (2), and (3) of this section, guidance need not be provided below a conical surface originating at the elevation antenna and inclined 0.9 degree above the line of sight.

(4) Within the elevation coverage sector defined in paragraph (a) (1), (2), and (3) of this section, the power densities must not be less than those shown in Table 12, but the equipment design must also allow for:

(i) Transmitter power degradation from normal by −1.5 dB.

(ii) Rain loss of −2.2 dB at the coverage extremes.

(b) *Elevation siting requirements.* The elevation antenna system must:

(1) Be located within 150 meters (500 feet) of runway centerline.

(2) Be located near runway threshold such that the minimum glidepath planar angle with respect to the antenna phase center and the horizontal plane crosses runway threshold at a height between 15 and 18 meters (50 and 60 feet).

(i) For STOL operations using minimum glidepaths of greater than 4°, this height may be as low as 12 meters (35 feet).

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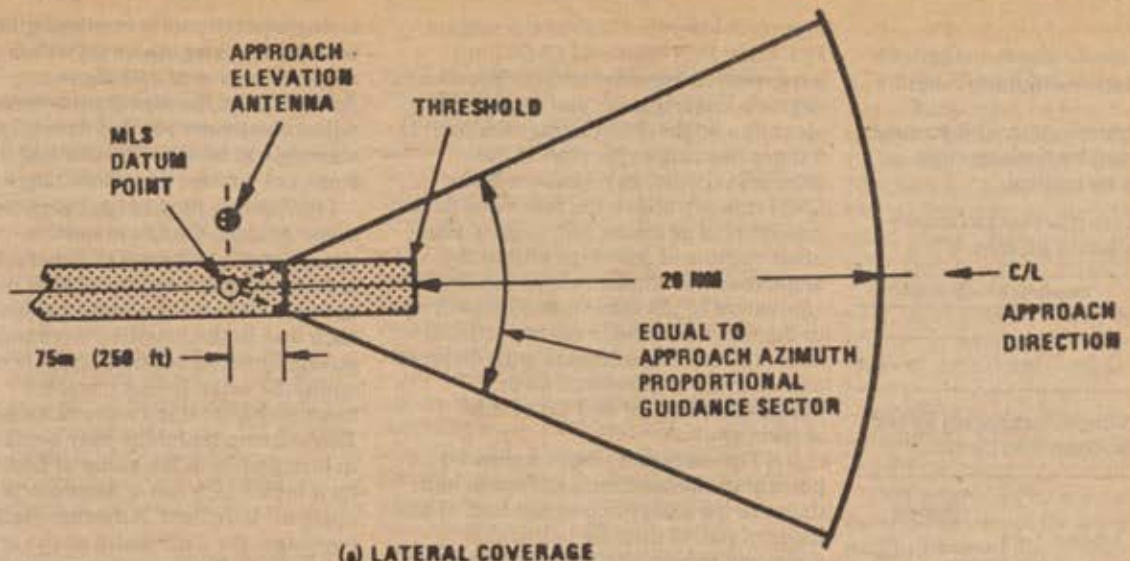
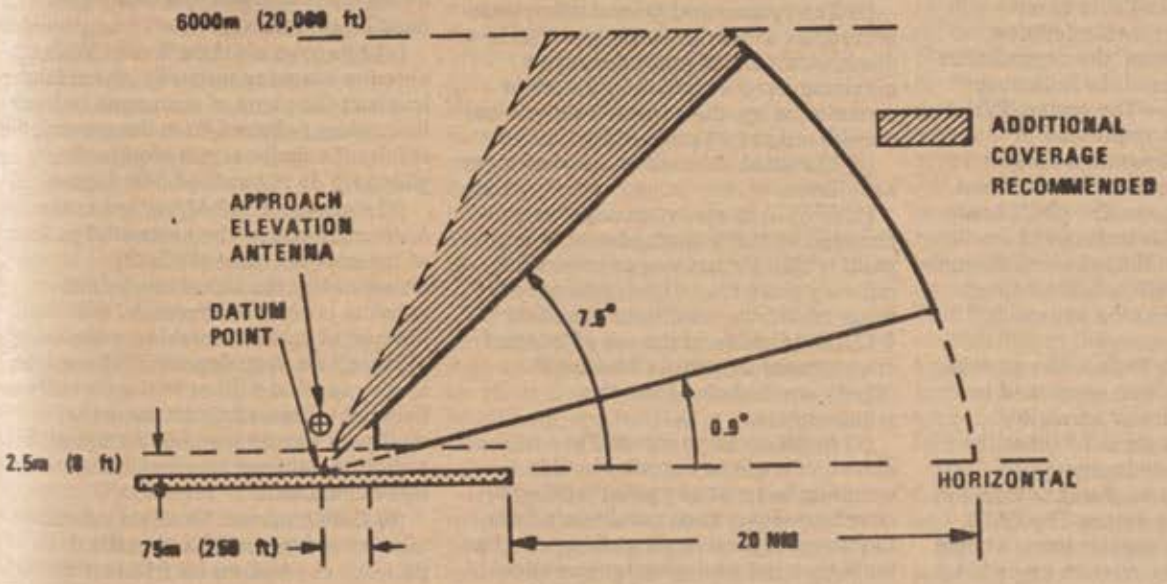


(a) LATERAL COVERAGE



(b) VERTICAL COVERAGE

FIGURE 13. APPROACH ELEVATION COVERAGE

BILLING CODE 4910-13-C

(3) Satisfy obstacle clearance criteria specified in Subpart C of Part 97 of this chapter.

(c) *Antenna coordinates.* The scanning beams transmitted by the elevation subsystem must be conical.

TABLE 12.—ELEVATION POWER DENSITY REQUIREMENTS (dBW/m ²)

DPSK	Antenna beamwidth (3dB)	
	1°	2°
−89.5	−88.0	−86.0

TABLE 13.—ELEVATION ACCURACIES AT THE APPROACH REFERENCE DATUM

Error type	System	Angular error (degrees)	
		Ground subsystem	Airborne [4] subsystem
PFE	±2.0 ft. [1] (0.6m) [2]	[3] 0.093	0.017
CMN	±.75 ft. (0.3m) [1]	0.020	0.010

[1] Angular error calculations assume the following: 262 meters (861 feet) antenna to reference datum. Distance calculation assumed 15 meters (50 feet) threshold crossing on 3° glidepath, 3 meters (10 feet) antenna phase center height and a 122 meters (400) feet antenna offset from runway centerline. Elevation equipment sited to provide a minimum glidepath higher than 3° must provide angular accuracies no less than those specified for equipment sited for a 3° minimum glidepath.

[2] The system PFN component must not exceed ±0.4 meter (1.3 feet).

[3] The mean glidepath error component contributed by the ground equipment must not exceed ±0.3 meters (1 foot).

[4] The airborne subsystem angular errors are provided for information only.

(d) *Elevation accuracy.* (1) The accuracies shown in Table 13 ae required at the approach reference datum. From this point, the degradation limits must not exceed the following:

(i) With distance—The system PFE limit and PFN limit, expressed in angular terms at 20 nautical miles from the runway threshold on the minimum glidepath is 0.2 degree. The CMN limit, expressed in angular terms at 10 nautical miles from the reference datum on the minimum glidepath is 1.3 times the value specified at the approach reference datum.

(ii) With azimuth angle—The system PFE limit and PFN limit expressed in angular terms at plus or minus 40 degrees azimuth angle is 1.3 times the value on the extended runway centerline at the same distance from the approach reference datum. The CMN limit, expressed in angular terms at plus or minus 40 degrees azimuth angle is 1.3 times the value on the extended runway centerline at the same distance from the approach reference datum.

(iii) With elevation angle—For elevation angles above the minimum glidepath or 3 degrees, whichever is less and up to the maximum of the proportional guidance coverage and at the locus of points directly above the approach reference datum the system PFE limit, PFN limit and CMN limit expressed in angular terms is allowed to degrade linearly such that at an elevation angle of 15 degrees the limit is 2 times the value specified at the reference datum. In no case will the CMN directly above the reference datum exceed plus or minus 0.07 degree. For other regions of coverage within the angular sector from an elevation angle equivalent to the minimum glidepath up to the maximum angle of proportional coverage the degradations with distance and azimuth angle specified in paragraph (d)(1) (i) and (ii) of this section apply.

(iv) For elevation angles below 60 percent of the minimum glidepath and down to the limit of coverage and at the locus of points directly below the approach reference datum the system PFE limit, the PFN limit and the CMN limit expressed in angular terms, is allowed to increase linearly to 6 times the value at the approach reference datum. For other regions of coverage within the angular sector from an elevation angle equivalent to 60 percent of the minimum glidepath value, and down to the limit of coverage, the degradations with distance and azimuth angle specified in paragraph (d)(1) (i) and (ii) of this section apply. In no case will the PFE be allowed to exceed 0.8 degree, or the CMN be allowed to exceed 0.4 degree.

(2) The system and ground subsystem accuracies shown in Table 13 are to be demonstrated at commissioning as maximum error limits. Subsequent to commissioning, the accuracies are to be considered at 95% probability limits.

(e) Elevation antenna chacteristics are as follows:

(1) *Drift.* Any elevation angle as encoded by the scanning beam at any point within the coverage sector must not vary more than 0.04 degree over the range of service conditions specified in § 171.309(d) without the use of internal environmental controls. Multipath effects are excluded from this requirements.

(2) *Beam pointing errors.* The elevation angle as encoded by the scanning beam at any point within the coverage sector must not deviate from the true elevation angle at that point by more than ±0.04 degree for elevation angles from 2.5° to 3.5°. Above 3.5°, these errors may linearly increase to ±0.1 degree at 7.5°. Multipath and drift effects are excluded from this requirements.

(3) *Antenna alignment.* The antenna must be equipped with suitable optical, electrical, or mechanical means or any combination of the three, to align the lowest operationally required glidepath to the true glidepath angle with a maximum error of 0.01 degree. Additionally, the elevation antenna bias adjustment must be electronically steerable at least to the monitor limits in steps not greater than 0.005 degree.

(4) *Antenna far field patterns in the plane of scan.* On the lowest operationally required glidepath, the antenna mainlobe pattern must conform to Figure 10, and the beamwidth must be such that in the installed environment, no significant ground reflections of the mainlobe exist. In any case, the beamwidth must not exceed 2 degrees. The antenna mainlobe may be allowed to broaden from the value at boresight by a factor of $1/\cos\phi$, where ϕ is the angle off boresight. Anywhere within coverage, the 3 dB width of the antenna mainlobe, while scanning normally, must not be less than 25 microseconds (0.5 degree) or greater than 250 microseconds (5 degrees). The sidelobe levels must be as follows:

(i) *Dynamic sidelobe levels.* With the antenna scanning normally, the dynamic sidelobe levels that is detected by a receiver at any point within the proportional coverage sector must be down at least 10 dB from the peak of the mainlobe. Outside the proportional coverage sector, the radiation from the scanning beam antenna must be of such a nature that receiver warnings will not be removed or a suitable OCI signal must be provided.

(ii) *Effective sidelobe levels.* With the antenna scanning normally, the sidelobe levels in the plane of scan must be such that, when reflected from the ground, the resultant angular errors along any glidepath do not exceed 0.09 degree.

(5) *Antenna far field pattern in the horizontal plane.* The horizontal pattern of the antenna must gradually deemphasize the signal away from antenna boresight. Typically, the horizontal pattern should be reduced by at least 3 dB at 20 degrees off boresight and by at least 6 dB at 40 degrees off boresight. Depending on the actual multipath conditions, the horizontal radiation patterns may require more or less deemphasis.

(6) *Data antenna.* The data antenna must have horizontal and vertical patterns as required for its function.

§ 171.319 Approach elevation monitor system requirements.

(a) The monitor system must act to ensure that any of the following conditions do not persist for longer than the periods specified when:

(1) There is a change in the ground component contribution to the mean

glidepath error component such that the path following error on any glidepath exceeds the limits specified in § 171.317 (d) for a period of more than one second.

(2) There is a reduction in the radiated power to a level not less than that specified in § 171.317(a)(4) for a period of more than one second.

(3) There is an error in the preamble DPSK transmissions which occurs more than once in any one second period.

(4) The timing standards specified in Table 11 are exceeded for a period of more than one second.

(5) There is an error in the time division multiplex synchronization of a particular elevation function such that the requirement specified in § 171.311(e) is not satisfied and this condition persists for more than one second.

(6) A failure of the monitor is detected.

(b) The period during which erroneous guidance information is radiated must not exceed the periods specified in §171.319(a). If the fault is not cleared within the time allowed, radiation shall cease. After shutdown, no attempt must be made to restore service until a period of 20 seconds has elapsed.

§ 171.321 DME and marker beacon performance requirements.

(a) The DME equipment must meet the performance requirements prescribed in Subpart G of this part. This subpart imposes requirements that performance features must comply with International Standards and Recommended Practices, Aeronautical Telecommunications, Vol. I of Annex 10 to ICAO. In addition, this equipment must be sited near the azimuth antenna site and adjusted such that zero range is at the DME antenna. Incorporated by reference is International Standards and Recommended Practices, Aeronautical Telecommunications, Volume I of Annex 10 to ICAO through Amendment 61 dated April 10, 1980 which prescribes applicability of standards and recommended practice for certain forms of equipment for air navigation aids and procedures for air navigation service. It is available from ICAO, Aviation Building, 1080 University Street, Montreal 101, Quebec, Canada, Attention: Distribution Officer and also available for inspection at the Office of the Federal Register Information Center, Room 8301, 1100 L Street, NW., Washington, D.C. 20408.

(b) MLS marker beacon equipment must meet the performance requirements prescribed in Subpart H of this part. This subpart imposes requirements that performance features must comply with International Standards and Recommended Practices, Aeronautical Telecommunications, Vol. I of Annex 10 to ICAO.

§ 171.323 Fabrication and installation requirements.

(a) The MLS facility must be permanent and must be located, constructed, and installed in accordance with best commercial engineering practices, using applicable electric and safety codes and Federal Communications Commission (FCC) licensing requirements and siting requirements of §§ 171.313 (b) and 171.317(b).

(b) The MLS facility components must utilize solid state technology except that traveling wave tube amplifiers (TWTA) may be used. A maximum level of common modularity must be provided along with diagnostics to facilitate maintenance and troubleshooting.

(c) An approved monitoring capability must be provided which indicates the status of the equipment at the site and at a remotely located maintenance area, with monitor capability that provides prealarm of impending system failures. This monitoring feature must be capable of transmitting the status and prealarm over standard phone lines to a remote location. In the event the sponsor requests the FAA to assume ownership of the facility, the monitoring feature must also be capable of interfacing with FAA remote monitoring requirements. This requirement may be complied with by the addition of optional software and/or hardware in space provided in the original equipment.

(d) The mean corrective maintenance time of the MLS equipment must be equal to or less than 0.5 hours with a maximum corrective maintenance time not to exceed 1.5 hours. This measure applies to correction of unscheduled failures of the monitor, transmitter and associated antenna assemblies, limited to unscheduled outage and out of tolerance conditions.

(e) The mean time between failures of the MLS angle system must not be less than 1,500 hours. This measure applies to unscheduled outrage, out-of-tolerance conditions, and failures of the monitor, transmitter, and associated antenna assemblies.

(f) The MLS facility must have a reliable source of suitable primary power, either from a power distribution system or locally generated. Adequate power capacity must be provided for the operation of the MLS as well as the test and working equipment of the MLS.

(g) The MLS facility must have a continuously engaged or floating battery power source for the continued normal operation of the ground station operation if the primary power fails. A trickle charge must be supplied to recharge the batteries during the period of available primary power. Upon loss and subsequent restoration of power, the battery must be restored to full charge within 24 hours. When primary power is applied, the state of the battery charge must not affect the operation of the MLS ground station. The battery must allow continuation of normal operation of the MLS facility for at least 2 hours without the use of additional sources of power. When the system is operating from the battery supply without prime power, the radome de-icers and the environmental system need not operate. The equipment must meet all specification requirements with or without batteries installed.

(h) There must be a means for determining, from the ground, the performance of the system including antenna, both initially and periodically.

(i) The facility must have, or be supplemented by ground, air or landline communications services. At facilities within or immediately adjacent to air traffic control areas, that are intended for use as instrument approach aids for an airport, there must be ground air communications or reliable communications (at least a landline telephone) from the airport to the nearest FAA air traffic control or communication facility. Compliance with this paragraph need not be shown at airports where an adjacent FAA facility can communicate with aircraft on the ground at the airport and during the entire proposed instrument approach procedure. In addition, at low traffic density airports within or immediately adjacent to air traffic control zones or areas, and where extensive delays are not a factor, the requirements of this paragraph may be reduced to reliable communications from the airport to the nearest FAA air traffic control or communications facility. If the adjacent FAA facility can communicate with aircraft during the proposed instrument approach procedure down to the airport surface or at least down to the minimum approach altitude, this would require at least a landline telephone.

(j) The location of the phase centers for all antennas must be clearly marked on the antenna enclosures.

(k) The latitude, longitude and mean sea level elevation of the MLS datum point must be determined by survey with an accuracy of ±3 meters (±10 feet) laterally and ±0.3 meter (±1.0 foot) vertically. The lateral and vertical offsets from the MLS datum point of all antenna phase centers, the back azimuth reference datum (if applicable), and the intersection of runway threshold with

runway centerline must be determined with an accuracy of ±0.3 meter (±1.0 foot) laterally and ±0.03 meter (±0.1 foot) vertically. The owner must bear all costs of the survey. The results of this survey must be included in the "operations and maintenance" manual required by § 171.325 of this subpart and will be noted on FAA Form 198 required by § 171.327.

§ 171.325 Maintenance and operations requirements.

(a) The owner of the facility must establish an adequate maintenance system and provide MLS qualified maintenance personnel to maintain the facility at the level attained at the time it was commissioned. Each person who maintains a facility must meet at least the FCC licensing requirements and demonstrate that he has the special knowledge and skills needed to maintain an MLS facility, including proficiency in maintenance procedures and the use of specialized test equipment.

(b) In the event of out of tolerance conditions or malfunctions, as evidenced by receiving two successive pilot reports, the owner must close the facility by ceasing radiation, and issue a "Notice to Airmen" (NOTAM) that the facility is out of service.

(c) The owner must prepare, and obtain approval of, an operations and maintenance manual that sets forth mandatory procedures for operations, periodic maintenance, and emergency maintenance, including instructions on each of the following:

(1) Physical security of the facility.

(2) Maintenance and operations by authorized persons.

(3) FCC licensing requirements for operations and maintenance personnel.

(4) Posting of licenses and signs.

(5) Relations between the facility and FAA air traffic control facilities, with a description of the boundaries of controlled airspace over or near the facility, instructions for relaying air traffic control instructions and information, if applicable, and instructions for the operation of an air traffic advisory service if the facility is located outside of controlled airspace.

(6) Notice to the Administrator of any suspension of service.

(7) Detailed and specific maintenance procedures and servicing guides stating the frequency of servicing.

(8) Air-ground communications, if provided, expressly written or incorporating appropriate sections of FAA manuals by reference.

(9) Keeping the station logs and other technical reports, and the submission of reports required by § 171.327.

(10) Monitoring of the MLS facility.

(11) Inspections by United States personnel.

(12) Names, addresses, and telephone numbers of persons to be notified in an emergency.

(13) Shutdowns for periodic maintenance and issuing of NOTAM for routine or emergency shutdowns.

(14) Commissioning of the MLS facility.

(15) An acceptable procedure for amending or revising the manual.

(16) An explanation of the kinds of activities (such as construction or grading) in the vicinity of the MLS facility that may require shutdown or recertification of the MLS facility by FAA flight check.

(17) Procedures for conducting a ground check of the azimuth and elevation alignment.

(18) The following information concerning the MLS facility:

(i) Facility component locations with respect to airport layout, instrument runways, and similar areas.

(ii) The type, make and model of the basic radio equipment that provides the service including required test equipment.

(iii) The station power emission, channel, and frequency of the azimuth, elevation, DME, marker beacon, and associated compass locators, if any.

(iv) The hours of operation.

(v) Station identification call letters and method of station identification and the time spacing of the identification.

(vi) A description of the critical parts that may not be changed, adjusted, or repaired without an FAA flight check to confirm published operations.

(d) The owner or his maintenance representative must make a ground check of the MLS facility periodically in accordance with procedures approved by the FAA at the time of commissioning, and must report the results of the checks as provided in § 171.327.

(e) The only modifications permitted are those that are submitted to FAA for approval by the MLS equipment manufacturer. The owner or sponsor of the facility must incorporate these modifications in the MLS equipment. Associated changes must also be made to the operations and maintenance manual required in paragraph (c) of this section. These and all other corrections and additions to this operations and maintenance manual must also be submitted to FAA for approval.

(f) The owner or the owner's maintenance representative must participate in inspections made by the FAA.

(g) The owner must ensure the availability of a sufficient stock of spare parts, including solid state components, or modules to make possible the prompt replacement of components or modules that fail or deteriorate in service.

(h) FAA approved test instruments must be used for maintenance of the MLS facility.

(i) Inspection consists of an examination of the MLS equipment to ensure that unsafe operating conditions do not exist.

(j) Monitoring of the MLS radiated signal must ensure a high degree of integrity and minimize the requirements for ground and flight inspection. The monitor must be checked daily during the in-service test evaluation period (96 hour burn in) for calibration and stability. These tests and ground checks of azimuth, elevation, DME, and marker beacon radiation characteristics must be conducted in accordance with the maintenance requirements of this section.

§ 171.327 Operational records.

The owner of the MLS facility or his maintenance representative must submit the following operational records at the indicated time to the appropriate FAA regional office where the facility is located.

(a) *Facility Equipment Performance and Adjustment Data (FAA Form 198).* The FAA Form 198 shall be filled out by the owner or his maintenance representative with the equipment adjustments and meter readings as of the time of facility commissioning. One copy must be kept in the permanent records of the facility and two copies must be sent to the appropriate FAA regional office. The owner or his maintenance representative must revise the FAA Form 198 data after any major repair, modernization, or retuning to reflect an accurate record of facility operation and adjustment.

(b) *Facility Maintenance Log (FAA Form 6030-1).* FAA Form 6030-1 is permanent record of all the activities required to maintain the MLS facility. The entries must include all malfunctions met in maintaining the facility including information on the kind of work and adjustments made, equipment failures, causes (if determined) and corrective action taken. In addition, the entries must include completion of periodic maintenance required to maintain the facility. The owner or his maintenance representative must keep the original of each form at the facility and send a copy to the appropriate FAA regional office at the end of each month in which it is

prepared. However, where an FAA approved remote monitoring system is installed which precludes the need for periodic maintenance visits to the facility, monthly reports from the remote monitoring system control point must be forwarded to the appropriate FAA regional office, and a hard copy retained at the control point.

(c) *Technical Performance Record (FAA Form 6830 (formerly FAA Form 418)).* This form contains a record of system parameters as specified in the manufacturers equipment manual. This data will be recorded on each scheduled visit to the facility. The owner or his maintenance representative shall keep the original of each record at the facility and send a copy of the form to the appropriate FAA regional office.

(Secs. 305, 307, 313(a), 601, 606, Federal Aviation Act of 1958, as amended (49 U.S.C. 1346, 1348, 1354(a), 1421, 1426); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The MLS is a newly developed alternative landing system which can be used in place of a conventional ILS. While this regulation describes the technical aspects of an MLS the installation of any non-Federal facility is not mandatory and this subpart provides an additional choice from which to choose when instrumenting an airport. Usually less than 10–20 non-Federal systems of all types, not just MLS, are installed per year with the voluntary installation of a landing aid at only a small number of airports by small entities. Cost of compliance with this MLS standard will be minimal. As a result, the FAA has determined that this document involves a regulation which:

(1) Is not considered to be major under the procedures and criteria prescribed by Executive Order 12291; and

(2) Is not considered significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and

(3) Will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

A copy of the evaluation prepared for this regulation has been placed in the regulatory docket and a copy of it may be obtained by contacting the person identified under the caption, "FOR FURTHER INFORMATION CONTACT".

The reporting and recordkeeping requirements contained herein have been approved by the Office of Management and Budget and forms cleared under OMB #2120–0014.

Issued in Washington, D.C., on November 3, 1981.

J. Lynn Helms,

Administrator, Federal Aviation Administration.

[FR Doc. 81-35514 Filed 12-16-81; 8:45 am]

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December 17, 1981

Part III

Department of Transportation

Federal Railroad Administration

Consolidated Rail Corp.; Expedited Supplemental Transaction Proposals; Administrative Determination and Notice of Petition

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Nos. RFA-305-81-1 and RFA-305-81-2; Notice No. 4]

Consolidated Rail Corp.; Expedited Supplemental Transaction Proposals; Administrative Determination and Notice of Petition

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Administrative determination regarding the transfer of Consolidated Rail Corporation (Conrail) lines in Connecticut and Rhode Island and notice of intent to file a petition for a transfer order with the Special Court.

SUMMARY: FRA announces its plan to transfer Conrail's lines in Connecticut and Rhode Island and to continue service over those lines for a period of at least four years. The plan is required by recently enacted legislation. FRA's plan transfers all Conrail lines in Rhode Island and that portion of the Shore Main Line from Old Saybrook, Connecticut, to the Rhode Island border to the Providence & Worcester Railroad Company (P&W), requires that no surcharge be imposed for at least 18 months on the Torrington line and that daily service be provided on that line if required, and otherwise follows the plan set forth in the coordinated proposals of Conrail and the Boston & Maine Railroad (B&M). FRA will petition the Special Court, Regional Rail Reorganization Act of 1973 (Special Court), to enter an order implementing this plan.

DATES: The determinations expressed in this notice will be incorporated in a petition that will be filed with the Special Court not later than December 11, 1981. Under Rule 18 of the Special Court, parties with legal standing that wish to intervene may be required to do so within 7 days of the date this notice is published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Steve Black, Office of Federal Assistance, FRA, (202) 472-7180.

SUPPLEMENTARY INFORMATION: The bankruptcy of a number of railroad companies serving the Northeast, notably the Penn Central Transportation Company, during the early 1970's caused the Congress to enact the Regional Rail Reorganization Act of 1973 (3R Act), which provided a mechanism for the reorganization of the properties of the bankrupt railroads into one or more new railroad under the auspcies of the United States Railway Association (USRA). USRA prepared the Final System Plan, which created Conrail as a single successor to the bankrupt railroads. The Final System Plan was implemented under amendments to the 3R Act made by Title VI of the Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act).

Section 610 of the 4R Act added a new section 305 of the 3R Act, which provides for the further reorganization of the Northeast rail system through the development of Supplemental Transactions. Supplemental Transactions may be developed by the Secretary of Transportation (the Secretary) or USRA, and either the Secretary or USRA may petition the Special Court for an order directing Conrail to carry out the transaction. The Special Court is required to issue such an order if it determines that a Supplemental Transaction is in the public interest, consistent with the goals of the 3R Act and Final System Plan, and fair and equitable.

One Supplemental Transaction has been developed under the provisions of section 305. In April, 1979, the Secretary, in response to a petition from the State of Connecticut, developed a Supplemental Transaction proposal to convey to the P&W Conrail's 27-mile Norwich Branch between Plainfield and Groton, Connecticut, and Conrail's 3-mile Groton Old Main Line at Groton. In February, 1980, the Secretary petitioned the Special Court for an order directing Conrail to carry out the transaction, and on May 28, 1980, the Special Court issued the order and set the purchase price at $2,750,000. The P&W commenced operations on the Norwich Branch and Groton Old Main Line on June 1, 1980.

Title VI of the Staggers Rail Act of 1980 added a new subsection (f) to section 305 of the 3R Act. Subsection (f) provided for development of an Expedited Supplemental Transaction proposal to transfer all of Conrail's remaining properties in the States of Connecticut and Rhode Island to another railroad in the region. Subsection (f) required the Secretary to determine by May 27, 1981 whether to develop such a proposal. The Secretary was required to develop an Expedited Supplemental Transaction proposal if he could make three statutory findings regarding the prospective purchaser, but he was not required to petition the Special Court for an order directing Conrail to implement the proposal. On December 29, 1980, the Federal Railroad Administrator (Administrator), as delegate of the Secretary, solicited Expedited Supplemental Transaction proposals from prospective purchasers and public comments (45 FR 85542). Only the P&W submitted a proposal by the February 27, 1981 deadline. On April 16, 1981, the Administrator published a preliminary determination that he could not make the three affirmative statutory determinations that were a condition precedent to initiating an Expedited Supplemental Transaction proposal under section 305(f), and solicited public comment (46 FR 22300). On June 4, 1981, the Administrator published a final determination that he could not make two of the three statutory determinations required by section 305(f) (46 FR 30019).

While considering the Northeast Rail Service Act of 1981 (NERSA) the Congress once again devoted considerable attention to rail service in southern New England. Legislation passed by the House of Representatives would have required the Secretary to petition the Special Court within 60 days for an order directing Conrail to transfer its remaining properties in Connecticut and Rhode Island to "another railroad in the region." Conrail would not have been eligible to retain any of its properties in either state (127 Cong. Rec. H3690, June 26, 1981).

Legislation passed in the Senate, on the other hand, would have conferred discretionary authority on the Secretary to transfer Conrail's properties in Connecticut and Rhode Island (127 Cong. Rec. S7060, 7062, 7064, 7094; June 25, 1981). On August 13, 1981, the President signed into law the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97-35, which included NERSA. Section 1155 of NERSA amended section 305(f) of the 3R Act to require the Secretary to petition the Special Court within 120 days (by December 11, 1981) to transfer "some or all" of Conrail's remaining properties in Connecticut and Rhode Island to one or more railroads in the region under a plan providing for continuation of service for at least four years on all properties operated by Conrail as of the effective date of NERSA. Conrail is permitted to be included as a transferee railroad if it agrees to maintain service over any lines it retains for at least four years.

Section 305(f), as amended, requires the transfer of some or all of Conrail's lines in Connecticut and Rhode Island to one or more railroads that have:

(1) Submitted to the Secretary a plan to assume all of Conrail's freight operations and freight service obligations in Connecticut and Rhode Island for a period of at least four years;

(2) Concluded an agreement with Conrail to assume all of Conrail's freight operations and freight service obligations in Connecticut and Rhode

Island for a period of at least four years; or

(3) Submitted to the Secretary, prior to May 1, 1981, a proposal to assume all of Conrail's freight operations and freight service obligations in Connecticut and Rhode Island.

Section 305(f), as amended, requires the Secretary to promote the transfer of non-mainline Conrail properties in States adjacent to Connecticut and Rhode Island that connect with lines in Connecticut and Rhode Island if such a transfer is required to permit efficient and effective rail operations consistent with the public interest. It requires the Special Court to determine a fair and equitable price for the properties to be transferred, establish fair and equitable divisions of joint rates over through routes if the parties cannot agree on such divisions, and establish a method to ensure that such divisions are promptly paid.

Section 1155 of NERSA also added a new subsection (g) to section 305, which mandates a separate Expedited Supplemental Transaction for the transfer of five lines located primarily in the Commonwealth of Massachusetts. That process, which was assigned Docket No. RFA–305–81–2, has been administered in conjunction with the Connecticut/Rhode Island proceeding because of the many issues common to both. FRA's determinations with respect to the five Massachusetts lines, however, are treated in Notice No. 5, which is published separately in this issue of the **Federal Register.**

Chronology of Notices and Public Meetings

On August 21, 1981, the Administrator, as delegate of the Secretary, published Notice No. 1 to announce that informal conferences would be held to assist in structuring the discussions required by section 305(f), as amended, and to solicit the participation of prospective purchasers ("prospective purchasers" includes Conrail except as the context otherwise requires) and other interested parties (46 FR 42565). Conferences were held on August 31, 1981 at New Haven, Connecticut, and on September 1, 1981 at Springfield, Massachusetts. On September 11, 1981, seven railroad companies filed preliminary declarations of interest in acquiring some or all of Conrail's lines in Connecticut and Rhode Island. On September 17, 1981, the Administrator published Notice No. 2, announcing that an additional informal conference would be held to brief interested parties on the status of the Supplemental Transaction process and to solicit public comments, with particular emphasis on the comments of rail shippers (46 FR 46271). This informal conference was held September 28, 1981 at Providence, Rhode Island.

On September 24, 1981, the Administrator published Notice No. 3, which established deadlines, information requirements and guidelines for the Supplemental Transaction process (46 FR 47165). Notice No. 3 established October 23, 1981 as the deadline for the receipt of purchase proposals and November 6, 1981, as the deadline for comments on the purchase proposals. The Administrator subsequently notified the parties that he would hold the docket open as long as practical to receive additional public comments. All comments received through December 7, 1981, were considered in developing this notice and the Administrator's petition to the Special Court.

Proposals

On October 23, 1981, the Administrator received three Supplemental Transaction proposals pursuant to section 305(f), as amended. A summary of these proposals follows.

P&W

The P&W proposed to acquire all Conrail's freight operations and freight service obligations in Connecticut and Rhode Island. In New York State, it proposed to acquire Conrail's freight service obligation on portions of the Shore Main Line, a portion of the Maybrook Branch, and the Beacon Secondary. It also proposed to acquire a portion of the Hartford Main Line in Massachusetts. The P&W sought run-through train service with Conrail from Selkirk Yard, near Albany, New York, to Connecticut. The P&W guaranteed to provide daily service if required on all lines it acquired in Connecticut and Rhode Island, and to upgrade most of the lines to permit 25 m.p.h. operation. It pledged not to impose surcharges on shippers located on lines it acquired.

The P&W assumed in preparing its proposal that it would pay $0 for the Conrail properties it would acquire, as well as 50 road switcher locomotives and 400 freight cars.

The P&W proposed that it receive the so-called "New Haven" divisions, which are the divisions of joint rates over through routes agreed to by the former New York, New Haven & Hartford Railroad (New Haven) and its connections, with a minimum of $400 per car. The divisions vary depending upon the point at which traffic interchanged.

Conrail/B&M

Conrail and the B&M submitted coordinated proposals which, taken together, would continue all Conrail freight operations and freight service obligations in Connecticut and Rhode Island for a period of at least four years. The B&M offered to assume Conrail's freight operations and freight service obligations in Rhode Island and on the Berlin, New Britain, Terryville, Avon, Canal, Waterbury, Torrington, Griffins and Wethersfield lines in Connecticut. Its offer contemplated a grant of trackage rights to the B&M between Springfield, Massachusetts, and New Haven; reciprocal switching rights for certain traffic at New Haven, North Haven, Wallingford, Newington, Hartford, East Hartford, Windsor, Windsor Locks, and Suffield, Connecticut; and the right to move contract cars over Conrail lines to the Long Island Railroad at Fresh Pond, New York. Under the offer, Conrail retained all other freight operations and freight service obligations in Connecticut.

Conrail and the B&M both stated that the purpose of their coordinated proposals was to increase shipper options for single line freight service to Connecticut and Rhode Island by dividing operations in the two states so as to retain Conrail's present east-west service and to introduce single line B&M service for north-south traffic to upper New England and Canada that is now interchanged between the B&M and Conrail at Springfield.

Conrail proposed to continue current service levels, subject to a number of adjustments in its operations stemming from a systemwide program to improve efficiency. It initially reserved the right to impose surcharges under the provisions of the Staggers Rail Act of 1980 on lines and traffic it would retain, but later agreed not to impose branchline surcharges. It proposed to maintain the lines it retained at approximately current levels. The B&M proposed service levels approximately equal to current service levels. The B&M initially offered to reduce the current Conrail surcharge on the Torrington line to $250 per car, and to impose surcharges on Rhode Island traffic only under limited circumstances. It later agreed not to impose a surcharge on the Torrington line for 18 months and not to institute a surcharge thereafter if traffic on the line returns to the 1979 level.

The Conrail/B&M proposal incorporated a divisions agreement, and the B&M offered $1.1 million for the properties and rights it would acquire.

Conrail accepted the offer for the purpose of filing the coordinated proposals, but reserved the right to reopen the purchase price issue with the Secretary and before the Special Court.

S.M. Pinsly Company

The S.M. Pinsly Company (Pinsly) initially offered to acquire Conrail's Willimantic Secondary, between Hartford and Manchester, Connecticut, and its New Milford Secondary, between Danbury and New Milford, Connecticut. On November 20, 1981, it modified its proposal by withdrawing its offer to acquire the New Milford Secondary and offering to acquire Conrail's East Windsor Secondary and South Manchester Industrial Track, both of which connect with the Willimantic Secondary. Its modified proposal is not coordinated with that of any other railroad. Pinsly offered to operate the lines without subsidy for a period of at least four years. It did not provide information with respect to rehabilitation of the lines or proposed divisions with Conrail, although Pinsly later agreed to Conrail's specification of division arrangements. Pinsly offered Conrail $1 million for the Willimantic, East Windsor and South Manchester lines.

Summary of Public Comments

The Administrator received and considered comments through December 7, 1981. In all, approximately 200 comments were received. In general, Rhode Island shippers and elected officials supported the P&W proposal. In Connecticut, most major shippers favored the Conrail/B&M proposal while small shippers especially those located on the Torrington line, supported the P&W proposal. The Connecticut Rail Shippers Association, which represented that its members account for 80 percent of Conrail's shipments in Connecticut, supported the Conrail/B&M proposal. In common with individual shippers that supported the Conrail/B&M proposal, it cited the benefits of single line service from origin to destination offered by Conrail and the B&M and the comparative financial stability of the two railroads as reasons for their support. Among the largest shippers supporting the Conrail/B&M proposal were the Central Connecticut Cooperative Farmers Association, Kimberly-Clark, Tilcon Tomasso Quarries, and Shepherd's Warehouse. The Connecticut Business and Industry Association, which represents more than 4,000 Conecticut businesses, supported the P&W proposal. In common with other shippers supporting the P&W proposal, it cited the P&W's promise to provide daily service, to upgrade the lines it would acquire to permit 25 m.p.h. operation, and to forego imposing surcharges as reasons for its support.

The Rhode Island Department of Transportation supported the P&W proposal based on P&W's service in Rhode Island and its popularity among shippers there. It emphasized that the P&W upgraded the track and increased the frequency of service on lines it acquired in the past. The Connecticut Department of Transportation raised questions regarding specific elements of the P&W and Conrail/B&M proposals, but took no position with regard to either of them. The Department expressed concern that Pinsly's proposal addresses only a few lines and that the primary shipper on one these lines expressed a strong preference for another carrier. The Maine Department of Transportation supported the Conrail/B&M proposal because it would provide single-line service and rate stability for shipments from Maine to Connecticut. The Vermont Department of Transportation supported the Conrail/B&M proposal based on the B&M's operating efficiency and its belief that the addition of operations in Conneticut would enhance the B&M. The New York Department of Transportation opposed that portion of the P&W proposal related to service in New York.

Organized labor divided its support between the Conrail/B&M and P&W proposals. Those railroads that commented supported the Conrail/B&M proposal. Anong elected officials, the Rhode Island Congressional delegation and the Governor of Rhode Island endorsed the P&W proposal. The Connecticut Congressional delegation was divided.

Final Discussions and Negotiations

After the submission of purchase proposals on October 23, 1981, and review of comments on the proposals, the Administrator convened a series of meetings of the prospective purchasers in an attempt to achieve a reconciliation of the competing proposals in a manner that would respond to expressed support among users of rail service, conform to the existing capabilities of the participants, and promote efficient and effective railroad operations in Connecticut and Rhode Island. While the parties responded with new positions which provided potential bases for resolving some areas of disagreement, overall agreement was not reached and the parties, except for Pinsly, chose to rely upon their October 23, 1981, proposals. Pinsly chose to rely upon its modified proposal of November 20, 1981. On December 4, 1981, the Administrator sent a letter to the P&W, Conrail, and the B&M outlining a settlement proposed by FRA, and asking the three railroads to consider it and meet with the Administrator on December 7, 1981 for a final conversation to perfect a plan. The Administrator's proposal for settlement cited six objectives:

(1) Responding to expressions of support from actual users of rail services, without whose confidence no plan can work.

(2) Fashioning a new configuration of rail operations in the states that fits sensibly with existing operations and traffic flows of the railroads already providing service in that area.

(3) Maximizing the benefits that can be realized from consistent implementation of the single line haul policy embodied in the Staggers Rail Act of 1980.

(4) Recognizing the need of any carrier serving Rhode Island to obtain compensatory revenues based on sustainable levels of new investment for acquisition and rehabilitation of facilities.

(5) Providing enhanced levels of service in those areas now claimed to be inadequately served.

(6) Minimizing the levels of new investment necessitated solely by the need to acquire existing assets, thereby avoiding inevitable rate increases either by a new operator or by Conrail in response to lost contribution occasioned by a new divisional arrangement.

The P&W, Conrail and B&M met with the Administrator December 7, 1981, and reached an acommodation of their differences sufficient to permit an agreement in principle on a compromise plan based on the objectives and proposal set forth by the Administrator on December 4, 1981. The basic components of the plan are as follows:

(1) The P&W accepts transfer of Conrail's freight operations and freight service obligations in Rhode Island and on the Shore Main Line from the Rhode Island/Connecticut border to and including Old Saybrook, Connecticut. Conrail retains trackage rights from Old Saybrook to Millstone, Connecticut solely for the movement of stone traffic originating at East Wallingford, Connecticut.

(2) In consideration for the properties it receives, the P&W agrees to pay Conrail $75,000.

(3) The P&W and Conrail agree to enter into a divisions arrangement substantially similar to that proposed by

the Administrator to the parties on December 4, 1981.

(4) The balance of Conrail's properties in Connecticut will be allocated and operated in accordance with the Conrail/B&M proposal.

(5) The B&M agrees to forego any surcharge on the Torrington line for 18 months after transfer, and thereafter if traffic is restored to the 1979 level. In addition, the B&M agres to provide daily service if such service is requested by customers on the line.

(6) Conrail agrees to grant the P&W the exclusive right to succeed to its freight operations and freight service obligations on the Shore Main Line between Old Saybrook and New Haven and within the New Haven station if it withdraws from the market and the Secretary or his delegate finds, on application of the P&W, that the P&W is continuing to operate as a self-sustaining railroad capable of undertaking additional common carrier responsibilities without Federal financial assistance. P&W agrees that, in the event it succeeds to Conrail's operations and obligations, it will guarantee the B&M continued access to property it may acquire within the New Haven station; access through the New Haven station to the Shore Line; and removal of the territorial restriction on the reciprocal switching rights within the New Haven station granted by Conrail to the B&M under the Administrator's proposal. The P&W further agrees that its exclusive right to succeed to Conrail's operations and obligations between Old Saybrook and New Haven and within the New Haven station does not prejudice the rights of any other carrier to succeed to other Conrail operations and obligations within Connecticut.

Further meetings were held by the Administrator with Conrail, P&W and B&M on December 9, 10 and 11 to resolve disputes among the parties which emerged in the process of drafting a proposed order to be presented the Special Court to implement the Administrator's plan. One aspect of the proposed order remained unsatisfactory to Conrail and in the time available the matter could not be resolved.

The FRA wishes to make quite clear that the price and divisions terms for these transactions are supportable only upon the totality of the pertinent circumstances. Those terms are reasonably compensatory to Conrail only when other benefits are taken into account, particularly the ability of Conrail to divest itself of a statutory transfer process. The Department of Transportation does not view those terms as creating any precedent whatsoever for any further disposition of Conrail properties.

Analysis of Proposals

Section 305(f)(2) of the 3R Act requires the Administrator to develop a plan for continuation of rail service now provided by Conrail in Connecticut and Rhode Island. In determining the statutory sufficiency of the proposal made by each prospective purchaser, the Administrator must determine that the proposal (1) accounts for all service operated by Conrail in Connecticut and Rhode Island on the effective date of NERSA, and (2) reasonably assures service for a period of at least four years. While it is not clear that the Congress intended that the Administrator apply in this context the finding requirements set forth in section 305(f)(1), the principles addressed in section 305(f)(1) are wholly consistent with the principles applicable to administration of section 305(f)(2) and (3). Accordingly, the Administrator's determinations herein are made in light of, and consistent with, paragraph 305(f)(1). In that regard, the Administrator has specifically considered the impact on employment of the proposals before the FRA.

The specific considerations applicable to this review and decision are set forth in Notice No. 3, 46 FR 47268 (September 24, 1981). That notice discussed the considerations that would be used in determining the statutory sufficiency of each proposal. It also discussed in general terms considerations that might be taken into account in choosing between statutorily sufficient proposals. The analysis of the Administrator's proposal, as accepted in principle by the P&W, Conrail and the B&M, and the proposal made by Pinsly in terms of the considerations set forth in Notice No. 3 is presented below.

Coverage of All Conrail Services in Connecticut and Rhode Island

Section 305(f)(2) requires that the Administrator submit a plan to the Special Court to continue all service operated by Conrail in Connecticut and Rhode Island on the effective date of NERSA. In Notice No. 3, the Administrator offered the following examples of types of proposals that would satisfy this test:

(1) A proposal to purchase all Conrail properties in Connecticut and Rhode Island and guarantee service for four years.

(2) A proposal to purchase selected Conrail properties in Connecticut and Rhode Island, if contemplated by other proposals such as a submission by a consortium which, considered with the proposal in question, request the transfer of all properties and guarantee service for four years.

(3) A proposal to purchase selected Conrail properties in Connecticut and Rhode Island, if complemented by the undertaking of Conrail to maintain all service on the remaining properties for four years.

The Administrator's proposal, accepted in principle by P&W, Conrail, and B&M, follows the form of example (3), and thus satisfies the service coverage test.

The Pinsly proposal does not offer to purchase all Conrail properties in Connecticut and Rhode Island, nor is it complemented by another proposal or an undertaking by Conrail that would result in maintenance of service on all Conrail lines in Connecticut and Rhode Island for four years.

FRA continues to believe that the procedure set forth in Notice No. 3, requiring purchasers either to agree to assume all Conrail services in Connecticut and Rhode Island or to effect appropriate coordination of their proposals by October 23, 1981, is reasonable in light of the commands of the statute and the time period available to the agency. Although Pinsly did not comply with the procedure set forth in Notice No. 3 by the October 23, 1981 deadline, FRA nevertheless did not foreclose Pinsly from continuing to negotiate with the other prospective purchasers. Indeed, FRA hosted meetings between Pinsly and other prospective purchasers, and endeavored to assist Pinsly in advancing its negotiations. FRA continued to make clear, however, that the responsibility for coordinating its proposal with that of another prospective purchaser or purchasers resided with Pinsly. Pinsly disagreed, and urged that FRA should essentially compel Conrail to include the Pinsly proposal in the Conrail/B&M proposal. FRA pointed out that Conrail could not be compelled by FRA to modify its proposal against its will.

There is also a second, independent, basis for declining to include Pinsly in a final order for transfer. The revised Pinsly proposal covers only three lines. The majority of the carloads on the three lines, the economic foundation of those properties, is grain traffic now handled by Conrail in single line service under agreements highly satisfactory to the shipper. While the Pinsly proposal may indeed offer more active development of other traffic on the line, particularly low volume movements and movements destined to or from the Manchester Industrial Track, through marketing efforts and more frequent

service, it is the judgment of the Administrator that the strong opposition of the principal shipper to transfer of the lines in a manner that would deprive it of continued single line service, and the benefits to be derived from continuing such single line service for existing traffic, outweigh the speculative benefits that might accrue as a result of acquisition of the lines by Pinsly.

Four Year Service Guarantee

To comply with the statute, a proposal must offer a credible guarantee that each prospective purchaser will continue service on the lines it acquires for at least four years. In Notice No. 3, the Administrator indicated that in judging the credibility of the guarantee offered by each prospective purchaser he would evaluate its financial ability to continue the service, consistent with the payment of a fair and equitable purchase price and fair and equitable divisions, and its operational ability to assume the service.

Each of the railroads that has accepted the Administrator's proposal in principle guarantees to continue the freight operations and freight service obligations it will acquire or retain pursuant to that proposal for a period of at least four years. While none of the three carriers involved is, by reason of its current financial status, especially well suited to offer such an unconditional service guarantee, the Administrator has reviewed the particular undertakings agreed upon by each of the railroads involved in his proposal and has concluded that each offers a credible guarantee that it can fulfill the obligations it will undertake. This is in large measure due to the fact that the proposal is designed to minimize the capital outlay required of each party to acquire property and equipment and to maximize the extent to which each can operate the services it will acquire within its existing resources.

Other Considerations

In Notice No. 3, the Administrator discussed a number of considerations to which he would look in preparing a Supplemental Transaction for Conrail's lines in Connecticut and Rhode Island to present to the Special Court. A discussion of the Administrator's proposal, as accepted by the P&W, Conrail, and the B&M, in terms of these considerations is presented below.

Service Quality: The Administrator's proposal will significantly improve the quality of service offered to shippers in Connecticut and Rhode Island. The P&W offers to increase service frequency on the lines it will acquire in Rhode Island, where the public comments received indicated that such service frequency is highly valued by shippers. On the other hand, the comments received from major shippers in Connecticut indicated that they highly value single line service, and the Administrator's proposal will offer increased availability of single line service to Connecticut shippers. Single line service avoids the delay and expense involved in interchanging traffic between carriers, and it enhances the railroad's ability to respond quickly to competitive conditions in the marketplace. In the Staggers Act, the Congress clearly found that single line rail service enhances the ability of the railroads to compete among themselves and with other transportation modes and offers significant benefits to the national transportation system and the shipping community. Comments received from a number of shippers, including the largest rail shippers in Connecticut, and from the Maine and Vermont Departments of Transportation, indicated that single line service is important to many rail shippers and that the Conrail/B&M proposal would enhance such service in Connecticut.

Shippers on the Torrington line indicated through their comments that they place a high value on more frequent service and on service without branchline surcharges. For this reason, these shippers supported the proposal initially offered by the P&W. Due to operating considerations and the preferences of shippers on other Connecticut lines that would have had to accept P&W service for operations of that railroad in western Connecticut to be economically viable, the Administrator's plan does not include P&W service to the Torrington line. However, the B&M, which will acquire the line, has agreed not to impose a branchline surcharge on the Torrington line for at least 18 months, and not to impose a branchline surcharge thereafter if traffic is restored to the 1979 level. In addition, it has offered to provide shippers with daily service, if requested.

Rehabilitation: The Administrator's plan will result in substantial investments by the P&W and the B&M to rehabilitate the lines they will acquire. The lines to be acquired by the P&W will for the most part be upgraded to permit operation at 25 m.p.h. The B&M has obtained a $2.3 million line of credit to guarantee completion of its rehabilitation program. The funds invested by each of the participants will provide a long term benefit to the shippers of Connecticut and Rhode Island.

Employment: The initial P&W and Conrail/B&M proposals would have resulted in continued employment for essentially all Conrail employees currently working in Connecticut and Rhode Island. Under the Administrator's proposal, as accepted in principle by the P&W, Conrail and the B&M, most current Conrail employees in Connecticut will continue to be employed. The P&W is reassessing its requirement for employees in light of the properties it will now acquire in Rhode Island and eastern Connecticut. It should be noted that additional jobs will be generated as the railroads undertake the rehabilitation program to which they have agreed under the proposal.

Labor protection in connection with transactions included in the plan is Federally funded protection provided for by section 701 of the 3R Act, enacted by section 1143 of NERSA. The protection provided in section 701 is that specified in a schedule of benefits to be issued by the Secretary of Labor not later than December 11, 1981. Only Conrail employees who were protected by the compensatory provisions of Title V of the 3R Act immediately prior to the enactment of NERSA are eligible for benefits, and benefit payments to or on behalf of any individual may not exceed a total of $20,000

Benefits will be available to any eligible employees who are deprived of employment as a result of the transfer plan in this notice. It should be noted that an employee who accepts employment with any transferee and who is thereafter deprived of employment as a result of factors growing out of the transaction will remain eligible for benefits. On the other hand, an employee who refuses a final offer of employment with a Class I or Class II transferee will not remain eligible for benefits so long as the final offer is made under a procedure approved by the Administrator.

Rates: The P&W, Conrail and the B&M have all agreed under the Administrator's proposal to forgo branchline surcharges on all lines in Connecticut and Rhode Island. The P&W and Conrail offers are absolute. The B&M reserves the right to impose a $250 per car surcharge on the Torrington Secondary Track if, after an 18-month waiting period, traffic on the line is not restored to the 1979 level. The P&W, Conrail and B&M have agreed under the Administrator's proposal to divisions arrangements among themselves that are, in the Administrator's judgment, fair and equitable, and which should offer reasonable rate stability to shippers in the two states.

Shipper preferences: In each of the public meetings, and at other times throughout the Supplemental Transaction process, the Administrator stressed that he would be strongly influenced by the preferences of the shippers actually using rail service in Connecticut and Rhode Island. The Administrator carefully considered the views shippers expressed to him in meetings and the shipper comments submitted for the Docket. As discussed earlier, the comments indicated that Rhode Island shippers strongly favored service by the P&W, while most Connecticut shippers except those located on the Torrington line strongly desired service by Conrail or the B&M. The Administrator's proposal accommodates most shipper preferences. In the case of the Torrington line shippers, whose preferences could not be accommodated, the B&M has offered to provide service under essentially the same terms offered initially by the P&W, and the B&M offers the additional benefit of offering single line service on some of the shipments destined to the Torrington line.

Administrative Determination: The Administrator has determined that his plan, accepted in principle by the P&W, Conrail and B&M, meets the requirements of section 305(f)(2) and (3) and, to the extent required by law, 305(f)(1). The Administrator has further determined that the proposed order he will submit to the Special Court fairly embodies the agreement of the parties, with the exception of one term not agreed to by Conrail, and that its entry by the Court would be fully consistent with the statutory requirements. Accordingly, he will petition the Special Court no later than December 11, 1981 to enter his proposed order implementing the plan. The Administrator believes the plan will continue and improve railroad service over all Conrail lines in Connecticut and Rhode Island that were in operation as of the effective date of NERSA, and he will strongly recommend that the Special Court find that the plan meets the requirements of section 305(f) and that it is in accord with the public interest.

Issued in Washington, D.C. on December 10, 1981.

Robert W. Blanchette,

Administrator.

Appendix A

Rail Properties and freight service obligations of the Consolidated Rail Corporation (Conrail) in the States of Connecticut and Rhode Island which are proposed for transfer pursuant to section 305(f) of the Regional Rail Reorganization Act of 1973, as amended.

Line name	Between [1]	M.P. to M.P. [1]	CR Code	Owner	Transferee	Transferee interest [2]
State of Connecticut—Conrail New England Division						
Main Line (Shore Line)	New Haven and Old Saybrook	73.0 to 106.0	41-4209	Amtrak	Conrail	Exclusive Trackage Rights.
Main Shore (Shore Line)	Old Saybrook and Millstone	106.0 to 118.0	41-4209	Amtrak	P&W	Trackage Rights.
					Conrail	Limited Trackage Rights.
Main Line (Shore Line)	Old Millstone and New London	118.0 to 122.8	41-4209	Amtrak	P&W	Exclusive Trackage Rights.
Main Line (Shore Line)	New London and State Line (R.I.)	122.8 to 141.1	41-4215	Amtrak	P&W	Exclusive Trackage Rights.
Avon Secondary	Plainville and Avon	0.0 to 9.7	41-4248	Conrail	B&M	Ownership.
Belle Dock Industrial Track	Belle Dock and Cedar Hill	0.0 to 1.6	41-4275	Conrail	Conrail	Ownership.
Berlin Secondary	Berlin and New Britain	0.0 to 2.6	41-4261	Conrail	B&M	Ownership.
Canal Secondary	New Haven (Fair St.) and Plainville	[3] 0.0 to 1.1	41-4247	Conrail	B&M	Ownership.
		1.1 to 27.8				
Dublin Street Industrial Track	Waterbury and Silver Street	[3] 17.29 to 17.45				
		17.45 to 20.05	41-4276	Conrail	B&W	Ownership.
East Windsor Secondary	East Windsor and East Hartford	18.0 to 29.1	41-4255	Conrail	Conrail	Ownership.
Griffins Industrial Track	Hartford	0.0 to 2.0	41-4259	Conrail	B&W	Ownership.
Hartford Line	New Haven and State Line (MA)	0.0 to 55.8	41-4217	Amtrak	Conrail	Trackage Rights.
					B&M	Limited Trackage Rights.
Laurel Secondary	Middletown and Laurel	0.0 to 5.5	41-4253	Conrail	Conrail	Ownership.
Manchester Industrial	Manchester and South Manchester	0.0 to 1.9	41-4256	Conrail	Conrail	Ownership.
Maybrook Branch	State Line (NY) and Derby Jct.	71.2 to 104.8	41-4223	Conrail	Conrail	Ownership.
Middletown Industrial Track	Cromwell and Middletown	13.7 to 16.2	41-4263	Conrail	Conrail	Ownership.
Middletown Secondary	Airline Jct. and Middletown	0.0 to 22.3	41-4251	Conrail	Conrail	Ownership.
New Britain Secondary	Plainville and New Britain	0.0 to 4.5	41-4244	Conrail	B&W	Ownership.
New Britain Secondary	New Britain and Hartford	4.5 to 12.9	41-4244	Conrail	Conrail	Ownership.
New Milford Secondary	Berkshire Jct. and New Milford	0.0 to 13.2	41-4220	Conrail	Conrail	Ownership.
Portland Industrial Track	Middletown and Portland	0.0 to 1.0	41-4254	Conrail	Conrail	Ownership.
Suffield Industrial Track	Windsor Locks and Suffield	0.0 to 4.2	41-4260	Conrail	Conrail	Ownership.
Terryville Secondary	Waterbury and Plainville	0.0 to 17.2	41-4222	Conrail	B&W	Ownership.
Torrington Secondary	Highland Junction and Torrington	0.0 to 20.7	41-4243	Conrail	B&W	Ownership.
Watertown Secondary	Highland Junction and Watertown	0.0 to 1.6	41-4258	Conrail	B&W	Ownership.
Waterbury Industrial Track	Bank Street and Highland Avenue	0.0 to 1.9	41-4204	Conrail	B&W	Ownership.
Wethersfield Secondary	Hartford and Airport Road	0.0 to 3.0	41-4263	Conrail	Conrail	Ownership.
					B&W	Overhead Trackage Rights.
Wethersfield Secondary	Airport Road and Spring Brook	3.0 to 7.0	41-4263	Conrail	B&W	Ownership.
Willimantic Secondary	Hartford ("Hart") and Manchester	0.0 to 9.6	41-4262	Conrail	Conrail	Ownership.
Limited Reciprocal Switching:	Hartford and					B&M Traffic Reciprocally Switched by Conrail.
	Suffield					
	Windsor Locks					
	East Hartford					
	Newington					
	Local					
	New Haven and:					
	Wallingford					
	North Haven					
	Local					
State of Connecticut—Conrail Metropolitan Region						
New Haven Line	State Line (NY) and New Haven	26.1 to 73.0	91-9108	Penn Central [4]	Conrail	Exclusive Trackage Rights.
Danbury Branch	South Norwalk and Danbury	41.3 to 64.9	91-9119	Penn Central [4]	Conrail	Exclusive Trackage Rights.
Waterbury Branch	Devon and Derby Junction	0.0 to 8.8	91-9121	Penn Central [4]	Conrail	Exclusive Trackage Rights.
Waterbury Branch	Derby Junction and Waterbury	8.8 to 26.9	91-9121	Penn Central [4]	B&M	Exclusive Trackage Rights.

Line name	Between [1]	M.P. to M.P. [1]	CR Code	Owner	Transferee	Transferee interest [2]
State of Rhode Island—Conrail New England Division						
Main Line (Shore Line)	State Line (CT) and Cranston	141.1 to 178.9	41-4215	Amtrak	P&W	Exclusive Trackage Rights.
Main Line (Shore Line)	Cranston and State Line (MA)	178.9 to 190.8	41-4116	Amtrak	P&W	Exclusive Trackage Rights.
Bristol Secondary	Providence and Red Bridge	1.6 to 1.9	41-4165	Conrail	P&W	Trackage Rights.
East Junction Secondary	State Line (MA) and Red Bridge	3.7 to 6.9	41-4164	Conrail	P&W	Ownership.
Harbor Junction Industrial Track.	Cranston and So. Providence	0.0 to 3.4	41-6168	Conrail	P&W	Ownership.
Newport Secondary	State Line (MA) and Portsmouth	14.2 to 21.5	41-4192	Conrail	P&W	Ownership.
Slatersville Secondary	Woonsocket and Slatersville	0.0 to 3.4	41-4170	Conrail	P&W	Ownership.
Valley Falls Industrial Track	Valley Falls and Cumberland Mills	0.0 to 0.8	41.4128	Conrail	P&W	Ownership.
Washington Secondary	Providence and Washington	0.0 to 2.4	41-4166	Amtrak	P&W	Exclusive Trackage Rights.
		2.4 to 16.9		Conrail	P&W	Ownership.

[1] Approximate stations and mileposts defining property and trackage rights transferred.
[2] *Transferee Interest:*
Ownership—same title Conrail has currently.
Exclusive Trackage Rights—includes local service.
Overhead Trackage Rights—does not include local service.
Limited Trackage Rights—permits local service on certain traffic.
Trackage Rights—shared with another railroad which has limited trackage rights.
[3] Out of service.
[4] Connecticut DOT leases these lines from the Penn Central Company.
Conrail and/or B&M will provide freight service as indicated through trackage rights agreement.

[Editorial Note.—No Appendix B is included in this document.]

Appendix C

Rail Properties of the Consolidated Rail Corporation (Conrail) in the State of Massachusetts over which trackage rights are transferred in conjunction with the transfers of Appendix A Rail Properties in Connecticut and Rhode Island pursuant to section 305(f) of the Regional Rail Reorganization Act of 1973, as amended.

Line name	Between [1]	M.P. to M.P. [1]	CR Code	Owner	Transferee	Transferee Interest [2]
State of Massachusetts—Conrail New England Division						
Hartford Line	State Line (CT) and Springfield	55.8 to 62.0	41-4217	Amtrak	Conrail	Trackage Right.
					B&W	Limited Trackage Rights.
Main Line (Shore Line)	State Line (RI) and Attleboro	190.8 to 197.0	41-4116	Amtrak	P&W	Exclusive Trackage Rights.
Attleboro Secondary	Attleboro and Whit	0.0 to 9.4	41-4188	Conrail	P&W	Overhead Trackage Rights.
New Bedford Branch	Whit and Cotley	9.4 to 13.3	41-4189	Conrail	P&W	Overhead Trackage Rights.
New Bedford Secondary	Cotley and Myricks	13.3 to 16.8	41-4189	Conrail	P&W	Overhead Trackage Rights.
Newport Secondary	Myricks and State Line (RI)	0.0 to 14.2	41-4192	Conrail	P&W	Overhead Trackage Rights.

[1] Approximate stations and mileposts defining property and trackage rights transferred.
[2] *Transferee Interest:*
Exclusive Trackage Rights—includes local service.
Overhead Trackage Rights—excludes local service.
Limited Trackage Rights—permits local service on certain traffic.
Trackage Rights—shared with another railroad which has limited trackage rights.

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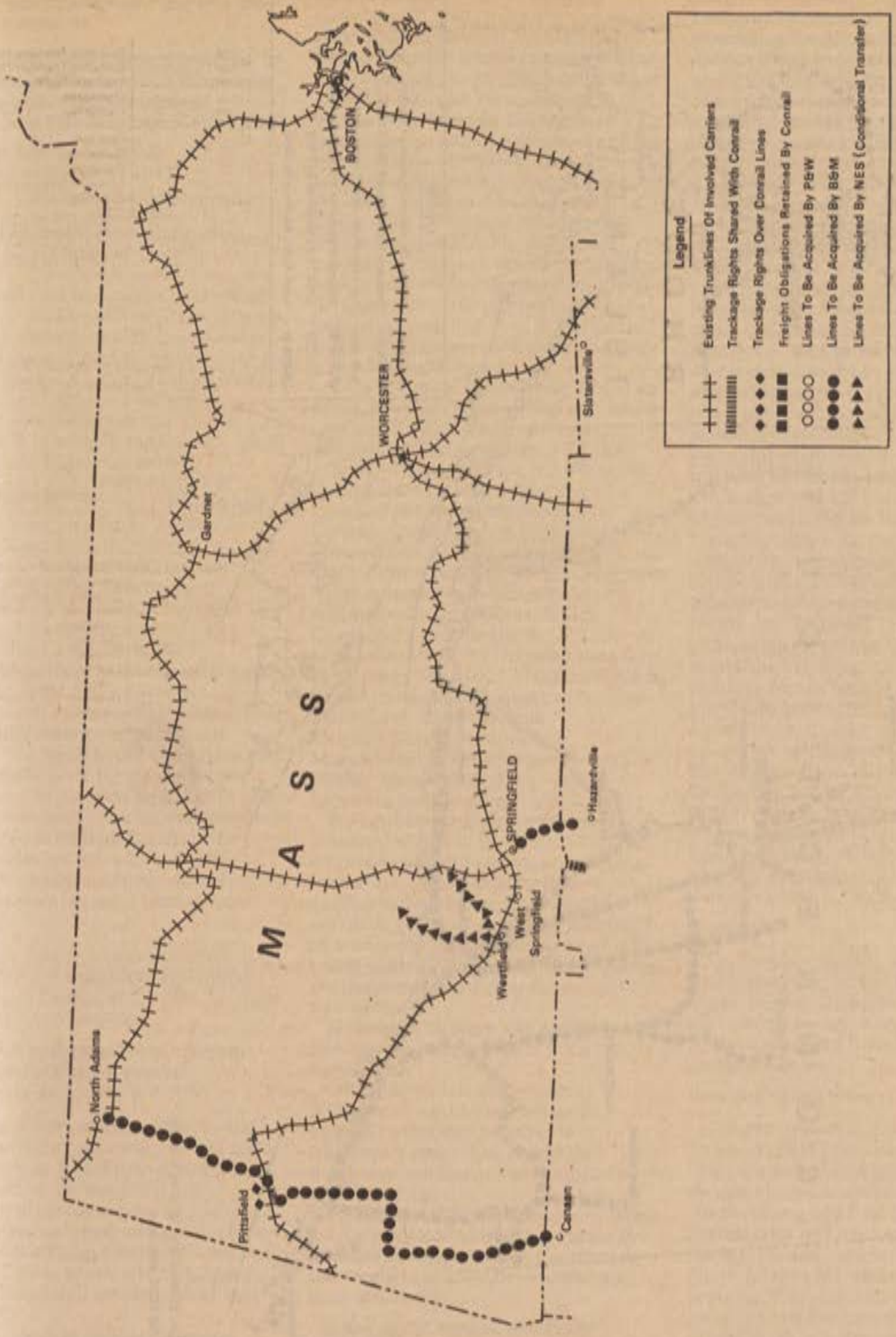
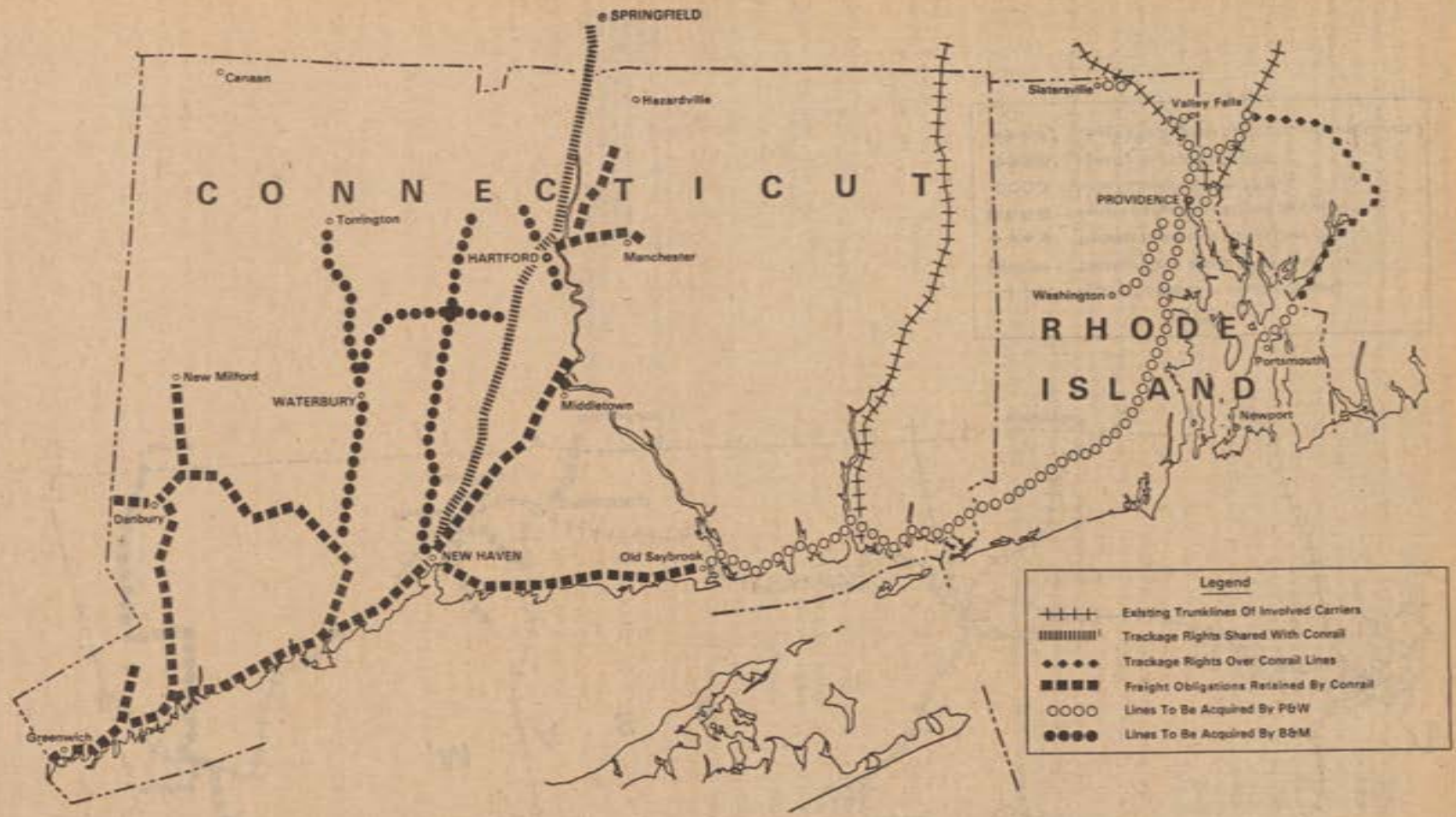
Transfer Proposal for Massachusetts Lines



Transfer Proposal for Connecticut and Rhode Island Lines



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[Docket Nos. RFA 305-81-1 and RFA 305-81-2; Notice No. 5]

Consolidated Rail Corp.; Expedited Supplemental Transaction Proposals; Administrative Determination Concerning Five Massachusetts Lines

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Administrative determination regarding the transfer of five Consolidated Rail Corporation (Conrail) lines in Massachusetts.

SUMMARY: FRA announces its decision regarding transfer of five Conrail lines in Massachusetts to qualified purchasers that have guaranteed to continue service on the lines for a period of at least four years. The transfer is required by recently enacted legislation. FRA's decision is to transfer the Canaan, North Adams, and East Longmeadow Secondaries and trackage rights at Springfield and between Pittsfield and North Adams Junction to the Boston and Maine Corporation (B&M); and to transfer the Holyoke and Florence Secondaries to the New England Southern Railroad (NES) contingent upon the NES obtaining by March 1, 1981 a railroad charter in the Commonwealth of Massachusetts and financing sufficient to cover the purchase price and start-up costs and to reasonably assure continuous rail service. The transfer order provides that the purchase price for the properties transferred to the B&M be $550,000, and that the purchase price for the properties transferred to NES be $230,000. The transfer also provides for fair and equitable divisions of joint rates over through routes between Conrail and NES.

DATE: The determinations set forth in this Notice are administratively final, effective on December 11, 1981, the date of decision and issuance.

FOR FURTHER INFORMATION CONTACT: Steve Black, Office of Federal Assistance, FRA, (202) 472-7180.

SUPPLEMENTARY INFORMATION: Notice No. 4, published separately in this issue of the **Federal Register**, includes a discussion of the Northeast rail restructuring process prior to August 13, 1981, when the President signed into law the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97-35, which included the Northeast Rail Service Act of 1981 (NERSA).

Section 1155 of NERSA amended section 305(f) of the Regional Rail Reorganization Act of 1973 (3R Act) to require the Secretary to petition the Special Court within 120 days (by December 11, 1981) to transfer all of Conrail's properties in the States of Connecticut and Rhode Island to one or more railroads in the region under a plan that provides for continuation of service for at least four years on all properties operated by Conrail as of the effective date of NERSA. That process, which was assigned Docket No. RFA 305-81-1, has been administered in conjunction with the Massachusetts proceeding described in this Notice because of the many issues common to both. FRA's determinations concerning the Connecticut/Rhode Island proceeding are described in Notice No. 4, which appears elsewhere in this issue of the **Federal Register.**

Section 1155 of NERSA also added a new subsection (g) to section 305, which requires the Secretary to initiate discussions and negotiations for the expedited transfer of the following five Conrail lines located primarily in the Commonwealth of Massachusetts: Canaan, Connecticut to Pittsfield, Massachusetts (Canaan Secondary); North Adams Junction, Massachusetts to North Adams, Massachusetts (North Adams Secondary); Hazardville, Connecticut to Springfield, Massachusetts (East Longmeadow Secondary); Westfield, Massachusetts to Easthampton, Massachusetts (Florence Secondary); and Westfield, Massachusetts to Holyoke, Massachusetts (Holyoke Secondary). Further, Section 305(g) requires the Secretary by December 11, 1981 to:

(1) Transfer, provided a qualified purchaser offers to purchase, Conrail's properties and rail service obligations for the five Massachusetts lines to another railroad or railroads in the region. A qualified purchaser is defined as a financially self-sustaining railroad which guarantees continuous service on the properties it acquires for at least four years.

(2) Determine a fair and equitable price for the rail properties to be transferred.

(3) Establish fair and equitable divisions of joint rates over those through routes that include the transferred properties, unless the purchaser and Conrail have agreed on such divisions.

(4) Determine fair and equitable terms for the provision of trackage rights, not to exceed 5 miles per line transferred, necessary to operate the transferred lines efficiently.

Chronology of Notices and Public Meetings

On August 21, 1981, the Administrator, as delegate of the Secretary, published Notice No. 1 to announce that informal conferences would be held to assist in structuring the discussions required by section 305(f) and section 305(g), as amended, and to solicit the participation of prospective purchasers and other interested parties (46 FR 42565). Conferences were held on August 31, 1981 at New Haven, Connecticut and on September 1, 1981 at Springfield, Massachusetts. On September 11, 1981, seven railroad companies filed preliminary declarations of interest in acquiring some or all of the Conrail lines to be transferred in Massachusetts. On September 17, 1981, the Administrator published Notice No. 2, which announced that an additional informal conference would be held to brief interested parties on the status of the Supplemental Transaction process and to solicit public comments, with particular emphasis on the comments of rail shippers (46 FR 46271). This informal conference was held September 28, 1981 at Providence, Rhode Island.

On September 24, 1981, the Administrator published Notice No. 3, which established deadlines, information requirements and guidelines for the Supplemental Transaction process (46 FR 47165). Notice No. 3, established October 23, 1981, as the deadline for the receipt of purchase proposals from potential purchasers and November 6, 1981, as the deadline for comments on the purchase proposals. The Administrator subsequently notified the parties that he would hold the docket open as long as pracatical to receive additional public comments. All comments received through December 7, 1981 were condsidered in making the determinations set forth in this Notice.

Proposals

On October 23, 1981, the Administrator received four Supplemental Transaction Proposals pursuant to section 305(g), as amended. A summary of the initial proposals, as revised, follows:

Providence and Worcester

The Providence and Worcester Railroad (P&W) proposed to acquire all Conrail's freight operations and freight service obligations on the Canaan, North Adams and East Longmeadow Secondaries and trackage rights at Springfield and between Pittsfield and North Adams, Massachusetts. Since portions of the Canaan and East Longmeadow Secondaries extend into Connecticut, transfer was requested under section 305(f); however, the P&W indicated that if the Secretary elected to transfer the Massachusetts lines under

section 305(g) it would seek trackage rights over the East Longmeadow Secondary under section 305(f).

The P&W proposed to operate the Canaan and North Adams Secondaries and the trackage rights connecting these lines as a self-contained shortline railroad providing frequency of service similar to that being provided by Conrail. The P&W proposed to serve the East Longmeadow Secondary 6 days per week.

The P&W assumed in preparing its proposal that it would pay $0 for Conrail's properties in Connecticut, Rhode Island and Massachusetts, 50 locomotives and 400 frieght cars. No separate price or valuation was offered for the Massachusetts lines. The P&W pledged not to impose surcharges on lines it acquired.

The P&W proposed that it receive the same divisions of joint rates over through routes agreed to by the former New York, New Haven and Hartford Railroad (New Haven) and its connections, with an average minimum of $400 per car. The divisions vary depending upon the point at which traffic is interchanged.

Boston and Maine

The Boston and Maine proposed to acquire, under section 305(g), all Contrail's freight operations and freight service obligations on the Canaan, North Adams and East Longmeadow Secondaries, and trackage rights at Springfield and between North Adams Junction and Pittsfield. It proposed to serve the Canaan and East Longmeadow Secondaries three days per week and the North Adams Secondary five times weekly. No surcharges were proposed on the lines. The B&M proposed to rehabilitate the North Adams and East Longmeadow lines to permit 10 m.p.h. operation, and the Canaan Secondary to permit 25 m.p.h. operation. The B&M proposed to pay $550,000 for the purchase of the three lines, and reached a divisions agreement with Conrail. The B&M proposed to spend approximately $1.65 million to rehabilitate the lines through 1985.

Massachusetts Central

The Massachusetts Central Railroad (MC) proposed to acquire all Conrail's freight operations and freight service obligations on the Holyoke, Florence and East Longmeadow Secondaries, and trackage rights from Westfield to Springfield. The MC proposed to serve the Holyoke Secondary, and Westfield shippers on the Florence Secondary, 5 days per week and the East Longmeadow Secondary and the Florence Secondary outside of Westfield 3 days per week. The MC proposed to interchange traffic with both Conrail and the B&M. It generally proposed no surcharges on the lines.

The MC proposes to rehabilitate the Holyoke Secondary to permit 25 m.p.h. operation and the Florence and East Longmeadow Secondaries to permit 10 m.p.h. operation. The MC proposed to pay $650,000 for the purchase of the three lines, including $409,500 to purchase the Holyoke and Florence Secondaries. It proposed to spend $386,350 for rehabilitation, and $249,000 for equipment acquisitions.

New England Southern

The New England Southern Railroad (NES) proposed to acquire all Conrail's freight operations and freight service obligations on the Florence and Holyoke Secondaries. It proposed to serve Westfield and the Holyoke Secondary 5 days per week and the Florence Secondary outside of Westfield 3 days per week. It proposed to interchange with Conrail at Westfield and with B&M at Holyoke. It proposed surcharges of $100 per car at Easthampton, $50 per car at Southhampton, and $25 per car at Holyoke.

The NES proposed to pay $287,500 to acquire the lines and $300,000 to rehabilitate them.

Summary of Public Comments

Comments were received from three shippers on the Massachusetts lines. The Milton Bradley Company, which has a facility located on the east Longmeadow Secondary, recommended approval of the B&M proposal because it seemed more interested than the P&W in the line and more able than the MC to fulfill its commitment to upgrade service. The W. R. Grace Company, with a facility located on the Florence Secondary, supported either the MC or NES, but indicated its preference for the MC. The Mobil Oil Corporation, which has a facility located on the Holyoke line, expressed no preference between the MC and NES. The Massachusetts Executive Office of Transportation and Construction supported the B&M proposal to acquire the Canaan, North Adams, and East Longmeadow lines. It expressed no preference between the MC and NES proposals.

The Lodge of the Brotherhood of Railway, Airline and Steamship Clerks representing P&W clerks supported the P&W proposal, and the general chairmen of the Brotherhood of Locomotive Engineers and the United Transportation Union for the B&M supported the B&M proposal.

Seven letters were received from city Chambers of Commerce in Massachusetts. Three chambers in Western Massachusetts supported the B&M. The Greater Springfield Chamber of Commerce, on behalf of the East Longmeadow Rail User Association, supported B&M acquisition of the East Longmeadow Secondary. The Greater Westfield Chamber of Commerce, located on the Florence Secondary, indicated that service by either the MC or NES would be satisfactory. Both the Easthampton Chamber of Commerce, located on the Florence Secondary, and the Greater Holyoke Chamber of Commerce supported either the NES or MC proposals but favored the MC application because it proposed no surcharges and is currently an operating railroad.

Final Discussions and Negotiations

After submission of purchase proposals on October 23, 1981, submission of a completed MC proposal dated October 31, 1981, and review of public comments on the proposals, meetings were held between FRA staff and representatives of the MC and NES. Discussions at these meetings focused on additional materials provided to clarify the two proposals, the extent to which each railroad could quality as a purchaser under section 305(g), and the progress of their negotiations with Conrail concerning purchase price and revenue divisions. Meetings were also held with P&W and B&M, as discussed in **Federal Register** Notice No. 4, in the context of their proposals to acquire Conrail properties in Connecticut and Rhode Island as well as Massachusetts.

In response to those meetings and other events that occurred in the interim, both the MC and NES submitted further modifications to their proposals. The NES revised its proposal, reducing surcharges and the amount that would be spent for rehabilitation to $237,500. The MC revised its financing plan by deciding to seek long-term financing from a commercial bank and from the Small Business Administration.

While the MC did not formally modify its proposal to seek transfer of only the Holyoke and Florence Secondaries, it held informal discussions with FRA staff and provided materials regarding its projected financial performance if it were to acquire the Florence and Holyoke lines.

The MC assumed in preparing subsequent financial projections that it would spend $315,000 to purchase the Holyoke and Florence Secondaries, $263,750 to rehabilitate them and $100,000 for equipment.

Analysis of Proposals

Section 305(g) of the 3R Act requires the Administrator to transfer Conrail's properties and freight service obligations for the five Massachusetts lines discussed herein to another railroad or railroads in the region found to be qualified. In assessing the qualifications of the prospective purchasers, and their respective capabilities to meet the legislative requirement to provide service for 4 years on a self-sustaining basis, it was necessary in the analysis of the MC and NES proposals to consider certain financial and operating contingencies implicit in the proposals.

The specific requirements of section 305(g), together with other considerations set forth in Notice No. 3 46 FR 47268 (September 24, 1981), were considered in reviewing the proposals and making this determination.

Providence and Worcester

The P&W initially submitted a proposal under section 305(f) to acquire all of Conrail's freight operations and freight service obligations in Rhode Island and Connecticut and the Canaan, North Adams, and East Longmeadow Secondaries in Massachusetts. It indicated that should the Secretary elect to direct that the Massachusetts lines be transferred under section 305(g) the P&W would seek trackage rights over the East Longmeadow Secondary under section 305(f). In his December 4, 1981 letter to the P&W, Conrail and the B&M proposing elements of an FRA plan in settlement of the issues in dispute under sectin 305(f), which is further discussed in Notice No. 4, the Administrator indicated that the Canaan, North Adams and East Longmeadow Secondaries would be transferred to the B&W under section 305(g). The P&W did not object.

Boston and Maine

The B&W proposed to acquire the Canaan, North Adams, and East Longmeadow Secondaries, independent of its proposed purchase of Conrail lines in Connecticut. Therefore, the B&M proposal for these lines was considered solely within the requirements of section 305(g). The B&M proposed to devote one locomotive and crew to each of the three lines and to provide service levels greater than existing Conrail service. It proposed to spend $295,550 per year for normalized maintenance of the Cannan and North Adams Secondaries and $64,400 to maintain the East Longmeadow Secondary. All lines would be maintained for not less than 10 m.p.h. operation.

B&M's traffic projections for the North Adams, Canaan, and East Longmeadow Secondaries represent a 10-percent decline in traffic from Conrail's 1980 levels, or 3,396 carloads per year. B&M used the reduced traffic level as a conservative test to its ability to generate a positive cash flow from the operations.

The B&M estimated it would realize revenue of $535 per car for total annual revenues from the lines of $1.818 million. It projected operating costs of $1.564 million annually.

The North Adams Secondary connects with the B&M east-west mainline, and B&M expects to achieve longer hauls on traffic originating or terminating on its system from the Massachusetts lines.

FRA staff analysis concluded that B&M's traffic, revenue and cost projections were very reasonable and would support a determination that service could be maintained on a self-sustaining basis for four years.

Trackage Rights

The B&M requested trackage rights between Pittsfield and North Adams Junction to operate the Canaan and North Adams Secondaries and at Springfield to obtain access to the East Longmeadow line.

New England Southern

Legal Qualifications

Under the laws of the Commonwealth of Massachusetts, the NES must be authorized to operate as a railroad by special act of the legislature before it is permitted to initiate service. A bill that would satisfy this requirement has been introduced in the Massachusetts legislature. NES expects the bill to be enacted in the near future. Pending enactment of that bill, NES would seek interim authorization to operate from the Interstate Commerce Commission and would request the concurrence of the Massachusetts Executive Office of Transportation and Construction with that action.

Financial Qualifications

The NES financial proposal included a written commitment from a commercial bank for an eight-year loan of $150,000 conditioned upon, (1) other investors providing $100,000, and (2) shippers providing funding of $150,000. The NES has secured stock subscription commitments of $90,000, and has deposited $22,510 in an escrow savings account. The NES has made substantial progress in obtaining commitments from shippers to advance $150,000 at low interest terms, with repayment based upon the volume of traffic shipped. The NES stated that it is confident it can achieve a capitalization of not less than $400,000 prior to the commencement of operations. The projected level of capitalization would permit the NES to purchase the properties for cash and to operate with sufficient working capital to cover any anticipated losses from early operations. The level and the balance of debt and equity in the capitalization plan results in a reasonable debt structure with the debt satisfied at the end of eight years.

Operations

The NES proposed five day per week service on the Holyoke Secondary and to customers located at Westfield on the Florence Secondary, and three day per week service on the remainder of the Florence Secondary. It proposed two crew assignments and 70 to 75 crew hours a week to meet the service plan. The NES proposed to spend $93,400 for track maintenance in 1982. In addition, NES proposed to spend $237,500 during the next four years for necessary rehabilitation of the two lines which would be obtained through special tariffs.

While the NES is not currently an operating railroad, it has the services of an experienced short line railroad manager. It has a lease commitment at a reasonable cost for a 1,000 horsepower locomotive, which is sufficient for the proposed operating plan, and has access to a second locomotive on a short term lease basis.

Traffic, Revenues, and Costs

The NES projected it would carry 3,000 cars in 1982, and that traffic will increase to 3,380 cars in 1985. Conrail carried approximately 2,000 cars on the two lines in 1980. The NES traffic projection assumes that the railroad will regain former Conrail traffic through its ability to provide service oriented to shippers' needs, and that it will obtain approximately 500 cars now carried by the B&M by leasing necessary B&M lines adjacent to those NES would assume under this transfer. The NES cited information obtained through extensive interviews with shippers on the lines to support its traffic projections.

The NES projects revenues of $580,000 in 1982, exclusive of revenue from special tariffs received to fund rehabilitation, and operating expenses less description of approximately $527,000. After including the cost of rehabilitation and repayment of shipper advances, the revenue from the special rehabilitation tariff, and $30,000 debt service on its bank loan, the NES projected a positive cash flow before

taxes of approximately $40,000 in 1982. It also projected that it would continue in a positive cash position.

FRA has concluded that there is a reasonable likelihood that NES will obtain its corporate charter and financing in a timely manner. Detailed review by FRA staff indicates that while it is not possible to fully predict traffic and revenue levels, the NES projection falls within an achievable range. In addition, NES expense projections appear conservative. In summary, it appears likely that NES will be able to provide self-sufficient rail service on a continuing basis.

Massachusetts Central

Financial Qualifications

In order to purchase and initiate service on the Florence, Holyoke and E. Longmeadow Secondaries the MC proposed to rely largely on borrowed funds from conventional and government loan sources. The MC's financing proposal included the procurement of a conventional first mortgage loan for approximately $450,000, a Small Business Administration (SBA) guaranteed second mortgage loan of $360,000, and common stock of $110,000. The MC has obtained $110,000 in common stock purchase commitments. Some $50,000 of those commitments would be satisfied by refinancing of a locomotive that secures currently outstanding loans from the investors to the MC and reinvesting the proceeds of the refinancing in common stock. The equity investors have placed $18,000 of the $110,000 in an escrow account, and have assigned a $50,000 demand note from the bank to the account.

A commercial bank provided the MC a letter indicating an SBA guarantee appeared to be a viable method for providng funding and indicating the bank would look forward to pursuing the MC's request for first mortgage financing further with the intention of providing the funding. No commitment has been made to provide the loan. An SBA-certified development corporation has agreed to accept the second mortgage if the SBA approves a loan guarantee. Financial support has been offered to the MC, as well as the NES, by one shipper.

Based on the proposed acquisition of only the Florence and Hoyoke Secondaries, the MC financing proposal was modified to reduce the conventional financing to $383,500 and the SBA guaranteed loan to $307,000.

The MC estimated it would take six to eight months to conclude the financing process, and it proposed to enter into a lease-purchase agreement with Conrail in order to begin interim operations. While it is conceivable that operations could commence in early 1982, FRA's staff analysis indicates that continued operations could not be sustained unless the loans were obtained. The analysis also indicated that if all financing were obtained the level and the balance between debt and equity of the capitalization plan would result in a burdensome debt structure.

Operations

The MC proposed to operate the two lines generally separate from its existing operation of the Ware River Secondary. The Ware River Secondary is leased by the Commonwealth of Massachusetts and the MC is the contract operator. Subsidy is provided on a month to month basis by the Massachusetts Executive Office of Transportation and Construction. In 1980, subsidy payments were approximately $145,000. The MC proposed to continue operation of the Ware River Line. The MC proposed five day per week service on the Holyoke Secondary and to customers located at Westfield on the Florence Secondary, and three day per week service on the remainder of the Florence Secondary. It proposed one crew assignment and 45 to 50 hours per week to meet the service plan. It proposed to spend $68,600 for normalized maintenance in 1982. In addition, the MC proposed to spend $263,750 during the next four years for necessary rehabilitation of the two lines. Funding for the rehabilitation would be obtained through the conventional bank and SBA loans.

FRA staff analysis of the operating plan concluded that the projected schedule of service was optimistic and the actual operating times could be substantially greater.

Traffic, Revenue and Costs

The MC projected it would carry 2,944 cars in 1982. Conrail carried 2,000 cars on the lines in 1980. In common with the NES proposal, the MC proposal included an assumption that it would obtain approximately 500 cars now carried by the B&M by leasing necessary B&M lines adjacent to those MC would acquire under this transfer and that it would regain former Conrail traffic through its ability to provide service oriented to shippers' needs. In addition, the MC projected that it will carry 941 cars on the Ware River Secondary in 1982, compared with the 491 cars it carried on the line in 1980. The MC stated that the projections are based on information obtained in interviews with shippers and MC experience and judgment.

The MC projected revenues of $726,000 in 1982, including revenues from traffic on the Hoyoke and Florence Secondaries of $560,000 and $166,000 in revenues from traffic on the presently subsidized Ware River Secondary. Like those of the NES, it is not possible to fully assess MC's traffic and revenue projections for Holyoke and Florence. No analysis was made of Ware River traffic growth, but we would question the feasibility of a doubling of carloads in one year.

The MC projected expenses, excluding depreciation, of approximately $535,000 to operate the Holyoke, Florence, and Ware River Secondaries in 1982, including $409,000 to operate the Holyoke and Florence Secondaries.

After including the $127,000 debt service on its conventional bank and SBA loans, the MC projected a positive cash flow before taxes on the Holyoke and Florence Secondaries of approximately $25,000.

The FRA considers the MC's operating expense estimates to be based on optimistic assumptions regarding service schedules and car turnaround time. More realistic service schedules and car hire expenses would increase annual operating expense on the Florence and Holyoke Secondaries by approximately $30,000 to $40,000.

FRA staff concludes that the MC would not be able to achieve its financial requirements within a reasonable time and further believes it imprudent to begin interim operations without key elements of the financing package in place. The large annual debt service contemplated in the MC financial plan would place a severe burden on its chances for long term financial viability. In addition, MC's projected expenses are considered optimistic for the level of service proposed.

ADMINISTRATIVE DETERMINATION:

Canaan, North Adams and East Longmeadow Secondaries

Transfer of properties. The Canaan, North Adams and East Longmeadow Secondaries shall be transferred to the B&M. The B&M's proposal provides for more single line service to shippers on the lines and the properties are directly connected to its present system or within a reasonable distance.

Price. The properties shall be transferred for a price of $550,000, the price proposed by the B&M, on the terms with respect to recapture of proceeds of sale agreed to between Conrail and B&M.

Divisions. The division of joint rates over through routes shall be in accordance with the agreement between Conrail and the B&M.

Trackage rights. The B&M shall be granted the trackage rights requested in its proposal between Pittsfield and North Adams and at Springfield. Cars carried over those trackage rights by the B&M shall be assessed the charge agreed to between Conrail and the B&M.

Holyoke and Florence Secondaries

Transfer of Properties. The Administrator cannot find at this time that either the NES or MC is a qualified purchaser fot the Holyoke and Florence Secondaries within the meaning of section 305(g)(2) of the 3R Act. Given a reasonable amount of additional time, however, it appears that the NES is more likely than MC to be able to secure the legal authorizations and financing arrangements necessary to be found fully qualified to undertake service responsibilities on a timely basis and continue those services on a self-sustaining basis. Accordingly, transfer of these properties to the NES is expressly conditioned upon certain terms and conditions to ensure that, at the time of transfer, NES will be financially self-sustaining and able to provide a reasonable assurance of continued service on the acquired lines for at least four years. The Holyoke and Florence Secondaries and Westfield Yard, including the yard office structure at Westfield Yard, shall be transferred to the NES subject to the following conditions:

(1) The transfer shall be consummated no later than March 1, 1982.

(2) As of the conveyance date:

(a) The NES shall have been incorporated in the Commonwealth of Massachusetts;

(b) The NES shall have received all governmental authorizations necessary to provide rail operations over the transferred lines;

(c) The NES shall have obtained financing in the following amounts on terms substantially similar to those stated in the NES proposal under section 305(g):

(i) A loan from a bank or other financial institution of at least $150,000;

(ii) A low-interest loan from one or more shippers on the transferred lines in the principal amount of at least $150,000;

(iii) No less than $100,000 from the sale of common stock of the NES; and

(d) The NES shall have obtained an unconditional written commitment from one or more financially responsible persons to purchase additional NES common stock in the amount of at least $20,000 by no later than July 1, 1982.

(3) Without the prior written consent of the Administrator, during the first four years following consummation of the purchase:

(a) The NES will not declare or pay any dividend or make any other distributions of capital to the holders of any class of its capital stock;

(b) The NES will not purchase or redeem any of its securities;

(c) The NES will not at any time appropriate assets related to or derived from railroad operations to nonrailroad enterprises; and

(d) The NES will not commence rail service over any line other than the transferred lines, nor will it engage in a line of business other than that in which it is engaged at the time the transfer is consummated.

Price: The properties shall be transferred for a price of $230,000, which is fair and equitable considering the purchase price established for the other Massachusetts properties and the division of revenues established for traffic on these properties. The terms of the sale regarding asset conveyance and sales shall be similar to those agreed to by Conrail and the B&M. Under these terms, proceeds from asset sales, should they occur, are to be shared by Conrail and the NES during the initial eight-year period following consummation of the purchase. Additionally, nonoperating assets are excluded from conveyance.

Divisions: The division of joint rates over through routes shall be those established by the Administrator as being fair and equitable.

Trackage rights: no trackage rights have been requested by the NES.

In the event the NES fails to comply with any of the conditions set forth above by March 1, 1982, the transfer process shall be reopened.

In consideration of the foregoing, IT IS ORDERED that Conrail shall transfer its properties and freight service obligations identified in section 305(b)(1) of the 3R Act to the parties designated in this Notice as of the date(s) specified in this Notice or as directed by further Order of the Administrator.

It is further ordered that:

1. Each party that accepts a transfer of properties and freight service obligations pursuant to this Order shall be deemed (i) to guarantee, and shall guarantee, and (ii) to agree to provide, and shall provide, continuous service over such properties substantially in accordance with the acquisition proposal submitted to the FRA by that party for at least four years immediately following consummation of the transfer.

2. Each party that accepts a transfer of properties and freight service obligations pursuant to this Order shall be deemed to agree, and shall agree, that any dispute not otherwise resolved concerning the precise properties to be transferred, conveyance date, operating rights, divisions, payment of the purchase price and any other matter relating to or arising under the transfers directed pursuant to this Order shall be submitted to the Administrator for decision. The Administrator shall decide any such dispute based upon the best available evidence.

3. Each party that accepts a transfer of properties and freight service obligations pursuant to this order shall be deemed to consent, and shall consent, to the in personam jurisdiction of the Special Court created pursuant to section 209 of the 3R Act with respect to any proceeding before that Court seeking enforcement of this Order.

Issued in Washington, D.C., on December 11, 1981.

Robert W. Blanchette,

Administrator.

[Editorial Note:—No Appendix A is included in this document.]

Appendix B

Rail Properties of the Consolidated Rail Corporation (Conrail) in the State of Massachusetts with extension into Connecticut and/or trackage rights in the State of Massachusetts which are transferred pursuant to section 305(g) of the Regional Rail Reorganization Act of 1973, as amended.

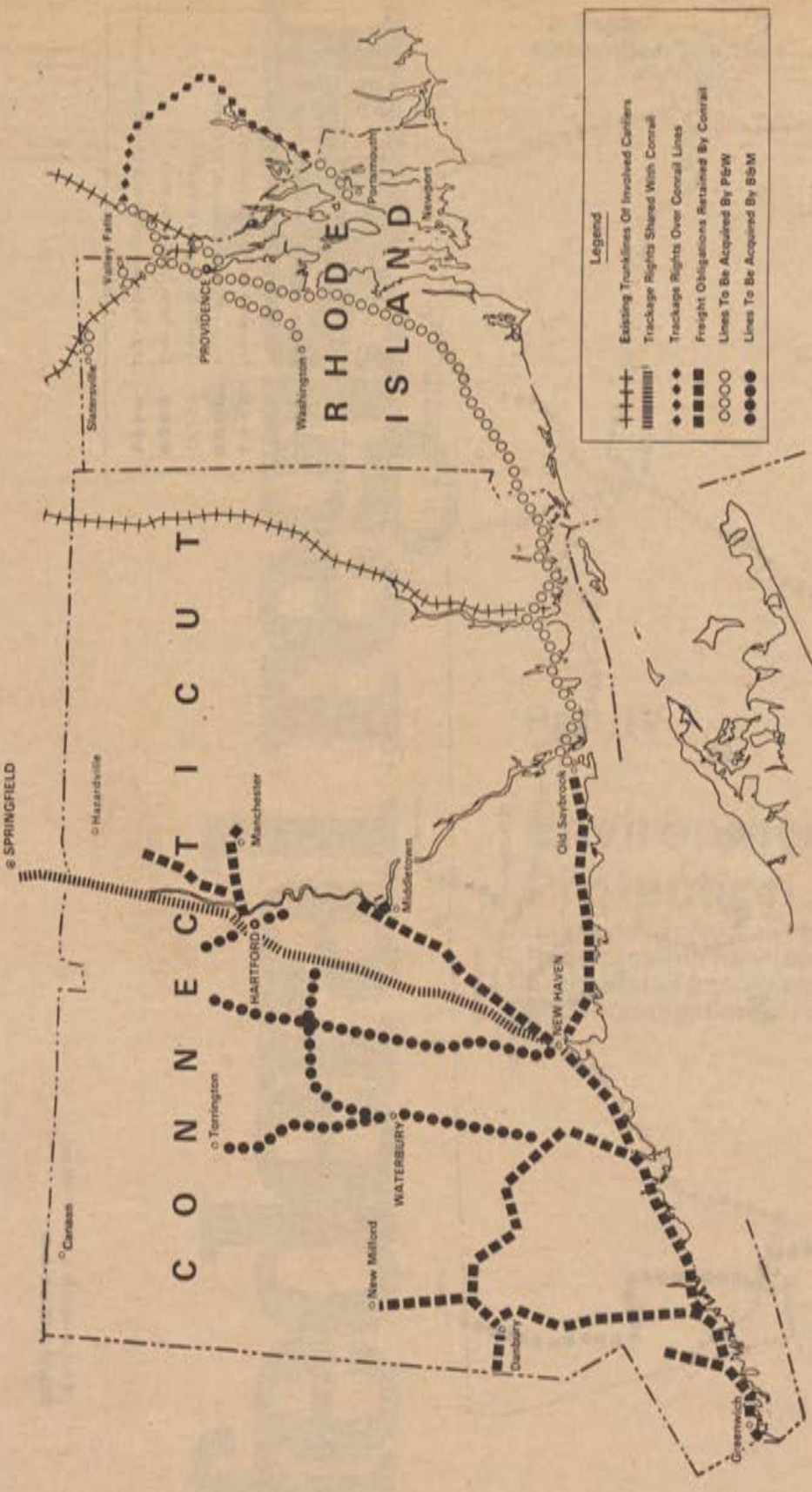
Line name	Between [1]	M.P. to M.P. [1]	CR code	Owner	Transferee	Transferee interest [2]
State of Massachusetts—Conrail New England Division						
Canaan Secondary	State Line (CT) and Pittsfield	50.0 to 85.9	41-4220	Conrail	B&M	Ownership.
North Adams Secondary	North Adams Jct. and North Adams	0.0 to 2.5 [3]				
		2.5 to 18.5	41-4141	Conrail	([4])	
					B&M	Ownership.
Boston and Albany Main Line	Pittsfield and North Adams Jct.	148.2 to 150.8		Conrail	B&M	Overhead trackage rights.
East Longmeadow Secondary	Springfield and State Line (CT)	0.0 to 8.8	41-4255	Conrail	B&M	Ownership.

Line name	Between [1]	M.P. to M.P. [1]	CR code	Owner	Transferee	Transferee interest [2]
West Springfield to Springfield	West Springfield and Springfield	98.1 to 98.6		Conrail	B&M	Overhead trackage rights.
Florence Secondary	Westfield and East Hampton	0.0 to 11.9	41-4249	Conrail	NES [4]	Ownership.
Holyoke Secondary [3]	Westfield and Holyoke	31.7 to 43.5	41-4248	Conrail	NES [4]	Ownership.
	State of Connecticut—Conrail New England Division					
Canaan Secondary	Canaan and State Line (MA)	47.2 to 50.0	41-4220	Conrail	B&M	Ownership.
East Longmeadow Secondary	State Line (MA) and Hazardville	8.8 to 12.5	41-4255	Conrail	B&M	Ownership.

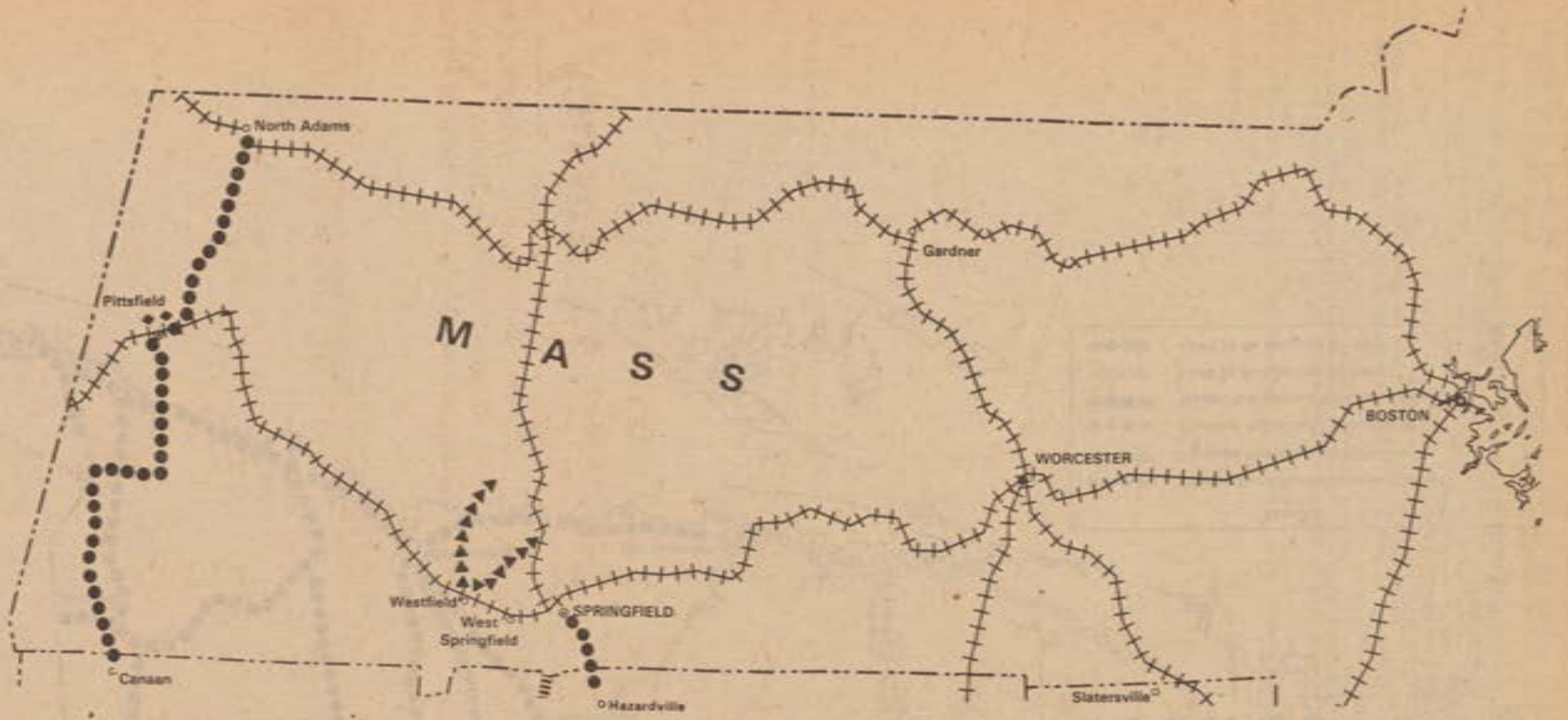
[1] Approximate stations and mileposts defining property and trackage rights transferred.
[2] Transferee Interest: Ownership—same title Conrail has currently. Overhead Trackage Rights—excludes local service.
[3] Pittsfield Yard will remain with Conrail. Ownership of remainder of line to milepost 2.5 will be as agreed by Conrail and B&M or resolved as provided in paragraph 2 of Administrator's Order.
[4] Conditional transfer.
[5] Includes Westfield Yard. Conrail will continue to use part of the yard as agreed by Conrail and NES or as resolved as provided in paragraph 2 of Administrator's Order.

BILLING CODE 4910-06-M

Transfer Proposal for Connecticut and Rhode Island Lines



Transfer Proposal for Massachusetts Lines



Legend

- Existing Trunklines Of Involved Carriers
- Trackage Rights Shared With Conrail
- Trackage Rights Over Conrail Lines
- Freight Obligations Retained By Conrail
- Lines To Be Acquired By P&W
- Lines To Be Acquired By B&M
- Lines To Be Acquired By NES (Conditional Transfer)

[FR Doc. 81-36033 Filed 12-16-81; 8:45 am]
BILLING CODE 4910-06-C

federal register

Thursday
December 17, 1981

Part IV

Environmental Protection Agency

Requirements for Preparation, Adoption, and Submittal of Implementation Plans; Approval and Promulgation of Implementation Plans

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 52

[FRL 1983-1A]

Requirements for Preparation, Adoption, and Submittal of Implementation Plans; Approval and Promulgation of Implementation Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Partial Stay of Regulations.

SUMMARY: EPA is staying a requirement of those regulations relating to the construction of new stationary sources of air pollution and modifications to existing sources which appear at 40 CFR 51.24, 52.21, Appendix S to Part 51, §§ 51.18(j), and 52.24. The requirement is that certain emissions from marine vessels are to be included in determinations of whether a proposed source or modification would emit a particular pollutant in "major" or "significant" amounts. In the Proposed Rules section of this part of today's **Federal Register**, EPA is proposing to delete that requirement and to amend certain other provisions that relate to vessel emissions.

DATE: The stay takes effect on December 7, 1981.

FOR FURTHER INFORMATION CONTACT: Michael Trutna, New Source Review Section, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711; 919-541-5591; FTS-629-5591.

SUPPLEMENTARY INFORMATION: EPA's regulations relating to the construction of new sources and modifications contain the requirement that certain vessel emissions are to be included in determinations of whether a proposed source or modification would emit a particular pollutant in "major" or "significant" amounts. In July 1981, EPA (1) announced that it had decided to reconsider that requirement, (2) issued a temporary stay of the requirement, and (3) proposed to extend the stay. See 46 FR 36695 (July 15, 1981). In the Proposed Rules section of this part of today's **Federal Register**, EPA is proposing to delete the requirement, as well as certain other provisions relating to vessel emissions. EPA here is announcing that it is staying the requirement until it reaches a final decision on those proposals. A full description of the background to this stay, a response to the comments on the July 1981 proposal to extend the temporary stay, and other pertinent information appears in the notice in the Proposed Rules section of this part of today's **Federal Register** which announces the proposals to amend the regulations as to vessel emissions. EPA hereby incorporates that material, especially the response to comments, in this notice.

Authority for the stay lies in the following statutory provisions: Sections 101(b)(1), 110, 160-169, 171-178, and 301(a) of the Clean Air Act, as amended (42 U.S.C 7401(b)(1), 7410, 7470-79, 7501-08 and 7601(a)); section 129(a) of the Clean Air Act Amendments of 1977 (Pub. L. No. 95-95, 91 Stat. 685 (August 7, 1977)).

The text of the stay order appears below:

Order Staying Certain Regulatory Provisions Relating to Vessel Emissions

I hereby stay the following definitions of "stationary source," "building," "structure," "facility," and "installation" to the extent that they encompass the activities of vessels:

1. 40 CFR 51.24(b)(5)-(6), originally published at 45 FR 52731 (August 7, 1980);

2. 40 CFR 52.21(b)(5)-(6), originally published at 45 FR 52736;

3. 40 CFR Part 51, Appendix S, § II(A)(1)-(2), originally published at 45 FR 52741-42 and amended at 46 FR 50771 (October 14, 1981);

4. 40 CFR 51.18(j)(2)(i)-(ii), originally published at 45 FR 52743-44 and amended at 46 FR 50771; and

5. 40 CFR 52.24(f)(1)-(2), originally published at 45 FR 52746 and amended at 46 FR 50771.

The purpose of this partial stay of the definitions listed above is to suspend the requirement in 40 CFR 51.24, 52.21, Part 51 (Appendix S), 51.18 and 52.24 that certain vessel emissions are to be included in determining whether a source or modification would emit (or emits) a particular pollutant in "major" or "significant" amounts, until I reach a final decision on the proposal I am making today to delete that requirement.

In issuing this partial stay, I do not intend to change the status of any state-adopted program for new source review which EPA has approved under section 110 of the Clean Air Act. I do intend, however, to affect 40 CFR 52.21, even where EPA under subsection (u) of those regulations has delegated authority to a state to administer them. In such a case, the state may require no more than EPA could under the regulations as stayed.

This partial stay takes effect immediately, and expires when I reach a final decision on the proposal mentioned above.

Dated: December 7, 1981.

Anne M. Gorsuch,

Administrator.

[FR Doc. 81-35972 Filed 12-16-81; 8:45 am]

BILLING CODE 6560-26-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 52

[FRL 1983-1]

Requirements for Preparation, Adoption, and Submittal of Implementation Plans; Approval and Promulgation of Implementation Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposal of Amendments to Regulations.

SUMMARY: EPA here is proposing to amend its regulations relating to the construction of new stationary sources of air pollution and modifications to existing sources which appear at 40 CFR 51.24, 52.21, Appendix S to Part 51, 51.18(j), and 52.24. In particular, EPA is proposing amendments to those regulations which would (1) delete the current requirement that certain emissions from marine vessels are to be incuded in determinations of whether a proposed stationary source or modification would emit a particular pollutant in "major" or "significant" amounts and (2) expressly bar EPA from including vessel emissions in any such determination and from requiring a state to include them. In the Rules section of this part of today's **Federal Register** EPA is also staying the current requirement until it makes a final decision on those proposed amendments, thereby in effect extending the temporary stay at 46 FR 36695 (July 15, 1981). Finally, EPA here is proposing an amendment that would bar it (1) from including vessel emissions and certain emissions from other mobile sources in any preconstruction assessment of the air quality impact of a proposed source or modification and (2) from requiring a state to include those emissions in any such assessment.

DATE: The period for comment on the proposed amendments closes on January 18, 1982.

ADDRESS: *Comments.* Comments should be submitted (in triplicate, if possible) to: Central Docket Section (A-130), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Attention: Docket No. A-81-39.

Docket. EPA has established a docket for the proposals announced here. It bears Docket No. A-81-39. The docket is an organized and complete file of all significant information submitted to or otherwise considered by EPA during this proceeding. The contents of the docket will serve as the record in the case of judicial review under section 307(b) of the Clean Air Act, 42 U.S.C. 7607(b). The docket is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery I, 401 M Street, S.W., Washington, D.C. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Michael Trutna, New Source Review Section, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711; 919-541-5591; FTS-629-5591.

SUPPLEMENTARY INFORMATION:

I. Introduction

In August 1980, EPA extensively revised its regulations concerning the construction of new stationary sources and modifications in response to *Alabama Power Company* v. *Costle*, 636 F. 2d 323 (1979). See 45 FR 52676 (August 7, 1980). Five sets of regulations resulted from those revisions. One set, 40 CFR 51.24, specifies the elements of an approvable state program for preconstruction review for prevention of significant deterioration of air quality (the "Part 51 PSD regulations"). Another set, 40 CFR 52.21 (the "Part 52 PSD regulations"), delineates the federal program for PSD preconstruction review, which currently applies in most states. Another set, 40 CFR 51.18(j), specifies the elements of an approvable state program for preconstruction review for nonattainment purposes. It elaborates on Section 173 of the Act. The fourth set, 40 CFR Part 51, Appendix S, embodies EPA's "Emissions Offset Interpretative Ruling." The fifth set, 40 CFR 52.24, embodies the construction moratorium for certain nonattainment areas.

In the fall of 1980, numerous industry and environmental groups petitioned the Court of Appeals for the D.C. Circuit to review, and EPA to reconsider, various provisions of those PSD and nonattainment regulations. *Chemical Manufacturers Association* v. *EPA*, No. 79-1112 and consolidated cases. Among the provisions the industry petitioners challenged were the requirements that (1) certain vessel emissions are to be included in determinations of whether a proposed source or modification would emit a particular pollutant in "major" or "significant" amounts and (2) a physical or operational limitation on emissions capacity must be federally enforceable to be taken into account in any such applicability determination.

Subsequently, in July 1981, EPA announced that it had decided to reconsider those requirements. It also issued a temporary stay of the requirements, which was set to expire ninety days from issuance (*i.e.*, on October 5, 1981). Finally, the Agency solicited comment on whether and under what terms it should extend the stay. See 46 FR 36695 (July 15, 1981).

EPA is here announcing further action on the vessel emissions requirement.[1] As explained in more detail below, EPA has concluded that the Clean Air Act bars it from requiring the inclusion of vessel emissions in *any* determination in the preconstruction review of new sources and modifications. Primarily for that reason, EPA is proposing amendments to the PSD and nonattainment regulations which would (1) delete the current requirements for the inclusion of certain vessel emissions in applicability determinations and (2) expressly bar EPA from requiring the inclusion of any vessel emissions in such determinations. In the Rules section of this part of today's **Federal Register**, EPA is also staying that requirement until it reaches a final decision on the proposal. Finally, EPA here is proposing amendments to the regulations which would also delete the current requirement that certain vessel emissions must be included as "secondary emissions" in assessing the air quality impact of a proposed source or modification.

The balance of this notice first discusses the proposal to delete the requirement for the inclusion of vessel emissions in applicability determinations, including the pivotal legal interpretation and certain other bases for the proposal. It then turns to the stay, in particular, summarizing and responding to the material comments on whether to extend the temporary stay. Finally, it describes the proposal to delete the requirement for the inclusion of vessel emissions in assessments of the air quality impact or proposed projects.

II. Proposal to Delete the Requirement for the Inclusion of Vessels Emissions in Applicability Determinations

A. Background

Whether the five sets for PSD and nonattainment regulations apply to a particular source, especially a marine terminal,[2] and then to a particular

[1] EPA does not plan to extend the temporary stay of the federal enforceability requirement at this time and will announce further action on that requirement in a future **Federal Register** notice.

[2] Typically, a marine terminal consists of docks and storage structures. Vessels move to and from, and stay at, the terminal. Air pollutants emanate mainly from the storage structures and the vessels. For example, storage tanks containing liquid petroleum products emit substantial amounts of volatile organic compounds. Similarly, vessels carrying such products also emit those pollutants.

Continued

pollutant from the source depends greatly on the scope of the term "stationary source." In general, the five sets of regulations aim their substantive requirements only at "major stationary sources" and "major modifications."[3] Furthermore, four of the five sets[4] aim their substantive requirements only at those pollutants regulated under the Act which the new "major stationary source" or "major modification" would emit in "major" or "significant" amounts, depending on the regulations in question.[5] Finally, all five sets define "major stationary source," "major modification" and "significant" in terms of rates of emissions from the "stationary source" in question. The Part 52 PSD regulations, for instance, define "major stationary source" as any "stationary source" with the potential to emit 100 tons or more per year of any pollutant regulated under the Act, or 250 tons or more per year, depending on source type. 45 FR 52735 (§ 52.21(b)(1)).

In revising the PSD and nonattainment regulations in August 1980, EPA defined "stationary source" as "any building, structure, facility, or installation which emits or may emit any air pollutant subject to regulation under the Act." *See, e.g.*, 45 FR 52736 (§ 52.21(b)(5)). The Agency then defined "building, structure, facility, or installation" for PSD purposes, and "building, structure, or facility" for nonattainment purposes,[6] as:

> all of the pollutant-emitting *activities* which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (*i.e.*, which have the same first two-digit code) as described in the *Standard Industrial Classification Manual*, 1972 * * * (*See, e.g.*, 45 FR 52736 (§ 52.21(b)(6)) (emphasis added).)

EPA applied those new definitions to marine terminals and vessel emissions in the preamble to the revisions. The Agency stated that it intended "stationary source":

> To encompass the activities of a marine terminal and those dockside activities *that would serve the purposes of the terminal directly and would be under the control of its owner or operator.* The term "dockside activities" means those activities in which the ships would engage while docked at the terminal. (45 FR 52696 (1st column) (emphasis added).)

EPA added that a determination of whether a particular dockside activity would directly serve the purposes of a terminal and would be under the control of its owner or operator would depend on the circumstances of the specific case. *Id.* EPA indicated, however, that it would presume that the activity of loading or unloading a vessel would in every case directly serve the purposes of a terminal and that such an activity would be under the control of the owner or operator of the terminal "to a substantial extent", since no loading or unloading could occur without the consent of the owner or operator. *Id.*

In response to general comments on the problem of how vessel emissions are to be taken into account for new source review, EPA took the position that vessels are not "mobile sources" within the meaning of Section 110(a)(5) of the Act, 42 U.S.C. 7410(a)(5). See 45 FR 52696 (2nd column). Section 110(a)(5), in general,[7] prohibits EPA from requiring a state to include a program of indirect source review in the state implementation plan ("SIP") and from itself inserting such a program into a SIP. The term "indirect source review program" means "the facility-by-facility review of indirect sources of pollution * * *" Section 110(a)(5)(D), 42 U.S.C. 7410(a)(5)(D). An "indirect source" is "a facility, building, structure, installation, real property, road, or highway which attracts, or may attract, *mobile sources* of pollution." Section 110(a)(5)(C), 42 U.S.C. 7410(a)(5)(C) (emphasis added).

GATX Terminals Corporation petitioned the D.C. Circuit for review of the definition of "stationary source" in the five sets of PSD and nonattainment regulations to the extent that the definition, as interpreted by EPA, required vessel emissions to be included in quantifying the emissions of a marine terminal for applicability purposes. GATX also petitioned EPA to reconsider and stay the definition to that extent.

In its challenge to the definition, GATX contended that EPA exceeded its statutory authority in requiring the inclusion of vessel emissions for applicability purposes. One argument GATX made was that vessels are "mobile sources" within the meaning of section 110(a)(5), that marine terminals are therefore "indirect sources" with respect to vessel emissions and, hence, that EPA may neither require a SIP to contain a preconstruction review program which applies in anyway to a marine terminal by virtue of vessel emissions, nor insert such a program into a SIP. *See* Brief of GATX Terminals Corporation on Vessel Emissions Issue, at 17–20 (February 1981); Petition for Reconsideration by GATX Terminals Corporation, at 13–14 (October 1980).

GATX also contended that EPA acted arbitrarily and capriciously. One argument it made was that EPA incorrectly presumed that a terminal owner or operator who does not own or operate the vessels that call at the terminal controls the loading or unloading of the vessels to a substantial extent. In fact, GATX says, such "independent" terminal owners and operators have very little control over those activities. Another argument was that the regulations, which would impose on an independent terminal owner or operator liability for the failure of a vessel to observe the control requirements in a permit, are unfair and irrational in that respect, because the terminal owner or operator would have such little control over the behavior of the vessels.

Finally, GATX contends that EPA violated the procedural requirements of the Clean Air Act by failing to give adequate notice at the proposal stage that it might require the inclusion of vessel emissions for applicability purposes.

B. Legal Interpretation

After considering the arguments of GATX with respect to section 110(a)(5), EPA has decided to reverse its earlier position. EPA agrees that vessels are "mobile sources" within the meaning of that section. First, the term "mobile sources" in its ordinary usage is clearly broad enough to encompass marine vessels. Second, Congress nowhere expressly provided in the Act that the

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particularly when loading or unloading. The vessels, however, also emit sulfur dioxide. The sulfur dioxide comes from the combustion of fuel in the internal power plants of the vessels. Power is needed, not only for movement, but also for such dockside activities as loading and unloading.

[3] For example, the Part 52 PSD regulations require only new "major stationary sources" and "major modifications" that would be located in "clean air" areas to have PSD permit before construction begins. 45 FR 52738 (§ 52.21(i)).

[4] The construction moratorium, 40 CFR 52.24, simply restricts the construction of a project; it does not require that application of control technology and assessments of air quality impact for the various emissions from the project.

[5] For example, the Part 52 PSD regulations require an applicant for a PSD permit for a "major stationary source" to show that the "stationary source" would have "best available control technology" (BACT) for just those pollutants regulated under the Act that the "stationary source" would emit in "significant" amounts. 45 FR 52740 (§ 52.21(j)).

[6] EPA defined "installation" for nonattainment purposes as "an identifiable piece of process equipment." *See e.g.*, 45 FR 52744 (§ 51.18(j)(1)(iii)). EPA very recently deleted that definition. 46 FR 50766 (October 14, 1981).

[7] The exception lies in section 110(a)(5)(B), which provides that EPA may "promulgate, implement and enforce regulations under section 110(c) respecting indirect source review programs which apply only to federally assisted highways, airports, and other major federally assisted indirect sources and federally owned or operated indirect sources."

term was to have a scope so narrow as to exclude vessels. Third, Congress throughout the Act, and even in section 110, used other terms to refer to subspecies of sources with mobility, for example, "motor vehicles". *See, e.g.,* sections 101(a)(2), 42 U.S.C. 7401(a)(2); section 110(a)(2)(G), 42 U.S.C. 7410(a)(2)(G); section 110(c)(2)(D)(i), 42 U.S.C. 7410(c)(2)(D)(i); section 110(e)(1)(A), 42 U.S.C. 7410(e)(1)(A); section 177, 42 U.S.C. 7507; sections 201–16, 42 U.S.C. 7521–51 *(passim).* Plainly, if Congress has intended "mobile sources" to exclude vessels, it would have said so. Fourth, the House and Senate conferees, in fashioning section 110(a)(5), eliminated a definition of "mobile source-related air pollutant", a term which appeared in the seminal provisions of the House bill and now appears in section 110(a)(5). That definition would have limited the term to just the pollutants regulated under Title II. It is unlikely that the conferees would have jettioned that definition, if they had intended "mobile sources" to exclude vessels. *Compare* H.R. Rep. No. 95–294, 95th Cong., 1st Sess. 437 (1977), *with* H.R. Rep. No. 95–564, 95th Cong., 1st Sess. 93 (1977). Finally, the relevant House report reinforces the conclusion that Congress intended "mobile sources" to include vessels. It reflects a strong antipathy toward the case-by-case preconstruction review of shopping centers and other facilities that attract motor vehicles with respect to emissions from the those vehicles. That antipathy extends logically to case-by-case review of marine terminals with respect to vessel emissions, since the circumstances of marine terminals closely parallel those of shopping centers and the like. See H.R. Rep. No. 95–294, 95th Cong., 1st Sess. 221 (1977).

EPA further agrees that, because vessels are "mobile sources" within the meaning of section 110(a)(5), EPA has no authority to require the inclusion of vessel emissions in applicability determinations. Section 110(a)(5), in general, prohbibits EPA from requiring a SIP to contain a preconstruction review program which applies *in any way* to a project by virtue of emissions from "mobile sources" and from inserting such a program into a SIP. The effect of the current definition of "stationary source," however, is to require each SIP to contain certain preconstruction review programs that would apply to some projects solely because of vessel emissions associated with them. The effect of the definition is also to insert into each SIP certain preconstruction programs which would also apply to some projects solely because of vessel emissions.

EPA, however, would not agree that it has no authority at all to require a SIP to contain a program for the direct control of vessel emissions or to insert such a program into a SIP. The Act requires each states to have an implementation plan which assures attainment and maintenance of each national ambient air quality standard ("NAAQS") and PSD increment. If attainment and maintenance of a NAAQS cannot be assuered without a program for the direct control of vessel emissions, then the SIP must contain such a program. *See* section 110(a)(2)(B), 42 U.S.C. 7410(a)(2)(B); *State of Texas* v. *EPA*, 479 F.2d 289, 316.17 (5th Cir. 1974).

C. Other Bases for the Proposal

EPA also agrees with GATX that the Agency failed to give adequate notice at the proposal stage that it might require the inclusion of vessel emissions for applicability purposes. As GATX pointed out, EPA had informed the D.C. Circuit shortly before EPA proposed its revisions to the PSD and nonattainment regulations in September 1979 that the regulations did not require the inclusion of vessel emissions for those purposes; the definition of "stationary source" which EPA proposed in September did not vary materially from the definition of that term in the regulations; and EPA gave no signal at any time during the rulemaking that it was thinking of requiring the inclusion of vessel emissions.

This failure to provide adequate notice, moreover, was "so serious and related to matters of such central relevance to the rule that there is a substantial likelihood that the rule would have been significantly changed" if the error had not occurred. Section 307(d)(8), 42 U.S.C. 7607(d)(8). In August 1980, when EPA promulgated the new definition of "Stationary source," it did not have before it the petition for reconsideration from GATX, the GATX brief to the D.C. Circuit, and the comments (summarized below) which were submitted in this proceeding on whether to extend the temporary stay. Those materials contain a wealth of data on the relationships between terminal owners and operators and vessel owners and operators. They also expose strong and differing opinions on whether and in what ways the emissions of vessels should be taken into account for applicability purposes. That information and that controversy strongly indicate that the vessel emissions issue deserved much more ventilation than it had.

D. Proposed Amendments

The primary purpose of the amendments proposed here is to conform the PSD and nonattainment regulations to the legal conclusions the Agency has reached. Another purpose is to remedy the error in procedure described above. The amendments would delete the requirement for the inclusion of vessels emissions in applicability determinations and bar EPA from requiring their inclusion. Specifically, EPA proposes to insert into the PSD definition of "building, structure, facility and installation" and the nonattainment definition of "building, structure and facility" a clause which expressly excludes vessel activities from those terms.[8]

EPA solicits comments on the proposed amendments.

III. Stay of Requirement for Inclusion of Vessel Emissions in Applicability Determinations

A. Decision on Extension of Temporary Stay

EPA has also decided to stay those definitions of "building," "structure," "facility," and "installation," insofar as they require the inclusion of vessel emissions in applicability determinations. Notice of the stay appears separately in the Rules section of this part of today's **Federal Register.** In view of EPA's determinations on statutory authority and procedural deficiencies, it is highly likely that the Agency will delete that requirement, either by putting the proposed amendments into effect or changing the regulations in some other way. In addition, the requirement, absent a stay, would impose significant regulatory burdens on companies attempting to obtain permits for the construction or modification of marine terminals. Finally, the possibility that the exclusion of vessel emissions from applicability determinations pending a final decision on the proposals will frustrate substantially the long-term, national goals of the PSD and nonattainment regulations is small, primarily because of the short period of time involved, and certainly not large enough to outweigh the other two considerations (likelihood of deletion and regulatory burden).

B. Comments

The comments which EPA received on whether to extend the temporary stay

[8] The numbering of the nonattainment definitions in the proposed regualtory language at the end of this notice reflects the amendments to the definitions of "installation" and "reconstruction" to which footnote 6 above refers.

and its response to those comments are set forth below.

A number of commenters argued that the stay was procedurally defective because the Agency failed to comply with the notice and comment requirements of section 4 of the Administrative Procedure Act ("APA"), 5 U.S.C. 553, and Section 307(d)(3) of the Clean Air Act, 42 U.S.C. 7607(d)(3), and failed to make sufficient showing of good cause to qualify for the exceptions to those requirements pursuant to section 4(b)(3)(B) of the APA, 5 U.S.C. 553(b)(3)(B). They noted that, where rules are issued in violations of these provisions, the opportunity to submit comments after promulgation does not cure the original error.

With respect to the temporary stay, the Agency does not agree that its "good cause" findings were inadequate. In any event, these objections are clearly irrelevant to the long-term stay pending completion of the reconsideration process promulgated by means of this notice. This stay has been promulgated in full compliance with the APA, after publication of a proposal soliciting comment and a 30-day comment period. The Agency has omitted only the 30-day waiting period between the date of promulgation of a rule and its effective date normally required by section 553(d), since this rule results from a change in the interpretation of the act, and relieves a restriction, 5 U.S.C. 553(d)(1), (2).

Several commenters suggested that the only provision authorizing stays in the Clean Air Act is section 307(d)(7)(B), 42 U.S.C. 7607(d)(7)(B), and since a long-term stay during completion of the reconsideration process would not meet all of the conditions laid out in that provision, such a stay would be invalid. Section 307(d)(7)(B), however, is applicable only to certain stays issued without advance notice and public comment.* The long-term stay at issue here is a different kind of stay, issued pursuant to section 301 of the Clean Air Act, after notice and comment.

Many commenters, including the California Air Resources Board, as well as several municipalities and environmental groups, criticized both the proposed stay and the suggestion that vessel emissions be excluded from the emissions of a source in determining the applicability of new source review, on the grounds that such a change would result in significant deterioration of air quality in some areas. These commenters submitted data to show that vessel emissions of sulfur dioxide, particulates and volatile organic compounds in certain areas were substantial, were likely to increase, and in some cases were greatest during activities which occurred in close proximity to on-shore facilities. One commenter referenced calculations that potential emissions just from ships anticipated to call at a particular facility were sufficient to violate the PSD increment and the state ambient air quality standard in that area. The California Air Resources Board stated that, to the extent that vessel emissions were excluded from new source review, the California SIP and local rules would no longer be adequate to ensure that federal standards were maintained or that reasonable further progress was made toward attainment.

Commenters on both sides agreed that the emissions from ships were often the most voluminous emissions associated with a marine terminal and that, if these emissions were excluded, many terminals would drop below the statutory thresholds for new source review. The California Air Resources Board, among others, noted that if this were to happen, on-shore facilities, including small businesses, would be required to make up the difference, that is, to the extent that added vessel emissions degraded the air, on-shore facilities would be required to take measures to reduce their own emissions beyond what would otherwise be necessary.

Some commenters noted that even though a terminal owner or operator might not know exactly what vessels might call on the terminal in a given year, there were reliable means of making reasonable estimates of the emissions associated with those vessels; indeed, the commenters cited a number of instances in which such calculations had actually been done. Commenters argued that there were control measures available now, for both shipboard and dockside activities, which were practical and cost-effective, and they cited several instances in which such control measures (limiting the sulfur content of the fuel burned by ships at the terminal, for example) had been successfully implemented.

The San Francisco Bay Area Air Quality Management District observed that requirements it imposed under the present provision had not resulted in the denial of a permit to any project. In fact, it added, the availability of ship emissions for offsets permitted greater industrial growth than would otherwise have been allowed.

Finally, one commenter noted that even if States remained free to require terminals to obtain permits, despite the removal of the federal requirement, competitive pressures between States would make such provisions difficult to maintain.

None of these arguments went undisputed, however. There were also many commenters who supported both an extension of the temporary stay and the suggested revision to the regulations. They argued that the inclusion of vessel emissions in new source review determinations imposed an unreasonable burden on marine terminal owners and operators. For example, some commenters noted that a terminal could rarely obtain adequate data to perform required modelling, and that not enough is known about emission control techniques for vessels—retrofitting vessels would be onerous, and other suggested approaches raised questions of safety. Commenters explained that sulfur content is not a specification for the bunker fuel burned by ships, so ship captains may not even know what they are burning; moreover, fuel of the sulfur content likely to be required is not available in many ports. One commenter representing marine terminal owners indicated that terminals often did not have contractual relations with the vessels which called on them, could not impose emission control requirements on these vessels, and should not be penalized if ship captains violated the law; indeed, this commenter observed that terminals do not enforce domestic and international maritime safety provisions concerning the operations of vessels. Another commenter observed that because marine terminals themselves typically emit only small amounts of pollutants such as sulfur dioxide, they have few internal sources of offsets to use to "net out" of review, or to meet emission limitations in a more cost-effective way. Many commenters alluded to the substantial cost and delay which results from the present rule on vessel emissions.

Finally, ship owners expressed concern that the present rule permits piecemeal regulation of vessel design and operation, allowing different ports to issue inconsistent regulations and thus burden interstate and international commerce. Terminal owners were likewise concerned that the variations in requirements between ports would affect competition between terminals

*Among the comments was the assertion that EPA, in issuing the temporary stay, had taken the position that section 307(d)(7)(B) does not give the Agency the authority to issue such a stay. EPA disagrees. It did not state that section 307(d)(7)(B) does not provide that authority. In fact, the Agency believes that the section does provide the necessary authority.

and possibly disadvantage some of the newer ones.

The answer to all of these comments is the same: as indicated, whatever the actual effect of control of vessel emissions through new source review of terminals, in section 110(a)(5) Congress, in general, prohibited EPA from requiring the states to include such a provision in their SIPs, and from adopting it in SIP programs it administers directly. Pursuant to section 116, however, the States remain free to adopt or retain this approach to new source review if they find it useful. Moreover, under the authority of sections 116 and 110, they may also impose controls on vessels directly.

A number of commenters noted that provisions of the Clean Air Act must be construed in light of the purpose of that legislation, namely, to improve the air quality of the nation, even where improvement occasions some cost or inconvenience. The commenter went on to argue that excluding ship emissions at the dock from new source review frustrates the purposes of the programs created by the Act, and that EPA therefore lacks the authority to define "major stationary source" this way. Obviously, EPA accepts the general principle of statutory construction asserted, and applies it in all areas in which it has discretion. However, the exclusion of vessel emissions at issue here results not from the exercise of Agency discretion but from the direct command of Congress, which has the power to specify with particularity the ways in which its goal is to be achieved.

Similarly, other commenters argued that the use of the term "source," rather than "stationary source," in several of the key provisions of the Act, as well as the statutory commands to take account of the emissions "resulting from" a source, 42 U.S.C. 7503, 7502(b)(5), or "caused" by it, 42 U.S.C. 7475(a), indicate a Congressional intention to define "source" and the emissions attributable to a "source" to include vessel emissions when determining the rate of emissions of a marine terminal. Interpretations based on such general language, however, cannot overcome the specific prohibition of section 110(a)(5).

Finally, one commenter noted that it would be inconsistent for EPA to exclude vessel emissions from the emissions of a terminal when determining the applicability of new source review, while including them as secondary emissions when assessing the air quality impact of terminals that exceeded the statutory threshold independently. EPA agrees and is proposing to eliminate this inconsistency.

C. Effect of the Stay

EPA, under subsection (u) of the Part 52 PSD regulations, has delegated the authority to administer those Part 52 regulations to some states. Each delegate state must now administer the Part 52 PSD regulations as now stayed. By contrast, in staying the requirements for inclusion of vessel emissions, EPA does not intend to change the status of any state-adopted program for new source review which it has already approved under section 110 of the Clean Air Act. However, while the stay remains in effect, EPA will not disapprove any state-submitted program for new source review, or any revision to such a program, on the grounds that it fails to embody the now stayed requirements.

D. Miscellaneous

EPA regards the issuance of the stay as "nationally applicable" "final action" within the meaning of section 307(b)(1) of the Clean Air Act, 42 U.S.C. 7607(b)(1). Any petition for review of the stay must be filed, therefore, with the U.S. Court of Appeals for the D.C. Circuit on or before February 16, 1982.

EPA is putting the stay into effect immediately, because it results from a change in legal interpretation, and "relieves a restriction" within the meaning of section 4(d) of the APA, 5 U.S.C. 553(d). In addition, EPA finds that it has "good cause" within the meaning to section 4(d) to do so, because EPA will most likely delete the stayed requirement at the end of the rulemaking.

Under Executive Order 12291, EPA must judge whether an action it takes is a "major rule" and therefore subject to the requirement of a Regulatory Impact Analysis. This partial stay is not a "major rule," because it is not permanent and lifts current regulatory burdens.

The partial stay has been submitted to the Office of Management and Budget for review under Executive Order 12291. Any comments from OMB to EPA and any EPA responses are available in the docket for the proceeding.

Pursuant to the provisions of 5 U.S.C. 605(b), EPA hereby certifies that the partial stay will not have a significant adverse impact on small entitites.

IV. Proposal To Delete the Requirement for the Inclusion of Vessel Emissions in Air Quality Impact Assessments

A. Background

At the heart of the PSD and nonattainment regulations is the requirement that an applicant for a permit must provide an assessment of the air quality impact of the proposed project. *See, e.g.*, 45 FR 52740 (§ 52.21(k)). The relevant provisions add that any such assessment must include the "secondary emissions" of the project and define that term as:

> Emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself * * *.[10] Secondary emissions may include, but are not limited to:
>
> (i) *Emissions from ships or trains coming to or from the new or modified stationary source;* and
>
> (ii) Emissions from any offsite support facility which would not otherwise be constructed or increase its emissions * * *. [*E.g.*, 45 FR 52737 (emphasis added).]

Industry petitioners have also petitioned the D.C. Circuit to review, and EPA to reconsider, the requirement for the inclusion of "secondary emissions" in air quality impact assessments. In response to those challenges and in light of its interpretation of "mobile sources" in section 110(a)(5), EPA has concluded that it has no authority to treat emissions from ships and trains as "secondary emissions" and, hence, to require their inclusion in air quality impact assessments. EPA, therefore, proposes to conform the regulations to that conclusion by deleting the clause underlined above and adding the following sentence to the definition: "Secondary emissions do not include any emissions which come directly from a mobile source, such as the emissions from the tailpipe of a motor vehicle, from a train, or from a marine vessel."

EPA solicits comments on this proposed amendment.[11]

V. Miscellaneous

Under Executive Order 12291, EPA must judge whether an action it proposes to take would be a "major rule" and therefore subject to the requirement of a Regulatory Impact Analysis. The amendments EPA is proposing here would not constitute a "major rule," primarily because they would relieve current regulatory burdens.

The requirement for performing an economic impact assessment in section 317 of the Act, 42 U.S.C. 7617, does not

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[10] The definition adds here that an applicant need include only those "secondary emissions" which are quantifiable and would impact the same general area as the proposed project.

[11] EPA and industry petitioners are currently negotiating a settlement of the challenges to the secondary emissions requirement. EPA may agree to propose to delete the requirement entirely. If EPA does propose to do so, that proposal will subsume this one.

apply to the amendments EPA is proposing here. Section 317 applies only to "revisions which the Administrator determines to be substantial revisions." The proposed amendments are not substantial revisions, because they relieve current regulatory burdens and the Act requires them.

The proposed amendments have been submitted to the Office of Management and Budget for review under Executive Order 12291. Any comments from that office on the amendments will be placed in the docket for this proceeding.

Pursuant to the provisions of 5 U.S.C. 605(b), EPA hereby certifies that the proposed amendments will not have a significant adverse impact on small entities.

(Sec. 101(b)(1), 110, 160–169, 171–178, and 301(a), Clean Air Act as amended (42 U.S.C. 7401(b)(1), 7410, 7470–79, 7501–08 and 7601(a)); sec. 129(a), Clean Air Act Amendments of 1977 (Pub. L. No. 95–95, 91 Stat. 685 (August 7, 1977)))

Dated: December 7, 1981.

Anne M. Gorsuch,

Administrator.

Proposal To Delete Certain Regulatory Requirements Relating to the Emissions of Mobile Sources

Requirements for State PSD Plans

§ 51.24 [Amended]

Section 51.24 of Title 40 of the Code of Federal Regulations is proposed to be amended as follows:

a. By adding the following clause to the first sentence of paragraph (b)(6) immediately before the period at the end of the sentence: "* * *, except the activities of any marine vessel"; and

b. By removing the last sentence of paragraph (b)(18) and substituting the following: "* * * Secondary emissions include emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as the emissions from the tailpipe of a motor vehicle, from a train, or from a marine vessel."

New Source Review for PSD Purposes

§ 52.21 [Amended]

Section 52.21 of Title 40 of the Code of Federal Regulations is proposed to be amended as follows:

a. By adding the following clause to the first sentence of paragraph (b)(6) immediately before the period at the end of the sentence: ",* * * except the activities of any marine vessel"; and

b. By removing the last sentence of paragraph (b) (18) and substituting the following: "* * * Secondary emissions include emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as the emissions from the tailpipe of a motor vehicle, from a train, or from a marine vessel."

Emission Offset Interpretative Ruling

Appendix S [Amended]

3. Section II of Appendix S of Part 51 of Title 40 of the Code of Federal Regulations is proposed to be amended as follows:

a. By adding the following clause to the first sentence of subsection (A)(2) immediately before the period at the end of the sentence: ", except the activities of any marine vessel"; and

b. By removing the last sentence of subsection (A)(8) and substituting the following: "Secondary emissions include emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as the emissions from the tailpipe of a motor vehicle, from a train, or from a marine vessel."

State Plans for New Source Review for Nonattainment Purposes

§ 51.18 [Amended]

4. Section 51.18 of Title 40 of the Code of Federal Regulations is proposed to be amended as follows:

a. By adding the following clause to the first sentence of paragraph (j)(1)(ii) immediately before the period at the end of the sentence: "* * *, except the activities of any marine vessel"; and

b. By removing the last sentence of paragraph (j)(1)(viii) and substituting the following: "* * * Secondary emissions include emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as the emissions from the tailpipe of a motor vehicle, from a train, or from a marine vessel."

Restrictions on Construction for Nonattainment Areas

§ 52.24 [Amended

Section 52.24 of Title 40 of the Code of Federal Regulations is proposed to be amended as follows:

a. By adding the following clause to the first sentence of paragraph (f)(2) immediately before the period at the end of the sentence: "* * *, except the activities of any marine vessel"; and

b. By removing the last sentence of paragraph (f)(8) and substituting the following: "* * * Secondary emissions include emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as the emissions from the tailpipe of a motor vehicle, from a train, or from a marine vessel."

[FR Doc. 81-35973 Filed 12-16-81; 8:45 am]

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federal register

Thursday
December 17, 1981

Part V

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

December 1, 1981.

This report is submitted in fulfillment of the requirements of section 1014(e) of the Impoundment Control Act of 1974 (pub. L. 93–344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of December 1, 1981 of three rescission proposals and 218 deferrals contained in the first six messages of FY 1982. These messages were transmitted to the Congress on October 1, 20, 23, and 29, and November 6, and 13, 1981.

Rescissions (Table A and Attachment A)

Rescission proposals totaling $108.7 million are currently pending before the Congress. Table A summarizes the status of rescissions proposed by the President as of December 1, 1981, while Attachment A shows the history and status of each rescission proposed during FY 1982.

Deferrals (Table B and Attachment B)

As of December 1, 1981, $2,651.7 million in 1982 budget authority was being deferred from obligation and another $1.5 million in 1982 obligations was being deferred from expenditure. Attachment B shows the history and status of each deferral reported during FY 1982.

Information From Special Messages

The special messages containing information on the rescissions and the deferrals covered by the cumulative report are printed in the **Federal Registers** of:

Friday, October 16, 1981 (Part VII, Vol. 46, No. 200)
Monday, October 26, 1981 (Part IV, Vol. 46, No. 206)
Friday, October 30, 1981 (Part XI, Vol. 46, No. 210)
Tuesday, November 3, 1981 (Part III, Vol. 46, No. 212)
Thursday, November 12, 1981 (Part V, Vol. 46, No. 218)
Thursday, November 19, 1981 (Part IV, Vol. 46, No. 223)

David A. Stockman,

Director.

BILLING CODE 3110-01-M

TABLE A

STATUS OF 1982 RESCISSIONS

	Amount (In millions of dollars)
Rescissions proposed by the President	$ 108.7
Accepted by the Congress	-0-
Rejected by the Congress	-0-
Pending before the Congress	$ 108.7

* *

TABLE B

STATUS OF 1982 DEFERRALS

	Amount* (In millions of dollars)	
Deferrals proposed by the President	$ 2,759.8	
Routine Executive releases (-$106.6 million) and adjustments (-$0.1 million) through December 1, 1981.	-106.7	
Overturned by the Congress	-0-	
Currently before the Congress	$ 2,653.2	a.

* Amounts do not add to total due to rounding.

a. This amount includes $1.5 million in outlays for a Department of the Treasury deferral (D82-23).

Attachments

ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1982 AS OF 11/25/81 14:17

AS OF DECEMBER 1, 1981 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
DEPARTMENT OF DEFENSE - MILITARY							
Procurement							
Aircraft procurement, Air Force BA	R82- 1		65,700	10 23 81			
Missile procurement, Air Force BA	R82- 2		22,500	10 23 81			
DEPARTMENT OF DEFENSE - MILITARY TOTAL BA			88,200				
OTHER INDEPENDENT AGENCIES							
Corporation for Public Broadcasting							
Public broadcasting fund BA	R81- 3		20,500	11 6 81			
OTHER INDEPENDENT AGENCIES TOTAL BA			20,500				
TOTAL BA			108,700				

END OF REPORT

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1982 AS OF 12/08/81 16:43

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 12-1-81
EXECUTIVE OFFICE OF THE PRESIDENT								
White House Office								
Salaries and Expenses BA	D82- 27	366		10 20 81				366
Special Assistance to the President								
Salaries and Expenses BA	D82- 28	28		10 20 81				28
Council of Economic Advisors								
Salaries and Expenses BA	D82- 86	32		10 23 81				32
Council on Envir. Quality & Office of Envir. Qual.								
Salaries and Expenses BA	D82- 29	9		10 20 81				9
Office of Policy Development								
Salaries and Expenses BA	D82- 30	45		10 20 81				45
National Security Council								
Salaries and Expenses BA	D82- 31	62		10 20 81				62
Office of Administration								
Salaries and expenses BA	D82- 32	139		10 20 81				139
OMB, Office of Fed. Procurement Policy								
Salaries and expenses BA	D82- 33	24		10 20 81				24
Office of Science and Technology Policy								
Salaries and expenses BA	D82- 34	30		10 20 81				30

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1982 AS OF 12/08/81 16:43

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 12-1-81
Office of the U.S. Trade Representative									
Salaries and expenses	BA	D82- 35	78		10 20 81	-78			
EXECUTIVE OFFICE OF THE PRESIDENT TOTAL	BA		813			-78			735
FUNDS APPROPRIATED TO THE PRESIDENT									
Appalachian Regional Development Programs									
Appalachian regional development programs	BA	D82- 1	15,000		10 1 81				15,000
Disaster Relief									
Disaster relief	BA	D82-158	7,000		10 29 81				7,000
	BA	D82-159	138,000		10 29 81				138,000
FUNDS APPROPRIATED TO THE PRESIDENT TOTAL	BA		160,000						160,000
DEPARTMENT OF AGRICULTURE									
Office of the Secretary									
Office of the Secretary	BA	D82-160	29		10 29 81				29
Agricultural Research Service									
Agricultural research service	BA	D82-161	1,813		10 29 81				1,813
Cooperative State Research Service									
Cooperative state research service	BA	D82-162	2,790		10 29 81				2,790
Extension Service									
Extension service	BA	D82-163	1,990		10 29 81				1,990
National Agricultural Library									
National agricultural library	BA	D82-164	93		10 29 81				93
Statistical Reporting Service									
Statistical reporting service	BA	D82-165	198		10 29 81				198
Agricultural Cooperative Service									
Agricultural cooperative service	BA	D82-166	39		10 29 81				39
Office of Internat. Cooperation and Development									
Scientific activities overseas	BA	D82-167	700		10 29 81				700
Rural Electrification Administration									
Rural electr. and telephone revolving fund	BA	D82-169	49,368a		10 29 81				49,368
Foreign Assistance Programs									
Expenses, P.L. 480	BA	D82- 36	25,696		10 20 81				25,696
Agricultural Stabilization & Conservation Service									
Dairy and beekeeper indemnity programs	BA	D82- 88	28		10 23 81				28
Agricultural conservation	BA	D82- 87	8,600		10 23 81				8,600
Emergency conservation program	BA	D82-168	1,400		10 29 81				1,400
Farmers Home Administration									
Salaries and expenses	BA	D82-171	526		10 29 81				526

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Rural housing for domestic farm labor								
BA	D82-173	1,750		10 29 81				1,750
Mutual and self-help housing								
BA	D82-174	490		10 29 81				490
Rural water and waste disposal								
BA	D82-170	8,680		10 29 81				8,680
Rural community fire protection grants								
BA	D82-172	490		10 29 81				490
Agricultural credit insurance fund								
BA	D82-175	1,316		10 29 81				1,316
Rural development insurance fund								
BA	D82-176	21,000		10 29 81				21,000
Soil Conservation Sevice								
Watershed and flood prevention operations								
BA	D82- 89	8,926		10 23 81				8,926
Animal and Plant Health Inspection Service								
Animal and plant health inspection service								
BA	D82- 90	4,125		10 23 81				4,125
Buildings and facilities								
BA	D82-177	236		10 29 81				236
Agricultural Marketing Service								
Payments to States and possessions								
BA	D82-178	210		10 29 81				210
Food and Nutrition Service								
Food program administration								
BA	D82-209	487		11 6 81				487
Child nutrition programs								
BA	D82-210	472		11 6 81				472
Special supplemental food programs (WIC)								
BA	D82-211	13,831		11 6 81				13,831
Forest Service								
State and private forestry								
BA	D82- 92	776		10 23 81				776
BA	D82-179	657		10 29 81				657
Agricultural research								
BA	D82- 91	1,348		10 23 81				1,348
National forest system								
BA	D82- 93	12,516		10 23 81				12,516
BA	D82-180	1,059		10 29 81				1,059
Construction and land acquisition								
BA	D82- 94	6,693		10 23 81				6,693
Timber salvage sales								
BA	D82- 2	6,723		10 1 81				6,723
Rangeland improvements								
BA	D82- 96	109		10 23 81				109
Acquisition of lands to complete land exchanges								
BA	D82- 95	6		10 23 81				6
Expenses, brush disposal								
BA	D82- 3	49,349		10 1 81				49,349
DEPARTMENT OF AGRICULTURE TOTAL BA		234,519						234,519
DEPARTMENT OF COMMERCE								
General Administration								
Participation in U.S. expositions								
BA	D82- 4	507		10 1 81				507
Economic and Statistical Analysis								
Salaries and expenses								
BA	D82- 97	420		10 23 81				420
Economic Development Administration								
Economic development assistance programs								
BA	D82- 98	38,855		10 23 81				38,855

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Minority Business Development Agency								
Minority business development BA	D82- 99	857		10 23 81				857
United States Travel Service								
Salaries and expenses BA	D82-181	287		10 29 81				287
National Oceanic and Atmospheric Administration								
Operations, research, and facilities BA	D82-100	12,891		10 23 81				12,891
Construction BA	D82- 5	2,000		10 1 81				2,000
National Telecom. and Information Admin.								
Salaries and expenses BA	D82-101	277		10 23 81				277
DEPARTMENT OF COMMERCE TOTAL BA		56,094						56,094
DEPARTMENT OF DEFENSE-MILITARY								
Military Construction								
Military construction, all services BA	D82- 6	38,837		10 1 81	-21,799			17,038
Family Housing, Defense								
Family housing, Defense BA	D82- 7	1,992		10 1 81				1,992
DEPARTMENT OF DEFENSE-MILITARY TOTAL BA		40,829			-21,799			19,030
DEPARTMENT OF DEFENSE-CIVIL								
Cemeterial Expenses, Army								
Salaries and expenses BA	D82- 37	85		10 20 81				85
Corps of Engineers								
General investigations BA	D82- 38	2,068		10 20 81				2,068
Construction, general BA	D82- 39	14,284		10 20 81				14,284
General expenses BA	D82- 40	370		10 20 81				370
Special recreation use fees BA	D82- 41	59		10 20 81				59
Soldiers and Airmen s Home								
Operation and maintenance BA	D82- 42	63		10 20 81	-63			
Wildlife Conservation, Military Reservations								
Wildlife conservation, all services BA	D82- 8	597		10 1 81	-8			589
DEPARTMENT OF DEFENSE-CIVIL TOTAL BA		17,526			-71			17,455
DEPARTMENT OF ENERGY								
Energy Programs								
Fossil energy R&D BA	D82-105	14,769		10 23 81				14,769
Fossil energy construction BA	D82- 9	135,000		10 1 81				135,000
Strategic Petroleum Reserve BA	D82- 10	8,000		10 1 81				8,000
Gen. science & research-plant & capital BA	D82-102	1,682		10 23 81				1,682

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Energy supply R&D-operating expenses	BA	D82-103	49,393		10 23 81				49,393
Energy supply R&D-plant and capital equip.	BA	D82-104	11,949		10 23 81				11,949
Energy conservation	BA	D82-106	14,007		10 23 81				14,007
Energy information administration	BA	D82-107	2,042		10 23 81				2,042
Economic regulation	BA	D82-108	2,436		10 23 81				2,436
Federal Energy Regulatory Commission	BA	D82-109	490		10 23 81				490
Geothermal resources development fund	BA	D82-110	18		10 23 81				18
DEPARTMENT OF ENERGY TOTAL BA			239,786						239,786
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Health Services Administration									
Health Services	BA	D82- 11	1,508		10 1 81				1,508
Indian health services	BA	D82-212	10,950		11 6 81				10,950
Centers for Disease Control									
Preventive Health Services	BA	D82-213	791		11 6 81				791
Alcohol, Drug Abuse & Mental Health Administration									
Construction & renovation, St. Elizabeths Hospital	BA	D82- 12	11,500		10 1 81				11,500
Office of Assistant Secretary for Health									
Health services management	BA	D82-214	1,142		11 6 81				1,142
Special foreign currency program	BA	D82- 13	7,000		10 1 81				7,000
Health Care Financing Administration									
Program management	BA	D82-215	420		11 6 81				420
Social Security Administration									
Refugee assistance	BA	D82- 43	10,000		10 20 81	-10,000			
Cuban and Haitian entrants, reception & process.	BA	D82- 44	4,900		10 20 81	-2,500			2,400
Cuban and Haitian entrants, domestic asst.	BA	D82- 45	37,000		10 20 81				37,000
Human Development Services									
Work Incentives	BA	D82-216	10,523		11 6 81				10,523
DEPARTMENT OF HEALTH AND HUMAN SERVICES TOTAL BA			95,734			-12,500			83,234
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT									
Housing Programs									
Subsidized housing programs	BA	D82-182	79,218		10 29 81				79,218
Payments for operation of low income housing	BA	D82-183	102,452		10 29 81				102,452
Housing for the elderly or handicapped	BA	D82-111	14,294		10 23 81				14,294
Solar Energy and Energy Conserv. Bank									

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Assist. for solar and conserv. improvements								
BA	D82-184	3,500		10 29 81				3,500
Community Planning and Development								
Community development support assistance								
BA	D82-112	61,589		10 23 81				61,589
Urban developeent action grants								
BA	D82-113	8,412		10 23 81				8,412
Rehabilitation loan fund								
BA	D82-185	26,959		10 29 81				26,959
Neighborhoods, Vol Assoc & Consumer Prot.								
Housing counseling assistance								
BA	D82- 46	207		10 20 81				207
Policy Development and Research								
Research and technology								
BA	D82- 47	420		10 20 81				420
Fair Housing and Equal Opportunity								
Fair housing assistance								
BA	D82- 48	96		10 20 81				96
Management and Administration								
Salaries and expenses								
BA	D82-186	3,590		10 29 81				3,590
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TOTAL BA		300,737						300,737
DEPARTMENT OF THE INTERIOR								
Bureau of Land Management								
Acquisition, construction and maintenance								
BA	D82- 49	121		10 20 81				121
Range improvements								
BA	D82-114	237		10 23 81				237
Bureau of Reclamation								
Loan program								
BA	D82-115	792		10 23 81				792
Construction program								
BA	D82-116	4,603		10 23 81				4,603
General investigations								
BA	D82-117	944		10 23 81				944
Operations and maintenance								
BA	D82-118	64		10 23 81				64
General administrative expenses								
BA	D82-119	353		10 23 81				353
Office of Water Research & Technology								
Salaries and expenses								
BA	D82-120	600		10 23 81				600
U.S. Fish and Wildlife Service								
Resource management								
BA	D82-121	5,815		10 23 81	-500			5,315
Construction and anadromous fish								
BA	D82- 50	392		10 20 81				392
National Park Service								
Urban park and recreation grants								
BA	D82-125	1,400		10 23 81				1,400
Operation of the National Park Service								
BA	D82-122	5,216		10 23 81				5,216
John F. Kennedy Center for the Performing Arts								
BA	D82-124	40		10 23 81				40
Construction								
BA	D82-123	5,207		10 23 81				5,207
Land and water conservation fund								
BA	D82-126	16,256		10 23 81				16,256
BA	D82- 14	30,000		10 1 81				30,000

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Historic preservation fund	BA	D82-218	108		11 13 81				108
Geological Survey									
Surveys, investigations and research	BA	D82- 51	9,019		10 20 81				9,019
Exploration of National Petroleum Res in Alaska	BA	D82- 52	80		10 20 81				80
Payments from proceeds, sale of water	BA	D82- 15	45		10 1 81				45
Office of Surface Mining Reclam and Enforcement									
Regulation and technology	BA	D82- 53	1,245		10 20 81				1,245
Bureau of Mines									
Drainage of anthracite mines	BA	D82- 16	991		10 1 81				991
Mines and minerals	BA	D82- 54	2,600		10 20 81				2,600
Bureau of Indian Affairs									
Operation of Indian programs	BA	D82-127	16,607		10 23 81				16,607
Construction	BA	D82-128	148		10 23 81				148
Road construction	BA	D82-129	279		10 23 81				279
Office of Territorial Affairs									
Administration of territories	BA	D82- 55	2,439		10 20 81				2,439
Trust territory of the Pacific Islands	BA	D82- 56	2,068		10 20 81				2,068
Office of the Solicitor and Office of the Secret.									
Departmental management	BA	D82-130	414		10 23 81	-40			374
Youth conservation corps	BA	D82-131	2,494		10 23 81				2,494
DEPARTMENT OF THE INTERIOR TOTAL BA			110,577			-540			110,037
DEPARTMENT OF JUSTICE									
General Administration									
Salaries and expenses	BA	D82-187	250		10 29 81	-250			
	BA	D82-188	196		10 29 81				196
United States Parole Commission									
Salaries and expenses	BA	D82-189	60		10 29 81	-60			
Legal Activities									
Salaries and expenses, Antitrust Division	BA	D82-191	81		10 29 81	-81			
Salaries and expenses, Foreign Claims Settl.	BA	D82-190	12		10 29 81				12
Federal Prison System									
Buildings and facilities	BA	D82-192	1,922		10 29 81				1,922
	BA	D82- 17	2,700		10 1 81				2,700
Office of Justice Assist., Res., and Statistics									
Law enforcement assistance	BA	D82-193	10,729		10 29 81				10,729
DEPARTMENT OF JUSTICE TOTAL BA			15,950			-391			15,559

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DEPARTMENT OF LABOR									
Employment and Training Administration									
Employment and training assistance									
	BA	D82-194	407,670		10 29 81				407,670
	BA	D82- 18	49,881		10 1 81	-49,881			
Occupational Safety and Health Admin									
Salaries and expenses									
	BA	D82-195	8,500		10 29 81				8,500
DEPARTMENT OF LABOR									
TOTAL	BA		466,051			-49,881			416,170
DEPARTMENT OF STATE									
Administration of Foreign Affairs									
Emergencies in dipl and consular service									
	BA	D82- 58	84		10 20 81				84
Acquis , oper and main. of buildings abroad									
	BA	D82- 57	514		10 20 81				514
International Commissions									
Salaries and expenses									
	BA	D82- 59	80		10 20 81				80
Construction									
	BA	D82- 60	20		10 20 81				20
American sections, internat commissions									
	BA	D82- 61	25		10 20 81				25
Other									
Emergency refugee and migration assistance fund									
	BA	D82- 19	35,043		10 1 81				35,043
DEPARTMENT OF STATE									
TOTAL	BA		35,766						35,766
DEPARTMENT OF TRANSPORTATION									
Federal Aviation Administration									
Civil supersonic aircraft development termination									
	BA	D82- 20	3,446		10 1 81				3,446
Facilities & equip (Airport & airway trust fund)									
	BA	D82- 21	185,783		10 1 81				185,783
Federal Railroad Administration									
Grants to National Railroad Passenger Corp									
	BA	D82-217	93,400		11 6 81	-12,740			80,660
DEPARTMENT OF TRANSPORTATION									
TOTAL	BA		282,629			-12,740			269,889
DEPARTMENT OF THE TREASURY									
Office of the Secretary									
International affairs									
	BA	D82-196	109		10 29 81				109
Office of Revenue Sharing									
Salaries and expenses									
	BA	D82-197	26		10 29 81				26
State and local government fiscal assistance fund									
	BA	D82- 22	109,738		10 1 81	-2,001		16	107,753
	O	D82- 23	6,287		10 1 81	-4,812			1,475
Federal Law Enforcement Training Center									
Salaries and expenses									
	BA	D82-198	240		10 29 81				240
	BA	D82- 24	4,200		10 1 81				4,200
Bureau of Government Financial Operations									
New York City loan guarantee program									
	BA	D82-199	16		10 29 81				16
Chrysler Corporation loan guarantee program									

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	BA	D82-200	23		10 29 81	-23			
Bureau of Alcohol, Tobacco and Firearms									
Salaries and expenses	BA	D82-201	1,039		10 29 81				1,039
Bureau of the Mint									
Expansion and improvements	BA	D82-132	706		10 23 81			-70	
Internal Revenue Service									
Payment where energy credit exceeds liab. for tax	BA	D82-202	8		10 29 81				8
DEPARTMENT OF THE TREASURY TOTAL BA TOTAL O			115,469 6,287			-2,024 -4,812		-54	113,391 1,475
ENVIRONMENTAL PROTECTION AGENCY									
Research and development	BA	D82-133	1,889		10 23 81				1,889
Abatement, control and compliance	BA	D82-134	8,062		10 23 81				8,062
Buildings and facilities	BA	D82-135	69		10 23 81				69
Hazardous substance response trust fund	BA	D82-136	3,360		10 23 81				3,360
ENVIRONMENTAL PROTECTION AGENCY TOTAL BA			13,380						13,380
NATIONAL AERONAUTICS & SPACE ADMINISTRATION									
Construction of facilities	BA	D82-137	2,800		10 23 81				2,800
NATIONAL AERONAUTICS & SPACE ADMINISTRATION TOTAL BA			2,800						2,800
VETERANS ADMINISTRATION									
Medical and prosthetic research	BA	D82-138	2,583		10 23 81				2,583
Medical admin. and misc. operating expenses	BA	D82-139	921		10 23 81				921
Construction, major projects	BA	D82-140	91,300		10 23 81				91,300
	BA	D82-141	7,877		10 23 81				7,877
Construction, minor projects	BA	D82-142	907		10 23 81				907
VETERANS ADMINISTRATION TOTAL BA			103,588						103,588
OTHER INDEPENDENT AGENCIES									
ACTION									
Operating expenses, domestic programs	BA	D82- 62	2,896		10 20 81				2,896
Administrative Conference of the U. S.									
Salaries and expenses									

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	BA	D82-143	16		10 23 81				16
Advisory Committee on Federal Pay									
Salaries and expenses	BA	D82-144	4		10 23 81				4
Arms Control and Disarmament Agency									
Arms control and disarmament agency	BA	D82- 63	282		10 20 81				282
Board for International Broadcasting									
Salaries and expenses	BA	D82- 64	252		10 20 81				252
Comm. for the Purchase From the Blind									
Salaries and expenses	BA	D82- 65	10		10 20 81				10
Equal Employment Opportunity Commission									
Salaries and expenses	BA	D82-145	3,000		10 23 81				3,000
Federal Emergency Management Agency									
State and local assistance	BA	D82-205	1,814		10 29 81				1,814
National flood insurance fund	BA	D82-203	7,140		10 29 81				7,140
	BA	D82-204	358,860		10 29 81				358,860
General Services Administration									
Consumer information center	BA	D82- 68	26		10 20 81				26
Nat. Archives & Records Service-operating	BA	D82- 66	140		10 20 81				140
Federal Property Resources Service-operating	BA	D82- 67	748		10 20 81				748
Automated Data & Telecom. Service-operating	BA	D82-206	120		10 29 81				120
Advisory Commission on Intergovt. Relations									
Salaries and expenses	BA	D82- 69	10		10 20 81				10
Delaware River Basin Commission									
Salaries and expenses	BA	D82- 70	2		10 20 81				2
Contribution to the Del. River Basin Comm.	BA	D82- 71	4		10 20 81				4
Interstate Commission on the Potomac River Basin									
Contrib. to Interst. Comm. on Potomac Riv. Basin	BA	D82- 72	1		10 20 81				1
Susquehanna River Basin Commission									
Salaries and expenses	BA	D82- 73	1		10 20 81				1
Contrib. to the Susquehanna River Basin Comm.	BA	D82- 74	1		10 20 81				1
International Communication Agency									
Salaries & expenses	BA	D82- 75	4,680		10 20 81				4,680
Center for cul. and tech. exch. bet. east & west	BA	D82- 76	125		10 20 81				125
Interstate Commerce Commission									
Salaries and expenses	BA	D82-146	648		10 23 81				648
Japan-U.S. Friendship Commission									
Japan-U.S. Friendship Commission trust fund	BA	D82- 77	34		10 20 81				34
Marine Mammal Commission									

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Salaries and expenses	BA	D82- 78	11		10 20 81				11
National Capital Planning Commission									
Salaries and expenses	BA	D82-207	19		10 29 81				19
National Foundation on the Arts & Humanities									
Nat endowment for the arts: sal & expenses	BA	D82-147	11,208		10 23 81	-1,478			9,730
Nat. endoweent for the human.: sal. and expenses	BA	D82-208	5,892		10 29 81				5,892
Nat endowment for the husan.: matching grants	BA	D82-148	2,628		10 23 81	-252			2,376
National Mediation Board									
Salaries and expenses	BA	D82- 79	58		10 20 81				58
National Science Foundation									
Research and related activities	BA	D82- 80	19,924		10 20 81				19,924
Scientific activities overseas	BA	D82- 81	59		10 20 81				59
Science and engineering educ. activities	BA	D82- 82	2,623		10 20 81				2,623
Neighborhood Reinvestment Corporation									
Payment to Neighborhood Reinvest. Corp.	BA	D82- 83	181		10 20 81				181
Pennsylvania Avenue Development Corporation									
Salaries and expenses	BA	D82-149	15		10 23 81				15
Public development	BA	D82-150	239		10 23 81				239
Land acquisition and development	BA	D82-151	42		10 23 81				42
	BA	D82- 25	30,896		10 1 81				30,896
Selective Service System									
Salaries and expenses	BA	D82- 84	192		10 20 81				192
Small Business Administration									
Salaries and expenses	BA	D82-152	3,137		10 23 81				3,137
Surety bond guarantees revolving fund	BA	D82-154	373		10 23 81				373
Lease guarantees revolving fund	BA	D82-153	67		10 23 81				67
Smithsonian Institution									
Museum programs and related research	BA	D82-155	231		10 23 81				231
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a. Off-budget.

b. This deferral was reported in error Funds for this budget account were not withheld.

END OF REPORT

[FR Doc. 36099 Filed 12-16-81; 8:45 am]

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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Revised as of July 1, 1981

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